



Request for Proposal
Construction Manager at Risk

UNT FRISCO CAMPUS
BUILDING

RFP769-20-10192ER

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DIVISION 00

**DOCUMENT 001100
RFQ752-20-10192ER**

ADVERTISEMENT FOR QUALIFICATIONS

University of North Texas System
CMAR – UNT Frisco Campus Building
Qualifications due: **January 6, 2020**

In accordance with Education Code 51.782, the University of North Texas System (UNTS), subsequently referred to as Owner, using the two-step process, is accepting qualifications and intends to enter into an agreement with a vendor that specializes in Construction Manager-at-Risk services in accordance with the terms and conditions and requirements set forth in this Request for Qualifications (RFQ). Sealed qualifications for **RFQ769-20-10192ER** will be received by the Owner at the Business Service Center (BSC), Woodhill Square, 1112 Dallas Drive, Suite 4000, Denton, Texas 76205. A campus map can be found online at <http://maps.unt.edu/?code=WHS>. Parking for Woodhill Square is campus parking and permits are required. There is guest parking at the door to Suite 4000 and only those spaces can be utilized for submitting the bid. Bidders are responsible for all parking costs and for complying with parking regulations. Failure to comply with parking regulations may result in citation and possible impound of vehicle.

Qualifications will be received up to 2:00p.m. CST on **December 18, 2019**. Qualifications received after the date and hour above stated will not receive consideration. **Location shall be at the UNT System BSC, Woodhill Square, Conference Room 4202A, 1112 Dallas Drive, Suite 4200, Denton, TX 76205.**

Project Description

UNT System has recently completed a campus Master Plan for the development of a new branch campus in Frisco, Texas. Programming efforts have begun for the first building and infrastructure with design to begin by end of 2019 or early 2020. This project will be to construct a new building and infrastructure for the branch campus. The branch campus will be located at a newly acquired site of approximately one hundred (100) acres.

Questions

Questions concerning this proposal should be directed to:

Elaine Robbins – Construction Solicitation Coordinator
elaine.robbs@untsystem.edu.

All questions must be received no later than 2:00p.m. CST on December 5, 2019. All questions and answers will be posted to the website by 5:00p.m. CST on December 9, 2019.

The Owner may in its sole discretion respond in writing to questions concerning this RFQ. Only the Owner's responses made by formal written Addendum to this RFQ shall be binding and shall be posted on the UNT System website located at <http://bsc.untsystem.edu/bid-listing>. Oral or other written interpretations or clarifications shall be without legal effect.

Pre-Bid Meeting

A pre-bid meeting will be held in Frisco, Texas at **9:30a.m. on November 20, 2019** at the UNT New College at Frisco, Hall Park, 2811 Internet Boulevard, Room 161, Frisco, Texas 75834.

Historically Underutilized Business (HUB)

In accordance with Texas Government Code 2161, if Owner elects to award the future Construction Phase Services to the Construction Manager, the Guaranteed Maximum Price (GMP) for the proposed contract resulting from the extension of this Contract is expected to exceed \$100,000.00. Therefore, a Good Faith Effort Program in the form of a HUB Subcontracting Plan (HSP) is a mandatory condition precedent to the award of any such extension of the contract. The HSP will become a part of the Construction Manager-at-Risk Agreement and need not be submitted until such time as the GMP is submitted for review and acceptance by Owner. Refer to Division 00, Section 006000 herein for HSP Forms.

The Owner is not bound to accept an offer if that offer is not in its best interest, as determined by the Owner. The Owner reserves the right to: (a) enter into agreements or other contractual arrangements for all or any portion of the Scope of Work set forth in this Proposal with one or more respondents; (b) reject any and all offers and re-solicit offers; or (c) reject any and all offers and temporarily or permanently abandon this procurement, if deemed to be in the best interest of the Owner.

END OF SECTION

DOCUMENT 002100

INSTRUCTIONS TO PROPOSERS

University of North Texas System (UNTS), subsequently referred to as the Owner, is accepting sealed qualifications from respondents for a construction management-at-risk contract, pursuant to Sec. 51.782, *Texas Education Code*, using the two-step process in accordance with the terms, conditions and requirements set forth in this Request for Qualifications (RFQ). This RFQ provides sufficient information for interested parties to prepare and submit qualifications for consideration by the Owner.

1. DEFINITIONS, BACKGROUND, AND SPECIAL CONCERNS

- 1.1 Construction Manager-at-Risk – A construction manager-at-risk, herein referred to as Construction Manager is a sole proprietorship, partnership, corporation, or other legal entity that assumes the risk for pre-construction services, construction, rehabilitation, alteration, or repair of a facility at or below the Guaranteed Maximum Price (GMP) as a general contractor and provides coordination and consultation to the Owner regarding construction during and after the design of the facility.
- 1.2 Architects and Engineers – Before selecting a Construction Manager, the Owner shall select or designate an engineer or architect who shall prepare the construction documents for the project and who has full responsibility for complying with the Texas Engineering Practice Act (Education Code 51.776; Occupation Code; Chapter 1001), and/or the Texas Architectural Practice Act (Education Code 51.776; Occupation Code; Chapter 1051), as applicable.
- 1.3 Trade Contractors and Subcontractors – The Construction Manager shall publicly advertise and solicit either competitive bids or competitive sealed proposals from trade contractors, subcontractors, or suppliers for the performance of necessary major elements of the work, other than the minor work that may be included in general conditions. A representative of the Owner shall participate with the Construction Manager during this process. The Construction Manager may seek to perform portions of the work itself if the Construction Manager submits its bid or proposal for those portions of the work in the same manner as all other trade contractors or subcontractors and if the Owner determines that the Construction Manager's bid or proposal provides the best value for the institution. The Owner's determination in such matters is final.
- 1.4 Receipt of Bids or Proposals – The Construction Manager and the Owner shall receive and open all trade contractor or subcontractor bids or proposals in a manner that does not disclose the contents of the bid or proposal during the selection process to a person not employed by the Construction Manager, engineer, architect or Owner. All bids or proposals shall be made public by the Construction Manager within seven (7) days after the date of final selection.
- 1.5 Acceptance of Recommendations for Trade Contractors and Subcontractors – If the Construction Manager reviews, evaluates, and recommends to the Owner a bid or proposal from a trade contractor or subcontractor, but the Owner requires a bid or proposal from another trade contractor or subcontractor to be accepted, then, pursuant to the terms of the Contract, the Owner shall compensate the Construction Manager by a change in cost, time, or guaranteed maximum cost for any additional cost and risk, which has been demonstrated to the Owner's satisfaction and as required by the Contract, that the Construction Manager may incur.
- 1.6 Schedule, Scope, Budget – Detailed information about schedule, scope and budget, are contained in Section 3 and herein below.

2. PRE-PROPOSAL MEETING:

A pre-proposal meeting will be conducted to answer any questions regarding the scope of the project and the submission of the HUB Subcontracting Plan. Attendance is not mandatory but highly recommended. The pre-proposal meeting will be held:

November 20, 2019 @ 9:30am
UNT New College at Frisco
Hall Park
2811 Internet Boulevard, Room 161
Frisco, Texas 75834

3. PROJECT PROPOSED SCHEDULE

11/20/19	9:30 a.m.	Pre-proposal Meeting
12/18/19	2:00 p.m.	Deadline for Construction Manager-at-Risk Qualifications
12/18/19	2:30 p.m.	Public Opening Qualifications– reading of names of respondents only
01/10/20		Notification to short listed firms for Step 2 phase (on or about)
01/13/20		Request for Pricing Proposal issued
01/21/20	10:00 a.m.	Public Opening - Pricing
01/27/20		Issue request for Interviews to Short-listed firms on or about (if necessary)
01/31/20		Construction Manager Interviews on or about (if necessary)
02/7/20		Formal Contract Award Notification of Selected Firm
February 2020	– Owner/CM	Construction Manager Pre-Construction Services Authorized

4. PREPARATION OF BIDS

Respondents shall comply with the following instructions in preparing its bid.

4.1 General Instructions

- A. Respondents should carefully read the information contained herein and submit a complete response to all requirements and questions as directed. Respondents must comply with all the rules, regulations and statutes relating to purchasing in the State of Texas, to the rules and regulations of the Owner and the requirements of this form. UNTS consists of the UNTS Building at Dallas, University of North Texas at Denton, University of North Texas at Dallas, and University of North Texas Health Science Center at Fort Worth.
- B. Qualifications and any other information submitted by Respondents in response to this RFQ shall become the property of the Owner.
- C. The Owner will not provide compensation to Respondents for any expenses incurred by the Respondent(s) for proposal preparation or for any demonstrations that may be made, unless otherwise expressly stated or required by law. Respondents submit qualifications and proposals at their own risk and expense.
- D. Submittals which are qualified with conditional clauses or alterations, items not called for in the RFQ documents, or irregularities of any kind are subject to disqualification by the Owner, at its sole option.
- E. Each response should be prepared simply and economically, providing a straightforward, concise description of your firm's ability to meet the requirements of this RFQ with a limitation of twenty-five (25) pages. Emphasis should be on completeness, clarity of content, responsiveness to the requirements, and an understanding of the Owner's needs.
- F. The Owner makes no guarantee that an award will be made as a result of this RFQ, and reserves the right to accept or reject any or all responses, waive any formalities or minor technical inconsistencies, or delete any item/requirements from this RFQ or contract when deemed to be in the Owner's best interest. Representations made within any response will be binding on responding firms. The Owner will not be bound to act by any previous communication or response submitted by the firms other than this RFQ.
- G. Failure to comply with the requirements contained in this RFQ will result in a finding that the respondent failed to submit a responsive proposal to this RFQ and is therefore considered disqualified.
- H. The Owner's solicitation terms and mutually acceptable written revisions, if any, shall apply. Any terms and conditions not accepted through BSS Purchasing in writing are not binding on either party.

- I. The Owner will not be bound by any oral statement or representation contrary to the written specifications of this Response.
- 4.2 Preparation and Proposal Instructions
 - A. Responses to this RFQ should consist of answers to required criterion in Division 00, Section 002400, *Scope of Proposal*. It is not necessary to repeat the criterion in your response; however, it is essential that you reference the criterion number with your corresponding response. In cases where a criterion does not apply or if you are unable to respond, reference the criterion number and indicate N/A (Not Applicable) or N/R (No Response), as appropriate. Briefly explain your reason when responding N/R.
 - 4.3 Page Size, Binders and Dividers

Qualifications must be on letter-size (8½" X 11") paper, portrait style. The Owner requires that qualifications be submitted per Section 5. Preprinted material should be referenced in the proposal and included as labeled attachments. Sections should be divided by tabs for ease of reference. Number each side of each page consecutively, including letter of interest, brochures, licenses, resumes, and supplemental information. Qualifications must be limited to twenty-five (25) pages, including brochures and other documents. Covers, table of contents and divider tabs will not count as pages, provided no additional information is included on those pages. Provide the number of copies of the proposal specified herein. Any submittals exceeding the twenty-five (25) page limit may be disqualified. The bonding letter, and company financial information will not count toward the page limitation.
 - 4.4 Table of Contents

Include with the qualifications a Table of Contents that includes page number references. The Table of Contents should be in sufficient detail to facilitate easy reference of the sections of the response as well as separate attachments (which should be included in the main Table of Contents). Supplemental information and attachments included by your firm (i.e., not required) should be clearly identified in the Table of Contents and provided as a separate section. Supplemental information, unless excluded in Section 4.3 above, will count toward the page limitation.
 - 4.5 Pagination

All pages of the proposal should be numbered sequentially in Arabic numerals (1, 2, 3, etc.). Attachments should be numbered or referenced separately. Divider tabs do not require numbering.
 - 4.6 Bonding

Attach a letter of intent from a surety company indicating the applicant's bondability for this project. The surety shall acknowledge that the firm may be bonded for the project, with a potential construction cost of **\$68,000,000.00**. Bonding requirements are set forth in the Division 00, Section 7000, *UGC 2020*.
 - 4.7 Eligible Respondents

Only individual firms or formal joint ventures may apply. Two (2) firms may not apply jointly unless they have formed a joint venture. Any associates will be disqualified. (This does not preclude a respondent from having consultants.)
 - 4.8 Checklist

Firms are instructed to complete, sign and return the following documents as part of their qualifications submittal. Failure to return these documents may subject your response to disqualification. Responses will be time stamped on or before the hour and date specified for the response opening.

 - A. Bonding Letter
 - B. Signed Letter of Interest
 - C. Responses to RFQ (Division 00, Section 002400)

5. SUBMISSION OF QUALIFICATIONS

Submit a total of two (2) complete copies of the entire response. Please submit one (1) unbound copy plus one (1) copy on labeled CDs or flash drive. Both formats must contain the exact same information. Missing information from either format may result in the Owner's rejection of the response. No QR codes will be accepted as part of your response and may disqualify your response.

- A. The materials submitted must be enclosed in a sealed envelope, box, or container; the package must show clearly the proposal deadline; the RFQ name must be clearly visible; and name and the return address of the Respondent must be clearly visible.

NOTE: Show the Request for Qualifications name and submittal date in the lower left-hand corner of your sealed proposal envelope (box/container).

- B. Late responses will not be considered under any circumstances.
- C. Telephone responses are not acceptable.
- D. Facsimile ("FAX") or emailed responses are not acceptable.

The RFQ responses must be submitted no later than 2:00p.m. CST on December 18, 2019. Responses received after the date and hour previously stated will not receive consideration.

Via hand delivery or overnight delivery only (i.e. FedEx, UPS, etc.)

TO: Elaine Robbins
University of North Texas System
Business Service Center
Woodhill Square
1112 Dallas Drive, Suite 4000
Denton, Texas 76205

Responses will be received until the date and time established for receipt, then opened. The names of the respondents who submitted proposals will be made public. **A public opening shall be held on Wednesday, December 18 promptly at 2:30p.m. Location shall be University of North Texas System, Business Service Center, Woodhill Square, 1112 Dallas Drive, Conference Room 4202A, Suite 4200, Denton, Texas 76205.**

6. GENERAL INFORMATION

6.1 Type of Contract

After qualifications are received in response hereto, using the two-step process, Owner will evaluate qualifications and may elect to request five (5) or fewer respondents to submit their proposed fee and price for general conditions. Successful Respondent will be required to enter into a contract in the form of the Owner's standard Construction Manager-at-Risk Agreement. A copy of the proposed Construction Manager-at-Risk Agreement to be used is attached. This is for informational purposes only. Proposed changes to the Construction Manager-at-Risk Agreement will not be considered by UNTS. For questions regarding the contract, contact:

Elaine Robbins - Construction Solicitation Coordinator
University of North Texas System Facilities
elaine.robbs@untsystem.edu

6.2 Inquiries and Interpretations

Any questions or concerns regarding this Request for Qualifications shall be directed to:

Elaine Robbins - Construction Solicitation Coordinator
University of North Texas System Facilities

Please submit solicitation questions to:

elaine.robbins@untsystem.edu.

All questions must be received no later than December 5, 2019 at 2:00p.m. CST. All questions and answers will be posted to the website by 5:00pm CST, December 9, 2019.

The Owner specifically requests that Respondents restrict all contact and questions regarding this RFQ to the above named individual except as provided in 7.5.

Responses to inquiries which directly affect an interpretation or change to this RFQ will be issued electronically by addendum (amendment) and posted at <http://www.untsystem.edu/bids> and <http://esbd.cpa.state.tx.us/>. All such addenda issued by the Owner prior to the time that qualifications are received shall be considered part of the RFQ, and the Respondent shall be required to consider and acknowledge receipt of such in their response. Respondents are responsible for obtaining any addenda posted on the websites listed above.

Only those inquiries the Owner replies to which are made by formal written addenda shall be binding. Oral and other interpretations or clarifications will be without legal effect.

6.3 Compliance with Law

Construction Manager is aware of, is fully informed about, and in full compliance with its obligations under existing applicable law and regulations, including Title VI of the Civil Rights Act of 1964, as amended (42 USC 2000(D)), Executive Order 11246, as amended (41 CFR 60-1 and 60-2), Vietnam Era Veterans Readjustment Act of 1974, as amended (41 CFR 60-250), Rehabilitation Act of 1973, as amended (41 CFR 60-741), Age Discrimination Act of 1975 (42 USC 6101 et seq.), Non-segregated Facilities (41 CFR 60-1), Omnibus Budget Reconciliation Provision, Section 952, Fair Labor Standards Act of 1938, Sections 6, 7, and 12, as amended, Immigration Reform and Control Act of 1986, and Utilization of Small Business Concerns and Small Business Concerns Owned and Controlled by Socially and Economically Disadvantaged Individuals (PL 96-507), the Americans with Disabilities Act of 1990 (42 USC 12101 et seq.), the Civil Rights Act of 1991, and all other laws and regulations and executive orders as are applicable.

6.4 University's Right to Audit

At any time during the term of any Contract resulting from this solicitation and for a period of four (4) years thereafter, the Owner or a duly-authorized audit representative of the Owner or the State of Texas, at its expense and at reasonable times, reserves the right to audit Construction Manager's records and books relevant to all services provided under this Contract. In the event such an audit by the Owner reveals any errors/overpayments by the Owner, Construction Manager shall refund the Owner the full amount of such overpayments within thirty (30) days of such audit findings, or the Owner, at its option, reserves the right to deduct such amounts owing the Owner from any payments due Construction Manager.

6.5 Access to Documents

To the extent applicable to this procurement, in accordance with Public Law 99-499 under TEFRA, Construction Manager agrees to allow, during and for a period of not less than four (4) years after the Contract term, access to this Contract and its books, documents, and records; and contracts between Construction Manager and its subcontractors or related organizations, including books, documents and records relating to same, by the Comptroller General of the United States, the U.S. Department of Health and Human Services, and their duly authorized representatives.

6.6 Insurance and Bonds

The Contractor shall provide and maintain insurance, performance bond, and payment bond as required, the minimum insurance coverage and bonding requirements are stated in Division 00, Section 007000, *UNTS Uniform General Conditions 2020*.

6.7 Other Benefits

It is understood and agreed that no benefits, payments or considerations received by Construction Manager for the performance of services associated with and pertinent to the resultant Contract shall accrue, directly, or indirectly, to any employees, elected or appointed officers or representatives, or any other person identified as agents of, or who are, by definition, an employee of the State.

6.8 Non-Disclosure

Construction Manager and the Owner acknowledge that they or their employees may, in the performance of the resultant Contract, come into the possession of proprietary or confidential information owned by or in the possession of the other. Neither party shall use any such information for its own benefit or make such information available to any person, firm, corporation, or other organization, regardless of whether directly or indirectly affiliated with Construction Manager or the Owner, unless (i) required by law, (ii) required by order of any court or tribunal, (iii) such disclosure is necessary for the assertion of a right, or defense of an assertion of a right, by one party against the other party hereto, or (iv) such information has been acquired from other sources.

6.9 Publicity

Construction Manager agrees that it shall not publicize this potential Contract or disclose, confirm or deny any details thereof to third parties or use any photographs or video recordings of the Owner's employees or use the Owner's name in connection with any sales promotion or publicity event without prior written approval.

6.10 Assignment

The potential agreement with Construction Manager resulting from this RFQ is a personal service contract for the services of Construction Manager, and Construction Manager's interest in such agreement, duties thereunder and/or fees due thereunder may not be assigned or delegated to a third party without the Owner's prior written consent. The benefits and burdens of such agreement are, however, assignable by the Owner.

6.11 Assignment of Overcharge Claims

Construction Manager hereby assigns to the Owner any and all claims for overcharges associated with the Contract arising under the antitrust laws of the United States, 15 U.S.C.A., Sec. 1 et seq. (1973), or arising under the antitrust laws of the State of Texas, Texas Business and Commerce Code Annotated, Sec. 15.01, et seq. (1967).

6.12 Patent and Copyright

Construction Manager shall pay for any royalties, license fees, copyrights or trade and service marks required to perform the services required by any resulting Contract.

6.13 Texas Public Information Act

The Owner considers all information, documentation and other materials requested to be submitted in response to this solicitation to be of a non-confidential and/or non-proprietary nature and therefore shall be subject to public disclosure under the Texas Public Information Act (Texas Government Code, Chapter 552.001, et seq.) after a contract is awarded.

Respondents are hereby notified that the Owner strictly adheres to all statutes, court decisions, and opinions of the Texas Attorney General regarding the disclosure of RFQ information.

6.14 Freedom of Access and Use of Facilities

Construction Manager's employees shall have reasonable and free access to use only those facilities of the Owner that are necessary to perform services under a resulting Contract and shall have no right of access to any other facilities of the Owner.

6.15 Observance of University Rules and Regulations

Construction Manager agrees that at all times its employees will observe and comply with all regulations of the facilities, including but not limited to, no smoking, parking and security regulations.

6.16 Section Headings

All section headings are for convenience of reference only and are not intended to define or limit the scope of any provisions of this RFQ.

6.17 Governing Law

- A. This RFQ, and any resulting Contract, agreement or purchase order shall be construed and governed by the laws of the State of Texas.
- B. The parties understand and agree that any purchase order/contract may be subject to the Health Insurance Portability and Accountability Act of 1996 (HIPAA), the administrative regulations and/or guidance which have been issued or may in the future be issued pursuant to HIPAA, including, but not limited to, the Department of Health and Human Services regulations on privacy and security, and Texas state laws pertaining to medical privacy (collectively, "Privacy Laws"). Vendor agrees to comply with all Privacy Laws that are applicable to this purchase order/contract and to negotiate in good faith to execute any amendment to this purchase order/contract that is required for the terms of this purchase order/contract to comply with applicable Privacy Laws. In the event the parties are unable to agree on the terms of an amendment pursuant to this paragraph within thirty (30) days of the date the amendment request is delivered by one party to the other, this order may be terminated by either party upon written notice to the other party.
- C. Important Notice - Any purchase order may be funded wholly or partially with federal funds subject to the American Recovery and Reinvestment Act of 2009 (ARRA). The vendor shall comply with all applicable provisions of ARRA, which may include, but are not limited to, the provision of Division A, Titles XV and XVI (e.g., audit provisions, whistleblower protection, and preferences for American products).
- D. Federal Funds - All procurements of supplies, equipment, and services utilizing Federal Funds (e.g. Federal Grant or Contract) shall be made in accordance with all applicable federal rules and regulations: Federal Acquisition Regulations (FAR), Federal Office of Management and Budget (OMB) Educational Institutions, even if part of a State or local government follow: OMB A-21 for cost principles, A-110 for administrative requirements, and A-133 for audit requirements. All procurement requirements contained in the above referenced circulars are incorporated herein by reference. By signing this solicitation document, vendor certifies that vendor is in compliance with OMB A-110 and that vendor is not on the Debarred Bidders List.

6.18 Owner's Special Conditions

The Owner requires full compliance with Division 00 and Division 01 Specifications, Contract and General Requirements. The documents shall be a part of this RFQ and the Contract.

6.19 Prevailing Wage Schedule, University of North Texas System

Prevailing wage schedule shall in accordance with Texas Government Code, Chapter 2258. The hourly wage rate for work over forty (40) hours a week and work on legal holidays shall be not less than one and one-half (1.5) times the hourly rates.

Respondents shall base their proposals on rates they expect to pay. The Owner will not consider claims for extra payment to the Construction Manager because of payment of wages higher than required by Texas Government Code, Chapter 2258.

6.20 Pursuant to Section 231.006 of the Family Code, response must include names and social security numbers of each person with at least twenty-five percent (25%) ownership of the business entity submitting the response. Vendors that have pre-registered this information on the Texas Comptroller of Public Accounts Centralized Master Bidders List (CMBL) have satisfied this requirement. If not pre-registered, list the name and social security numbers for each person. Otherwise, this information must be provided prior to contract award.

6.21 Note to Vendors: Any terms and conditions attached to any response will not be considered unless specifically referred to on the Solicitation and may result in disqualification of the response.

- A. **Dispute Resolution:** Chapter 2260 of the Texas Government Code establishes a dispute resolution process for contracts involving goods, services, and certain types of projects. If Chapter 2260 applies to this Purchase Order, then the statutory dispute resolution process must be used by the vendor to attempt to resolve all of its disputes arising under this Purchase Order.
- B. **Excess Obligations Prohibited:** The Texas Constitution (Article XVI, Section 10) prohibits obligators beyond the current appropriations, which the Owner applies annually. Any purchase order may be canceled at any time without penalty if legislative and/or the Owner's funds are not appropriated for goods or services obligated on any purchase order beyond the current fiscal year (September 1 through August 31 of any given year.)
- C. **Cancellation:** Items or orders may be canceled without the consent of the vendor due to failure to fulfill their contractual obligations. If cancellation is requested by the Owner for some other reason through no fault of the vendor, the vendor will be contacted. The Owner reserves the right to cancel this contract upon thirty (30) days written notice to the Construction Manager. The Construction Manager must request and secure in writing the approval of the Purchasing Department to be released from this contract or any portion thereof should conditions unforeseeable occur.
- D. **Miscellaneous:** The laws of the State of Texas shall prevail, including the Public Information Act. Any Order is not confidential. All transactions associated with this Order may be subject to audit. Vendor, by accepting this Order agrees to allow access to all records regarding this transaction upon written request by UNTS Internal Auditors and/or UNTS Business Support Services Purchasing.

7. AWARD PROCESS

7.1 Commitment

Respondent understands and agrees that this RFQ is issued predicated on anticipated requirements for the new and/or renovated facilities for the Frisco Campus, and that the Owner has made no representation, written or oral, that any such requirements be furnished under a Contract arising from this RFQ. Furthermore, Respondent recognizes and understands that any cost borne by the Respondent, which arises from Respondent's performance hereunder, shall be at the sole risk and responsibility of Respondent.

7.2 Respondent's Acceptance of Evaluation Methodology

Submission of proposals indicates Respondent's acceptance of the evaluation technique and Respondent's recognition that some subjective judgments must be made by the Owner during the determination of ranking order for the short-listed firms and award.

7.3 Contract

- A. Qualifications will be opened publicly and read aloud to identify the names of Respondents. Within forty-five (45) days after the date of opening the qualifications, the Owner will evaluate each response with respect to the selection criteria contained herein. The Owner may request that five (5) or fewer respondents, selected solely on the basis of qualifications in the two-step process, provide additional information, including the construction manager at risk's proposed fee and its price for fulfilling the general conditions. Owner shall also read aloud the fees and prices, if any, stated in each proposal as the proposal is opened. The Owner shall first attempt to negotiate a contract with the selected Respondent. If the Owner is unable to negotiate a satisfactory contract with the selected Respondent, the Owner shall formally, and in writing, end negotiations with the Respondent and proceed to negotiate with the next Respondent in the order of the selection until a contract is reached or negotiations with all Respondents end. The Owner may not disclose any information derived from the proposals submitted from competing offers in conducting such discussions. The Owner reserves the right to reject any and all qualifications and/or proposals, if deemed to be in the best interests of the Owner, and to re-solicit for qualifications and/or proposals, and to temporarily or permanently abandon the procurement.
- B. A response to this Request for Qualifications and subsequent proposed fees is an offer to contract based upon the terms, conditions and specifications contained herein. Responses do not become contracts until a UNTS Agreement is issued and accepted. The contract shall be governed, construed, and interpreted under the laws of the State of Texas as the same may be amended from time to time. The Education Code 51.9335 shall be considered in making an award when specified.

Venue for any suit filed against UNTS shall be subject to the mandatory venue statute set forth in §105.151 of the Texas Education Code.

- i. An award is made to the Vendor submitting the best value response conforming to this specification.
 - ii. DEBTS TO THE STATE: Any party indebted to the State of Texas or any party who is more than thirty (30) days delinquent for Child Support is not entitled to payment on this purchase order or any accompanying contract.
 - iii. If a “best offer” vendor shows not to be in “good standing,” this agency may reject the response and award to the next best response.
 - iv. The Owner reserves the right to award the entire contract to a single Vendor or to award different components to different Vendors, whichever the Owner, at its sole discretion, determines to be in its overall best interest, as solely determined by the responsible parties of the Owner.
- C. Respondent understands that acceptance of funds under this contract acts as acceptance of the authority of the State Auditor’s Office, or any successor agency, to conduct an audit or investigation in connection with those funds. Respondent further agrees to cooperate fully with the State Auditor’s Office or its successor in the conduct of the audit or investigation, including providing all records requested. Respondent will ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through bidder and the requirement to cooperate is included in any subcontract it awards.
- D. Respondent understands and agrees in accordance with Texas Government Code §2252.908, prior to executing any contract, the selected firm must submit a Form 1294, Certification of Interested Parties, to the Owner along with the signed agreement. The form is available on the Texas Ethics Commission website at https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm. Completion of the form is not required with your response.
- 7.4 Response Results: It is not the policy of the Owner to furnish results over the telephone. Bid tabulations may be requested at <http://bsc.untssystem.edu/content/bid-inquiry>. While UNTS understands the value of conducting debrief meetings with firms not selected, UNTS does not have the resources to accommodate in person meetings. Request for feedback can be emailed to the contact listed in 6.2 above.
- 7.5 Historically Underutilized Businesses (HUB)
- A. If Owner elects to award the future Construction Phase Services to the Construction Manager, the Guaranteed Maximum Price (GMP) for the proposed contract resulting from the extension of this Contract is expected to exceed \$100,000.00. A Good Faith Effort Program in the form of a HUB Subcontracting Plan (HSP) is a mandatory condition precedent to the award of any such extension of the contract. The HUB Subcontracting Plan will become Exhibit A of the Construction Manager-at-Risk Agreement and need not be submitted until such time as the GMP is submitted for review and acceptance by Owner. Refer to Division 00, Section 006000, *Project Forms* herein for HSP Forms.
 - B. Centralized Master Bidders List (CBML): The Owner utilizes the Texas Comptroller of Public Accounts CBML for HUB. The CBML is located at: <http://www.window.state.tx.us/procurement/>. Non-HUB respondents are identified from various sources including the CBML.
 - C. Questions regarding completing the HSP should be directed to Greg Obar, Director of Business Services and HUB Program at 940-369-5647. Additional information can also be found at the Texas Comptroller for the Public Accounts website at: <http://www.window.state.tx.us/procurement/prog/hub/hub-forms/>.

FAILURE TO MEET HUB REQUIREMENTS MAY RESULT IN THE TERMINATION OF THE CONTRACT.

END OF SECTION

DOCUMENT 002400

SCOPE FOR QUALIFICATIONS

The University of North Texas System (UNTS), subsequently referred to as the Owner, requests qualifications from qualified and experienced firms for the construction of a new building and infrastructure on the new branch campus in Frisco, Texas, meeting the minimum specifications contained in this section.

Project Description

Consistent with the institution's mission, vision, and strategic plan, UNT System has recently completed a campus Master Plan for the development of a new branch campus in Frisco, Texas. Programming efforts have begun for the first building and infrastructure. It is expected that project design will begin late 2019 or early 2020.

The branch campus will be located at a newly acquired site of approximately one hundred (100) acres. The current enrollment for courses taught by UNT in Collin County is approximately 1,200 students.

UNTS anticipates the design completion in the 4th quarter 2020 in anticipation of construction completion in the 3rd quarter 2022.

Delivery

Time is of the essence in the performance of the Construction Manager's duties. The Owner shall have no obligation to accept late performance or to waive timely performance by Construction Manager.

Miscellaneous Provisions

Construction Manager shall maintain a staff of properly trained and experienced personnel to ensure satisfactory performance under this Contract. No changes to the proposed team or the responsibilities of team members may be made without written consent of the Owner in advance of the change. Construction Manager shall assign to the Owner a designated representative who will be responsible for the coordination and administration of the Owner's requirements.

The Owner shall contract for and provide independently of the construction manager, including but not limited to, the survey inspection services, the testing of construction materials engineering, and verification testing services necessary for acceptance of the facility by the Owner, 3rd party code review, commissioning and TAB services.

Construction Manager shall prepare and update a Construction budget and constructability review, as well as other pre-con deliverables, during the schematic design phase, design development phase, and at the sixty percent (60%) construction documents phase, for written approval by the Owner; such budget to include estimating and reconciliation alongside the design team budget, updating and reporting of all construction costs.

At sixty percent (60%) completion of the Construction Drawing phase, Construction Manager shall prepare and submit to the Owner in writing a GMP proposal in the format in attached Exhibit A or similar form as required by Owner and at Owner's sole option and discretion. The GMP proposal shall require a breakdown of estimated costs organized by trade, allowances, contingencies, Construction Manager's Construction Phase Fee, General Conditions and other approved items, but shall not include compensation for Pre-construction Services. If accepted by Owner, the parties shall execute a GMP Amendment and the fully executed Amendment shall become a part of the Contract documents.

Liquidated Damages

As allowed for in the UNTS Uniform General Conditions 2020, Liquidated Damages shall be established that more accurately reflect the estimated actual amount of damages the Owner will sustain for late completion. The need to complete Housing projects on time is critical. For the purposes of calculating Liquidated Damages, substantial completion shall be applied to designated portions of the Work. For each day that project is not Substantially Complete

and not operational and fit for the Owner to occupy, damages will be assessed at \$10,000.00 per day, past substantial completion date.

Criteria for Award

The Owner shall evaluate responses received on the basis of experience and qualifications using the following criteria:

1. Respondent's ability to obtain a bond for the project.
2. Criterion A - Respondent's and proposed team's experience and capability to perform preconstruction services for this project.
3. Criterion B - Respondent's and proposed team's experience and capability to perform construction management services for the project to ensure Owner's project schedule is met.
4. Criterion C - Respondent's project execution plan and technical competence as a construction manager.
5. Criterion D - Respondent's utilization of cost estimating and a construction cost control plan which will assure the Owner's construction budget shall not be exceeded.
6. Criterion E - Respondent's utilization of construction scheduling throughout the design and construction phases.
7. Criterion F - Respondent's capability to perform a quality control process during the entire project duration.
8. Criterion G - Respondent's job site safety program.
9. Criterion H - Respondent's HUB Subcontracting policies and approach.

Required Information

Respondents are requested to submit a complete response to each of the items listed below. Responses should be brief and submitted as an attachment to your qualifications package. Please reference each response by its item number indicated below.

CRITERION A: Respondent and proposed teams' experience and capability to perform the pre-construction services for this project:

1. List separately all key personnel, including a **single point of contact with name, phone number and email address**, to be employed on site and those to be employed in home office for this project. Include resumes for the entire proposed key team members along with:
 - Location
 - Proposed role
 - Years of experience
 - Relevant experience on similar projects within the last five (5) years
2. Provide an organizational chart showing the construction team and their specific duties.
3. List the volume of work your firm has completed over the last five (5) years. Also attach an audited Financial Statement, including a profit and loss statement and other supporting schedules. If the last audited statement is over twelve (12) months old, include the most current unaudited statement.
4. Describe the pre-construction and construction phase services to be provided by your firm for this type of project.
5. Describe how you propose to interface with the design team and support the design process.

6. Describe your plan for partnering and team building at all levels for this project.
7. Describe the various pre-construction deliverables you provide during the pre-construction process.
8. Describe your methods for establishing expectations for jobsite cleanliness prior to construction start.
9. Describe your approach to constructability review and how you track this alongside the Owner, Design Team, and 3rd party consultants.
10. Describe your subcontractor contract award process, including review/approval by the Owner.

CRITERION B: Respondent and proposed teams' experience and capability to perform the construction management services for this project:

1. Describe your management plan for performing the work required of this project and include your program for managing subcontractors and material providers.
2. Describe your firm's start-up and closeout procedures for this project.
3. Describe the types of regular monthly reporting you propose to provide for this project.
4. List no more than three (3) relevant projects. Each project listed must include:
 - Project Name
 - Delivery Method
 - Date Completed
 - Construction Project Cost
 - Owner
 - Owner's contact person with telephone number and email address
 - Project summary
 - Key firms from proposal involved with the project and their role
 - Key personnel from proposed team involved with the project, their firm affiliation on the project and role
7. Summary explanation of any claims and/or litigation in the last five (5) years.

CRITERION C: Respondent's project execution plan and technical competence as a construction manager:

1. Describe your project execution plan for this project.
2. Describe the types of records, reports, monitoring systems, and information management systems which your firm will utilize on this project.
3. Describe your plan for assuring that the project design is achievable under the Owner's and Construction Manager's contract requirements.
4. Describe your constructability methodology for this project and how it is implemented.
5. Describe your procedures and objectives for reviewing the design and construction documents and providing feedback to the Design Team, Owner, and any 3rd party consultants.
6. Describe your method of assuring that materials, equipment, and construction methods meet the Owner's design requirements.
7. Describe your firm's procedures for implementing the industry's "best practices" as defined by the Construction Industry Institute™ (CII) and similar organizations:

- a. Establishing project objectives
- b. Change (order) management system
- c. Any others not listed but practiced and therefore recommended by your firm

CRITERION D: Respondent's utilization of cost estimating and project cost control plan which will assure that the Owner's construction budget shall not be exceeded.

1. Describe your cost estimating procedure.
2. Describe your cost control methods and what procedures you will utilize to maintain the GMP within the Owner's construction budget for this project.
3. Describe your approach to value added cost savings and identification of constructability issues, costing options and cost projections.
4. Describe your project financial plan and the projected monthly cash flow (draw-down) during the design and construction phases.
5. Describe your firm's plans for cost reporting and tracking.

CRITERION E: Respondent's utilization of project scheduling throughout the design and construction phases.

1. Describe in detail the project scheduling system or methodology you propose to use on this project.
2. Identify all process steps, phases, milestones, approvals, and project meetings you commonly anticipate.
3. Provide a proposed realistic schedule for the construction of the project with an Owner occupancy date no later than 3rd quarter of 2022.
4. Describe your plan for meeting or shortening the Owner's schedule:
 - a. During design; and
 - b. During construction.

CRITERION F: Respondent's capability to perform a quality control process during the entire project duration.

1. Identify the quality control team for this project and their duties.
2. Describe in detail your firm's quality control program for each phase of this project.
3. Describe your quality control objectives for this project.
4. Describe how you propose to control the quality of construction performed by your subcontractors on this project

CRITERION G: Respondent's job site safety program.

1. Describe your job site safety program plan for this project and specific safety policies with which employees must comply.
2. Describe your job site cleanliness plan and your approach to enforcement of this plan.
3. Identify the safety team and their duties for this project.

4. List your firm's Experience Modification Rating (EMR) for the past three (3) years.

CRITERION H: HUB Subcontracting Policies Approach

1. Describe your approach to maximizing opportunities for HUB participation on this project and Owner's goals at the Construction Manager, Subcontractor, Sub-subcontractor, Material and Supplier levels. In addition, describe your knowledge of unique or innovative programs designed to maximize opportunities for HUB participation which you recommend for consideration in this project.
2. Describe your commitment to implementing the Owner's HUB initiatives throughout the preconstruction and construction phases of the project. Describe any contractor insurance program utilized by your firm, such as a Contractor Controlled Insurance Program, and how it is utilized to assist small and HUB firms. Describe how it could be utilized for this project.

ISSUE DATE
November 13, 2019

DOCUMENT 006000

PROJECT FORMS

PAYMENT BOND

Surety Bond No. _____

STATE OF TEXAS §
COUNTY OF §

KNOW ALL MEN BY THESE PRESENT: That we, _____, as Principal, and _____, as Surety, are hereby held and firmly bound unto the University of North Texas System, as Obligee, in the sum of Dollars (\$ _____) for payment whereof the said Principal and Surety bind themselves, their heirs, executors, administrators, and successors, jointly and severally, by the terms and conditions herein.

The conditions of this obligation are such that whereas the Principal entered into a certain contract with the Obligee, as an entity of the State of Texas, dated the ___ day of ___, 200_ ("Contract"), which is hereto attached and made a part hereof for all purposes, for the purpose of _____.

NOW THEREFORE, the condition of this obligation is such that this Payment Bond shall remain in full force and effect unless and until 120 days after Principal has faithfully performed the Contract in accordance with the Contract documents and Principal has executed a copy of the attached Payment Affidavit and provided it to Obligee.

In the event that the Principal fails to promptly pay when due any amount owed to persons who have supplied labor, materials, or supplies used in Principal's performance of the said Contract, the Surety will, upon receipt of notice from the Obligee or a claim in the form required by law, satisfy all undisputed balances due, and make arrangements satisfactory to the interested parties to resolve all amounts disputed in good faith, but in no event shall the liability of the Surety for the Principal's failure to promptly pay for labor, materials, or supplies exceed the amount of this bond.

The Surety agrees to pay to the Obligee upon demand all loss and expense, including attorney's fees, incurred by the Obligee by reason of or on account of any breach of this obligation by the Principal or the Surety.

Provided further, that this bond is made and entered into for the protection of all parties supplying labor or materials in the prosecution of the work provided for in the said Contract, and all such parties shall have a direct right of action under this bond as provided in Chapter 2253 of the Texas Government Code. If any legal action is filed upon this bond, venue shall lie in Denton County, Texas.

The liabilities, rights, limitations and remedies concerning this Bond shall be determined in accordance with the provisions of Chapter 2253 of the Texas Government Code, pursuant to which this bond is executed.

IN WITNESS WHEREOF, the above parties have executed this instrument under their several seals this _____ day of _____ in the year 20____, the name and seal of each party being hereto affixed, and duly signed by its undersigned representative pursuant to authority of its governing body.

CONSTRUCTION MANAGER-AT-RISK

(Firm Name)

(Address)

(Signature)

(City, State, Zip)

(Typed Name and Title)

(Telephone)

(Texas Vendor ID No.)

PERFORMANCE BOND

Surety Bond No.

STATE OF TEXAS §
COUNTY OF §

LET IT BE KNOWN BY THIS INSTRUMENT: That we, _____, as Principal, and _____ a corporation duly authorized to do business in the State of Texas, as Surety, are hereby held and firmly bound unto the University of North Texas System, as Obligee, in the sum of _____ Dollars (\$ _____) for payment whereof the said Principal and Surety bind themselves, their heirs, executors, administrators, and successors, jointly and severally, by the terms and conditions herein.

The conditions of this obligation are such that whereas the Principal entered into a certain contract with the Obligee, as an entity of the State of Texas, dated the _____ day of _____, 20 ("Contract"), which is hereto attached and made a part hereof for all purposes, for the purpose of _____.

NOW THEREFORE, the condition of this obligation is such that this Performance Bond shall remain in full force and effect unless and until the Principal has faithfully performed the Contract in accordance with the Plans, Specifications and Contract documents. Further, under the terms of this Performance Bond, Principal shall fully indemnify and save harmless the Obligee from all cost and damage which the Obligee may suffer by reason of Principal's default or failure to perform and shall fully reimburse and repay the Obligee all outlay and expense which the Obligee may incur in making good any such default.

In the event that the Principal's failure as defined by the Contract Documents, to faithfully perform the Contract, Surety will within fifteen (15) days of determination of default, assume full responsibility for completion of said Contract and become entitled to payment of the balance of the Contract amount. Conditioned upon the Surety's faithful performance of its obligations, the liability of the Surety for the Principal's default shall not exceed the penalty of this Bond.

The Surety agrees to pay to the Obligee upon demand all loss and expense, including attorney's fees, incurred by the Obligee by reason of or on account of any breach of this obligation by the Principal or the Surety.

Provided further, that the Surety, for value received, hereby stipulates and agrees that no change, extension of time, alteration or addition to the terms of the said Contract, or to the work to be performed thereunder, or the Specifications accompanying the same, shall in anyway affect its obligation on this Bond, and it does hereby waive notice of any such change, extension of time, alteration or addition, to the terms of the said Contract or to the work or to the Specifications.

Provided further, that if any legal action be filed upon this Bond, venue shall lie in Denton County, Texas.

The liabilities, rights, limitations and remedies concerning this Bond shall be determined in accordance with the provisions of Chapter 2253 of the Texas Government Code, pursuant to which this Bond is executed.

IN WITNESS WHEREOF, the above parties have executed this instrument under their several seals this _____ day of _____ in the year 20____, the name and corporate seal of each corporate party being hereto affixed, and these present duly signed by its undersigned representative pursuant to authority of its governing body.

ATTEST:

(Signature)

(Typed Name and Title)

(SEAL)

ATTEST:

(Signature)

(Typed Name and Title)

(SEAL)

Surety's Texas Local Recording
Agent or Resident Agent:

(Signature)

(Typed Name)

(License No.)

(File No)

(Address)

(City, State, Zip)

(Telephone)

(Principal)

(Signature)

(Typed Name and Title)

(Surety)

(Signature)

(Typed Name and Title)

Surety's Home Office Agent or
Servicing Agent:

(Name)

(Title)

(Address)

(City, State, Zip)

(Telephone)

CONSTRUCTION MANAGER-AT-RISK AGREEMENT

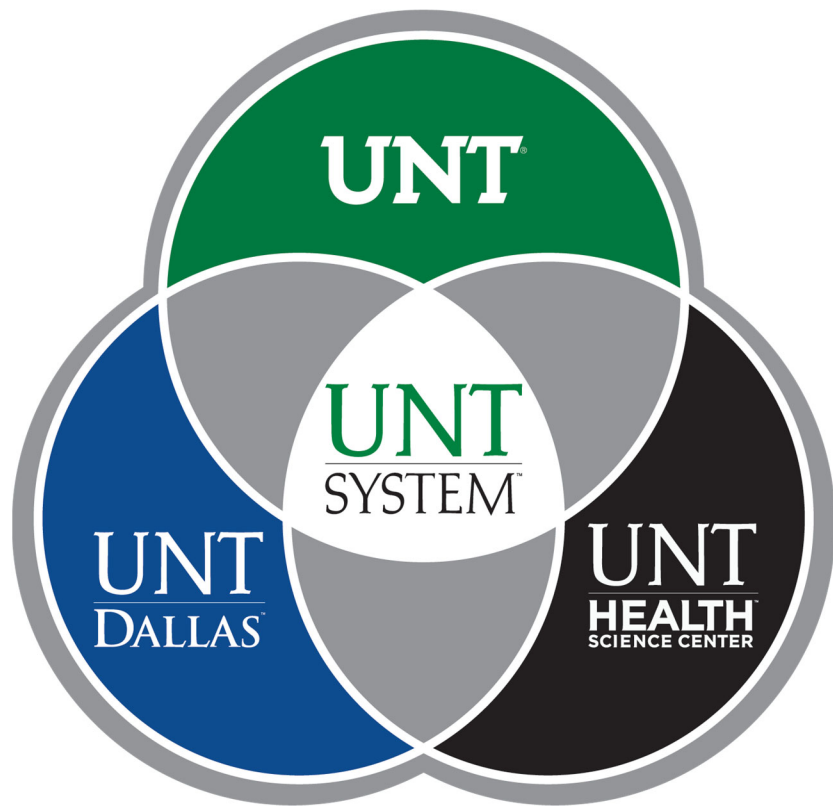


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CONSTRUCTION MANAGER-AT-RISK AGREEMENT

This Agreement is made and entered into by **University of North Texas {System or Institution Name}**, (“Owner”), and by **{Firm Name}** (“Construction Manager”), duly licensed by the laws of the State of Texas to provide Construction Manager Services in the State of Texas. The capitalized term “Party” refers to either Owner or Construction Manager individually and the term “Parties” refers to Owner and Construction Manager collectively. The effective date (“Effective Date”) of this Agreement shall be the date of last signature by the Parties hereto.

ARTICLE 1 PROJECT

- 1.1 Owner desires and intends to construct {Project Name} (“Project”), on the {Campus} , to be completed in accordance with the requirements herein, and generally described as follows:

{General Description of the Project}
- 1.2 Construction Manager has overall responsibility for and shall provide complete Preconstruction Services and Construction Services and furnish all materials, equipment, tools, and labor as necessary or reasonably inferable to complete the Work, or any phase of the Work, in accordance with Owner’s requirements and the terms of the Contract Documents. Construction Manager does hereby agree to perform for and furnish to Owner complete Preconstruction and Construction Work, including all reasonably inferable services, studies, investigations, and labor incident to the construction administration and management of construction, for all stages of construction of the Project to be completed in accordance with the requirements set forth herein. The Contract Time and the date by which Substantial Completion shall be achieved will be established when and if Owner accepts Construction Manager’s Guaranteed Maximum Price (GMP) Proposal.

ARTICLE 2 CONTRACT DOCUMENTS

- 2.1 The Contract Documents consist of:
 - 2.1.1 This Agreement and all exhibits and attachments listed, contained or referenced in this Agreement;
 - 2.1.2 The Uniform General Conditions for Construction and Design Contracts for the University of North Texas System (“Uniform General Conditions” or “UGC”), Exhibit A;
 - 2.1.3 Supplementary General Conditions (SGC) or Special Conditions, if any;
 - 2.1.4 Owner’s Specifications;
 - 2.1.5 All Addenda issued prior to the Effective Date of this Agreement;
 - 2.1.6 The Guaranteed Maximum Price Proposal when accepted by Owner and executed by the parties;
 - 2.1.7 All Change Orders issued after the Effective Date of this Agreement;
 - 2.1.8 The Drawings, Specifications, details and other documents developed by Project Design Professional to describe the Project and accepted by Owner;

- 2.1.9 The Drawings and Specifications developed or prepared by Owner's other consultants, if any, and accepted by Owner; and
- 2.1.10 The Historically Underutilized Business (HUB) subcontracting plan submitted or amended by Construction Manager and approved by Owner for this Project.
- 2.2 The Contract Documents form the entire and integrated Contract between Owner and Construction Manager and supersede all prior negotiations, representations or agreements, written or oral.
- 2.3 To the extent the terms of this Agreement conflict with the Uniform General Conditions and/or the Supplemental Conditions, the terms of this Agreement will control.
- 2.4 If there is an irreconcilable conflict between or among the various documents that make up the GMP Proposal and the other Contract Documents, the interpretation that provides for the higher quality of material and/or workmanship will prevail over all other interpretations.

ARTICLE 3 DEFINITIONS

- 3.1 Terms, words, and phrases used in the Contract Documents shall have the meanings given in the Uniform General Conditions.
- 3.2 The following terms, words, and phrases used in the Contract Documents shall have the following meanings, and if more specific than the definition given in the Uniform General Condition, the more specific given in this Agreement shall control.
 - 3.2.1 "Alternate" shall mean the amount stated in the bid to be added or deducted from the amount of the base bid if the corresponding change in the Project scope or alternate materials and/or methods of construction is acceptable.
 - 3.2.2 "Allowance" means allocating construction funds to portions of the Work that cannot be specified with sufficient particularity for competitive bidding at the time of submission and acceptance of the Guaranteed Maximum Price.
 - 3.2.3 "Baseline Schedule"
 - 3.2.3.1 "Preconstruction Baseline Schedule" means the initial time schedule prepared by Construction Manager which contain the services and activities of Owner, Construction Manager, Design Professional, other consultants/suppliers and the requirements of governmental entities. The Preconstruction Baseline Schedule shall include the start date for construction, Substantial Completion date and Final Completion date for construction.
 - 3.2.3.2 "Construction Baseline Schedule" means the initial time schedule prepared by Construction Manager for Owner's information and acceptance that conveys Construction Manager's and Subcontractors' activities (including coordination and review activities required in the Contract Documents to be performed by the Design Professional and Owner), durations and sequence of work related to the entire Project to the extent required by the Contract Documents. The schedule shall clearly demonstrate the Longest Path of activities, critical activities durations, and necessary predecessor conditions that drive the end date of the schedule. The accepted Construction Baseline Schedule shall not change.

- 3.2.4 “Building Information Modeling (BIM)” means the process of generating and managing building data using building modeling software resulting in a BIM Model which is a digital representation of physical and functional characteristics of a facility.
- 3.2.5 “Construction Cost Limitation” (CCL) means the maximum monetary amount payable to Construction Manager for all Construction Services, materials, labor and other work required for completion of the Work in accordance with the Contract Documents. The CCL includes, without limitation, the General Conditions Costs, the Cost of the Work, the Construction Services Fee and Owner approved Contingencies. The CCL may be adjusted by the parties for changes in the scope of the Project before or after Owner’s acceptance of the Guaranteed Maximum Price Proposal. The CCL does not include Construction Manager’s Preconstruction Services Fee or Owner’s Special Cash Allowance.
- 3.2.6 “Construction Services” means the coordination, implementation, and execution of the Work required by the Contract Documents.
- 3.2.7 “Contingencies” means, collectively, the following:
- 3.2.7.1 “Design Contingency” means an amount to allow for continued development and completion of the Drawings and Specifications which are not reasonably inferable except for material changes in scope. Amounts attributable to clarifications, assumptions, and further development and completion of the Drawings and Specifications shall be specified in an itemized breakdown. Upon issuance of one hundred percent (100%) CD, any unused Design Contingency shall be added to Owner’s Contingency.
 - 3.2.7.2 “Construction Contingency” means an amount included in the GMP Amendment to cover any shortfalls in the scope of work as it was known at the time of the GMP Proposal execution.
 - 3.2.7.3 “Owner’s Contingency” means an amount determined by Owner in Owner’s sole discretion included in the GMP Amendment for the exclusive use of Owner.
- 3.2.8 “Construction Documents” (CD) means the documentation prepared by Design Professional to be used to direct the Construction Manager in the construction of the Project, to estimate the cost of the Project, and to secure bids for constructing the Project. The Construction Documents shall include drawings, specifications, general conditions, supplementary general conditions, special conditions, information to bidders, bid proposal(s), and addenda developed to set forth in detail all aspects of design, function and construction.
- 3.2.9 “Contract Sum” means the total amount of all compensation payable to Construction Manager for the Project and shall not exceed the sum total amount of the Preconstruction Fee plus the Guaranteed Maximum Price Proposal accepted by the parties, subject to adjustment for Additional Services or Change Orders. Any costs that exceed the Contract Sum shall be borne solely by Construction Manager without reimbursement by Owner.
- 3.2.10 “Design Professional” means licensed professionals, or firms employing such licensed professionals, engaged by Owner as independent architects or engineers for design of all or a portion of the Project and to prepare Drawings and Specifications for the construction of the Project. More than one such professional or firm may be employed by Owner, and all such professionals or firms, regardless of number, are referred to in the singular herein.

- 3.2.11 “Direct Construction Cost” means the sum of the amounts that Construction Manager actually and necessarily incurs for General Requirements, General Conditions, and Cost of the Work during the Construction as allowed by this Agreement. Direct Construction Cost does not include Preconstruction Services Fees or Construction Services Fees.
- 3.2.12 “General Conditions” means those items included in Texas Education Code § 51.776(7), as amended. General Conditions shall include all cost line items included on Construction Manager’s itemized breakdown in the GMP Amendment and shall be subject to the General Conditions limit.
- 3.2.13 “Guaranteed Maximum Price” (GMP) means the amount proposed by Construction Manager and accepted by Owner as the maximum cost to Owner for construction of the Work in accordance with the Contract Documents. The GMP includes Construction Manager’s Construction Services Fee, Direct Construction Cost, and Contingencies.
- 3.2.14 “Longest Path” means the sequence of directly related activities that comprise the longest continuous chain of activities from the start of the first activity to the finish of the last activity. Each activity in the Longest Path is critical and directly related in that it prevents its successor from being scheduled earlier than it is. For this Project, “Longest Path” shall also include Ten Percent (10%) Total Float and Weather Days.
- 3.2.15 “Monthly Salary Rate” means the amount agreed to by Owner that can be used on Applications for Payment throughout the Construction Services to account for the services of Construction Manager’s salaried personnel assigned to the Project. A Monthly Salary Rate must be established for each salaried person and must be approved in writing by Owner in advance of any Application for Payment for that person. The Monthly Salary Rate is for convenience only and any payments made for Construction Manager’s personnel are subject to audit to determine the actual cost of the wages and allowable employer contributions incurred by Construction Manager for services performed for the Project
- 3.2.16 “Owner, Architect and Contractor meeting” (OAC meeting) means regularly scheduled meetings between Owner, Design Professional and Contractor.
- 3.2.17 “Owner’s Buyout” means buyout savings controlled by Owner once the Project is thirty percent (30%) complete as documented on the Schedule of Values.
- 3.2.18 “Owner’s Specifications” means the construction and contract administration requirements and standards detailed in Owner’s Specifications.
- 3.2.19 “Preconstruction Services” means the participation, documentation, and execution of Construction Manager’s Preconstruction Services deliverables as required by the Contract Documents
- 3.2.20 “Program of Requirements” means Owner’s initial description of the Project scope, preliminary Construction Cost Limitation, Design Schedule, criteria for design objectives, characteristics and constraints, space requirements and relationships, site requirements, existing facilities, and desired special components, systems and equipment.
- 3.2.21 “Project Team” means Owner, Design Professional and its consultants, and Construction Manager, and any separate contractors employed by Owner, and other consultants employed for the purpose of programming, design, and construction of the Project. The members of the Project Team will be designated by Owner and may be modified from time to time by Owner.

- 3.2.22 “Self-Perform” includes Construction Manager, any division of Construction Manager, any separate entity that is wholly or partially owned by Construction Manager, or any of their employees or persons related to employees within the second degree of consanguinity or affinity.
- 3.2.23 “Subcontractor” means a person or entity who has an agreement with Construction Manager to perform any portion of the Work. The term Subcontractor does not include the Project Design Professional or any person or entity hired directly by Owner.
- 3.2.24 “Total Float” shall refer to the number of days all activities on the Longest Path can be delayed without delaying the Substantial Completion Date.
- 3.2.25 “Value Engineering” means a systematic method to improve the value of goods or products and services by using an examination of function. Value can therefore be increased by either improving the function or reducing the cost. If any value engineering activities constitute the professional practice of engineering, then such activities shall be performed by an engineer licensed in Texas.
- 3.2.26 “Work” means the provision of all services, labor, materials, supplies, and equipment that are required of Construction Manager to complete the Project in strict accordance with the requirements of the Contract and the Construction Documents. Work includes, but is not limited to, the Construction Services, additional work required by Change Orders, and any other work reasonably inferable from the Construction Documents. The term “reasonably inferable” takes into consideration the understanding of the parties that some details necessary for completion of the Work may not be shown on the Drawings or included in the Specifications, but they are a requirement of the Work if they are a usual and customary component of the Work or otherwise necessary for complete installation and operation of the Work.
- 3.2.27 “Work Progress Schedule” (WPS) means the continually updated time schedule prepared and monitored by the Construction Manager that coordinates and integrates activities of the Project, including Construction Manager’s services, Design Professional’s services, the work of other consultants, suppliers, and Owner’s activities with the anticipated construction schedules for other contractors. The WPS accurately indicates all necessary and appropriate revisions including a Longest Path impact analysis and percentage of work complete and incomplete, as required by the conditions of the Work and the Project while maintaining a concise comparison to the Baseline Schedule.
- 3.2.28 “Worker Wage Rate” (WWR) means the actual hourly wage of non-salaried persons performing work on the Project plus allowable employer contributions as established by the United States Department of Labor in accordance with the Davis-Bacon Act, as amended. The specified wage rates are minimum rates only. All payments for non-salaried personnel working on the Project are subject to audit to determine actual cost of the wages and allowable employer contributions incurred by employer for services performed for the Project.

ARTICLE 4 CONSTRUCTION MANAGER’S GENERAL RESPONSIBILITIES

- 4.1 Construction Manager shall furnish construction administration and management services and use Construction Manager's diligent efforts to perform the Work in an expeditious manner consistent with the Contract Documents. Owner hereby designates and appoints Construction Manager and authorizes Construction Manager to so act in connection with the scope of Work and services set forth and described in this Agreement. Neither Construction Manager nor any of its agents or

employees shall bind or act on behalf of or in the name of Owner unless expressly and explicitly provided in this Agreement and authorized in writing by Owner's Representative.

- 4.2 Construction Manager shall be responsible for the supervision and coordination of the Work, including the construction means, methods, techniques, sequences, and procedures utilized, unless the Contract Documents give other specific instructions.
- 4.3 Construction Manager shall furnish efficient business administration and superintendence and perform its services hereunder or pursuant to this Agreement in the best way and in the most expeditious and economical manner consistent with the interests of Owner.
- 4.4 Construction Manager shall perform Work only within locations allowed by the Contract Documents, laws, and applicable permits.
- 4.5 Construction Manager shall provide competent supervision for the performance of the Work. Before commencing the Work, Construction Manager shall notify Owner in writing of the name and qualifications of its proposed superintendent(s) and project manager, so Owner may review the individual's qualifications. If, for reasonable cause, Owner refuses to approve the individual, or withdraws its approval after once giving it, Construction Manager shall name a different superintendent or project manager for Owner's review. Any disapproved superintendent or project manager shall not perform in that capacity thereafter at the Site.
- 4.6 Owner and Construction Manager agree and acknowledge that Owner is entering into this Agreement in reliance on Construction Manager's special and unique abilities with respect to construction management and the obligations of this Agreement. Construction Manager accepts the relationship of trust and confidence established between it and Owner by this Agreement. Construction Manager shall use its best efforts, skill, judgment, and abilities to perform the services hereunder and to further the interests of Owner in accordance with Owner's requirements and procedures, in accordance with the highest standards of Construction Manager's profession or business and in compliance with all applicable national, federal, state, municipal, laws, regulations, codes, ordinances, orders, local utility companies and with those of any other body having jurisdiction. Construction Manager shall have no obligations, commitments, or impediments of any kind that will limit or prevent performance of the services required hereunder.
- 4.7 Services to be performed by Construction Manager under or pursuant to this Agreement shall be of the standard and quality which prevail among similar businesses and organizations of superior knowledge and skill engaged in providing similar services in the same or similar locale, under the same or similar circumstances and involving a project such as the Project.
- 4.8 Construction Manager shall call to Owner's and Design Professional's attention anything of any nature in any Drawings, Specifications, plans, sketches, instructions, information, requirements, procedures, and other data supplied to Construction Manager (by Owner or any other party) which it regards in its opinion as unsuitable, improper, inaccurate, or would constitute a discrepancy, error, omission, or inconsistency in the Drawings or Specifications in connection with the purposes for which such document or data is furnished.
- 4.9 Construction Manager shall coordinate services and work collaboratively with Design Professional and provide cost information to the Project Team and Owner at all stages of the design. It is the Design Professional's and Construction Manager's responsibility to keep the design within the Project CCL.
- 4.10 Construction Manager's duties as set forth herein shall at no time be in any way diminished by reason of any approval by Owner nor shall Construction Manager be released from any liability by reason of such approval by Owner, it being understood that Owner at all times is ultimately relying upon Construction Manager's skill and knowledge in performing the services required hereunder.

- 4.11 Construction Manager shall permit only fit and skilled persons to perform the Work. Persons connected with Construction Manager directly in charge of its services must be duly registered and/or licensed under applicable laws, rules, and regulations of any authority having jurisdiction.
- 4.12 Construction Manager shall enforce safety procedures, strict discipline, and good order among persons performing the Work. If Owner determines that a particular person does not follow safety procedures, or is unfit or unskilled for the assigned work, Construction Manager shall immediately reassign the person on receipt of Owner's written notice to do so.
- 4.13 Construction Manager shall be responsible to Owner for acts or omissions of persons or entities performing portions of the Work for or on behalf of Construction Manager or any of its Subcontractors.
- 4.14 Construction Manager agrees that: (a) if it is a corporation or limited liability company, then it is a corporation duly organized, validly existing, and in good standing under the laws of the State of Texas, or a foreign corporation or limited liability company duly authorized and in good standing to conduct business in the State of Texas, that it has all necessary corporate power and has received all necessary corporate approvals to execute and deliver the Agreement; or (b) if it is a partnership, limited partnership, or limited liability partnership, then it has all necessary partnership power and has secured all necessary approvals to execute and deliver this Agreement and perform all its obligations hereunder. The individual executing this Agreement on behalf of Construction Manager has been duly authorized to act for and bind Construction Manager.
- 4.15 Neither the execution and delivery of this Agreement by Construction Manager nor the performance of its obligations hereunder will result in the violation of: (a) any provision (1) if a corporation, of its articles of incorporation or bylaws, (2) if a limited liability company, of its articles of organization or regulations, or (3) if a partnership, by any partnership agreement by which Construction Manager is bound; (b) any agreement by which Construction Manager is bound; or (c) to the best of Construction Manager's knowledge and belief, any order or decree of any court or governmental instrumentality relating to Construction Manager.
- 4.16 Construction Manager shall comply with the HUB program as defined by Tex. Gov't Code, Chapter 2161. Failure to comply with the HUB Program may constitute a material breach of this Contract, as determined by Owner's sole discretion.
- 4.17 Construction Manager has provided a HUB Subcontracting Approach in Construction Manager's Response to Owner's RFP. Construction Manager agrees to comply with the established HUB Subcontracting Approach and shall make no changes to the HUB Subcontracting Approach without the prior written approval of Owner.
- 4.18 Construction Manager will work with the Business Support Services HUB Coordinator to develop the HUB Subcontracting Plan (HSP). The HSP will be due at the time the GMP Proposal is presented to Owner for approval. Because construction may be phased or staged, it may not be possible for Construction Manager to determine HUB participation for all projected Work until the scope of Work is defined. Accordingly, Construction Manager shall amend the HSP and submit to Owner's HUB Coordinator documentation for each phase, stage, or bid package. Further details concerning the HSP are located within the UGC's.
- 4.19 Subcontractors.
- 4.19.1 With the prior written approval of Owner, Construction Manager may subcontract such services as Construction Manager deems necessary to meet its obligations under this Agreement. Subcontractors shall be qualified and experienced in the type of work they will be performing. Owner shall have the right to reject any subcontractor but such right shall not relieve the responsibility of Construction Manager for his work and the work of the subcontractors. Construction Manager expressly assumes such responsibility and liability.

- 4.19.2 Construction Manager shall be responsible for the management of the Subcontractors in the performance of their work.
- 4.19.3 If this Agreement is terminated, each subcontract agreement shall be assigned by Construction Manager to Owner, subject to the prior rights of any surety, provided that: (a) this Agreement is terminated by Owner pursuant to Article 14; and (b) Owner accepts such assignment after termination by notifying the Subcontractor and Construction Manager in writing, and assumes all rights and obligations of Construction Manager pursuant to each subcontract agreement.
- 4.19.4 Subcontractors used on this Project shall be subcontracted in accordance with the terms and conditions of the Contract Documents. Construction Manager shall include and enforce the terms and conditions within the Contract Documents on all contracts with all subcontractors and vendors performing work on this Project.

ARTICLE 5 CONSTRUCTION MANAGER'S PRECONSTRUCTION SERVICES

- 5.1 The Preconstruction shall be deemed to commence upon the date specified in a Notice to Proceed with Preconstruction Services issued by Owner and shall continue through completion of the Construction Documents and procurement of all major Subcontractor agreements. Construction Manager is not entitled to reimbursement for any costs incurred for Preconstruction Services performed prior to issuance of Notice to Proceed. Preconstruction Services may overlap with Construction Services.
- 5.2 General Coordination.
- 5.2.1 Construction Manager shall schedule and attend regular meetings with Owner and Design Professional. Construction Manager shall consult with Owner and Design Professional regarding site use and improvements and the selection of materials, building systems, and equipment.
- 5.2.2 Construction Manager shall visit the site and inspect the existing facilities, systems and conditions to ensure an accurate understanding of the existing conditions as required.
- 5.2.3 Construction Manager shall participate as a member of the Project Team in the development of the Program of Requirements if such program has not been developed prior to the Effective Date of this Agreement.
- 5.2.4 Construction Manager shall provide recommendations and information to the Project Team on: building systems, equipment and construction feasibility; site improvements; actions designed to minimize adverse effects of labor or material shortages; time requirements for procurement, installation, and construction completion; assignment of responsibilities for safety precautions and programs; temporary Project facilities; equipment, materials and services for common use of Construction Manager and Owner's separate contractors, if any; and factors related to construction cost, including estimates of alternative designs or materials, preliminary budgets, and possible cost savings; recognizing and tracking the resolution of conflicts in proposed Drawings and Specifications; methods of delivery of materials, systems and equipment; methods of verification for determining that the requirements and assignment of responsibilities are included in the proposed Contract Documents; and any other matters necessary to accomplish the Project in accordance with the Preconstruction Work Progress Schedule and Construction Cost Limitation.

- 5.2.5 Construction Manager shall assist Owner in selecting and directing the services of existing facility surveys, environmental surveys or other special consultants hired by Owner to develop additional information for the design or construction of the Project.
- 5.2.6 At Owner's request, Construction Manager shall attend public meetings and hearings concerning the development and schedule of the Project.
- 5.2.7 Construction Manager shall create and continuously update a decision tracking system in a format provided by Owner. Construction Manager shall also develop and update a "Constructability Review" report which will be due within fourteen (14) days prior to scheduled estimates. The report will be based on frequent communication with the Project Team and will outline items that in Construction Manager's opinion may cause problems in the way the Project is to be constructed and will review the overall coordination of Specifications and Drawings, details, and discrepancies that if left unattended may result in Change Orders or claims once Project construction commences. The Constructability Report will include the following items in a format provided by the Owner: Location/Discipline, Description, Date Initiated, Current Status, Date Required, Date Completed, Responsible Party, Action Required.
- 5.2.8 Construction Manager shall work in conjunction with Owner and Design Professional to work toward completion of the GMP process, to include meeting with all Parties. Meetings shall include, but are not limited to reviewing and commenting on construction logs, cost estimation, reconciliation and conflicts with BIM.
- 5.3 Budget and Cost Consultation.
- 5.3.1 Construction Manager shall obtain from Owner all Project service, materials, and property costs and expenses not known directly by Construction Manager, such costs to include, without limitation, Owner's personnel costs, force account labor, and special consultants.
- 5.3.2 Construction Manager shall prepare and update Construction cost estimates at: (i) fifty percent (50%) schematic design; (ii) one hundred percent (100%) schematic design; (iii) fifty percent (50%) design development; (iv) one hundred percent (100%) design development and fifty percent (50%) construction documents for written approval by Owner, such cost estimate to include estimating, updating and reporting of all construction costs.
- 5.3.3 The design development phase and construction documents phase estimates shall be detailed estimates derived from cost quantity surveys. Such cost quantity surveys shall be based upon unit prices for labor, materials, and overhead and profit in Construction Specifications Institute Division format, Master Format 32, for each portion of the Work.
- 5.3.4 Construction Manager shall provide, throughout the duration of the Project, updates of ongoing cost and budget impact, and provide continuous cost consultation services. Construction Manager shall prepare and be responsible for all procurement and construction cost estimates, and advise the other members of the Project Team in writing within forty-eight (48) hours if at any time Construction Manager has knowledge that the previously established CCL will not be met. Construction Manager shall make recommendations to the Project Team for corrective action. Should the impact be critical in nature Construction Manager shall have a follow-up discussion with Owner,
- 5.3.5 At the completion of the Construction Documents, Construction Manager shall update and refine a comparison of actual and projected costs to the Construction Cost Limitation, and in the event such actual and projected costs exceed the original Construction Cost Limitation, develop and implement reasonable strategies to be

approved by Owner to reduce the costs projected to be incurred during all phases of the Project.

5.4 Coordination of Design and Construction Documents.

- 5.4.1 Construction Manager shall examine and compare the Drawings and Specifications with information furnished by Owner that are considered Contract Documents, relevant field measurements made by Construction Manager and any visible conditions at the Site affecting the Project.
- 5.4.2 Construction Manager shall review the Drawings and Specifications during the schematic design phase, design development phase, and construction documents phase in an effort to identify potential constructability problems, which could impact Construction Manager's ability to perform the Work in an expeditious and economical manner. Construction Manager shall advise Owner on site use, foundations, systems, materials, equipment, construction feasibility, availability of labor and materials, procurement time requirements, installation and construction, relative costs, and provide recommendations to Owner without assuming Design Professional's professional responsibility.
- 5.4.3 Construction Manager shall during review of the Drawings and Specifications report to Owner and Design Professional any discrepancies, errors, omissions, or inconsistencies discovered and recommend alternative solutions whenever the design affects construction feasibility, budget, risks, or schedules. Construction Manager shall report these items to Owner in writing within forty-eight (48) hours and if critical have a follow-up discussion with Owner.
- 5.4.4 Construction Manager shall assist in development of any Special Conditions of the Construction Documents, which shall be approved in writing by Owner at Owner's sole option and discretion.
- 5.4.5 Construction Manager shall coordinate with Owner to ensure that the Construction Documents comply with all applicable State of Texas statutes, laws, rules and regulations, and University of North Texas System requirements.
- 5.4.6 Construction Manager shall consult with Owner and Design Professional to suggest reasonable adjustments in the scope of the Project and suggest alternate bids in the Construction Documents to adjust the Construction Cost to the GMP.

5.5 Pre-Existing Conditions & Design Errors and Omissions

- 5.5.1 Construction Manager acknowledges that it has been provided unrestricted access to the existing improvements and conditions on the Project site and that it has thoroughly investigated those conditions and performed due diligence during the investigation. Construction Manager's due diligence includes, but is not limited to, identifying underground infrastructure (i.e. water, sewer, electrical, gas and data lines) and/or other conditions that may affect the Project. Construction Manager shall not make or be entitled to any claim for any adjustment to the Substantial Completion date or the cost for Preconstruction Services or Construction Services arising from Project conditions that Construction Manager discovered or, in the exercise of reasonable care, should have discovered in the Construction Manager's investigation.
- 5.5.2 Construction Manager shall participate in the development and review of the Construction Documents. Construction Manager shall review the drawings, specifications and other Construction Documents and, in writing, notify Owner of any errors, omission and discrepancies in the documents of which it is aware. Construction Manager shall not make or be entitled to any claim for any adjustment to the Substantial

Completion date or the cost for Preconstruction Services or Construction Services for errors or omissions in the Construction Documents that Construction Manager discovered or, in the exercise of reasonable care, should have discovered in Construction Manager's Preconstruction design review process that Construction Manager did not bring to the attention of Owner and Design Professional in a timely manner.

- 5.5.3 Construction Manager shall have no liability for discrepancies, errors, omissions, or inconsistencies in the Drawings or Specifications, unless Construction Manager fails to report within forty-eight (48) hours in writing a discovered or apparent discrepancy, error, omission, or inconsistency to Owner and Design Professional or Construction Manager fails to adequately perform the examination. Should the item be critical in nature, Construction Manager shall have a follow-up discussion with Owner.
 - 5.5.4 Construction Manager shall not be responsible for ascertaining that the drawings and specifications are in accordance with applicable laws, statutes, ordinances, building codes, rules and regulations, but Construction Manager will report in writing to Project Team within forty-eight (48) hours of discovery any variances which should have been reasonably discovered.
- 5.6 Construction Planning.
- 5.6.1 Construction Manager shall identify and recommend to Owner and Design Professional the need for items requiring extended delivery times (long lead items), and expedite the procurement of such items to ensure their delivery by the required dates. Construction Manager shall participate with Design Professional, as requested by Owner and subject to Owner's prior approval, in the preparation of performance Specifications and request for technical proposals for the procurement and installation of systems, components, and for the procurement of long lead-time equipment and materials. If requested by Owner, and subject to Owner's prior approval, Construction Manager shall issue requests for technical proposals to qualified sources, receive proposals, and assist in their evaluation.
 - 5.6.2 Construction Manager shall make recommendations to the other members of the Project Team regarding the division of Contract Documents and Project Manual to facilitate the bidding and awarding of construction contracts, to allow for phased or staged construction, or multiple separate contracts. Construction Manager shall take into consideration such factors as time of performance, type and scope of work, availability of labor and materials, overlapping trade jurisdictions, provisions for temporary facilities, comparisons of factory and onsite production costs, shipping costs, code restrictions, Owner's goals for HUB subcontractor participation, and other constraints.
 - 5.6.3 Construction Manager shall review the Contract Documents with the other members of the Project Team to eliminate areas of conflict and overlap in the work to be performed by the various Subcontractors or Owner's separate contractors.
 - 5.6.4 Construction Manager shall schedule and conduct pre-bid conferences with a record of minutes for interested bidders, subcontractors, material suppliers, equipment suppliers, and Owner.
 - 5.6.5 Construction Manager shall coordinate, develop, and review with Owner and Design Professional bid packages and scopes of work for each separate bid category representing the entirety of the scope of the Work for each phase and stage of the Project.

- 5.6.6 In accordance with Texas Education Code section 51.782, as amended, Construction Manager shall publicly advertise and solicit either competitive bids or competitive sealed proposals from trade contractors or subcontractors for the performance of all major elements of the work other than the minor work that may be included in General Conditions. Construction Manager shall receive and open all trade contractor or subcontractor bids or proposals in a manner that does not disclose the contents of the bid or proposal during the selection process to a person not employed by Construction Manager, Design Professional, or Owner.
- 5.6.7 Construction Manager and Owner shall review all trade contractor or subcontractor bids/proposals. Based on the selection criteria included in the request for proposals, Construction Manager shall recommend to Owner, in a manner acceptable to Owner, the bid/proposal(s) that provides the best value for the Project. Upon Owner's written concurrence with the recommendation, Construction Manager may negotiate the terms of the subcontract with the apparent best value bidder/proposer. All bids and proposals shall be made public within seven (7) days after the date of final selection.
- 5.6.8 For scope of work bid packages typically performed by subcontractors, Construction Manager may seek to Self-Perform portions of the Work on a cost plus fee (Not-To-Exceed 7.5%) basis subject to a Guaranteed Maximum Price for the Self-Performed Work. If Construction Manager intends to submit a proposal for Self-Performance, it shall notify Owner in writing prior to soliciting proposals. Construction Manager shall bid for the Work to be Self-Performed against at least three other interested trade contractors and must submit its bid or proposal for those portions of the Work in the same manner as all other trade contractors or subcontractors. If the Construction Manager's bid is considered the "best value", the bid amount will be considered the Guaranteed Maximum Price for the Self-Performed Work.
- 5.6.9 The Guaranteed Maximum Price will provide for payment in an amount equal to the Cost of the Work (as defined in this agreement) plus fee and will not exceed the agreed upon subcontract guaranteed maximum price. All terms and provisions of any subcontract for Self-Performed Work will be consistent with the terms and conditions of this Agreement with the exception of the agreed upon Fee percentage. All savings under any such subcontract for Self-Performed Work shall be applied to reduce the Cost of the Work under this Agreement and the Guaranteed Maximum Price of this Agreement.
- 5.6.10 Within ten (10) days, Owner shall determine if Construction Manager's bid proposal provides the best value for Owner. Owner's determination in such matters is final.
- 5.6.11 After review and evaluation, if a bid or proposal from a trade contractor or subcontractor is recommended by Construction Manager to Owner, but Owner requires a bid or proposal from another trade contractor or subcontractor to be accepted, Owner shall compensate Construction Manager. Compensation shall be by change in price, time, or GMP for any additional cost and risk, which demonstrated to Owner's satisfaction and as required by the Contract, Construction Manager incurs because of Owner's requirement to accept another trade contractor or subcontractor bid or proposal.
- 5.6.12 Construction Manager shall assist Owner, Design Professional, or others, in obtaining all applicable risk management, code, and regulatory agency reviews and approvals for the Project or any portion thereof including, without limitation, the Texas Higher Education Coordinating Board, the Texas Department of Licensing and Regulation, and the fire department providing fire protection.
- 5.6.13 Construction Manager shall refine, implement and monitor the HUB Goals including the Good Faith Effort Program, which promote equal employment opportunity in the provision of goods and services to Owner for the Project.

- 5.6.14 Construction Manager shall advise Owner of any tests to be performed and assist Owner in selecting testing laboratories and consultants, without assuming direct responsibility for the work of such laboratories and consultants.
- 5.6.15 Construction Manager shall review the Contract Documents to ensure that they contain adequate provision for all temporary facilities necessary to enable the subcontractors to perform their work, and provisions for all of the job site facilities necessary to manage, inspect, and supervise construction of the Work.
- 5.6.16 In accordance with Uniform General Conditions, Construction Manager is responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work. Construction Manager shall provide information to Owner and Design Professional with respect to the assignment of responsibilities for safety precautions and programs, temporary Project facilities, and equipment, materials, and services for common use of the Subcontractors. Construction Manager shall verify the assignments with respect to Subcontractors are included in the Contract Documents. The existence or creation of any Owner controlled insurance program in connection with the Work shall in no way lessen or reduce the foregoing responsibilities set forth in this subparagraph of Construction Manager.
- 5.6.17 Construction Manager shall provide an analysis of the types and quantities of labor required for the Project and review the appropriate categories of labor required for critical phases or stages. Construction Manager shall make recommendations for actions, which will minimize adverse effects of labor shortages.
- 5.6.18 Construction Manager shall consult with and make recommendations to Owner on the acquisition schedule for fixtures, furniture and equipment, and coordinate Owner's purchase and installation of such items as may be required to meet the Schedule.
- 5.7 Construction Manager shall not be entitled to any increase in the Preconstruction Fee because of Schedule extensions or delays, or changes in the scope of the proposed Project, unless such extensions, delays, or changes are material and significant, as determined by Owner at its sole discretion.

ARTICLE 6 SCHEDULE

- 6.1 Preconstruction Baseline Schedule.
 - 6.1.1 Construction Manager shall meet with Design Professional to coordinate preparation of the Preconstruction Baseline Schedule. Construction Manager shall within twenty-one (21) days of the Preconstruction Notice to Proceed prepare a Preconstruction Baseline Schedule for the Design Professional's review and Owner's approval. Construction Manager shall coordinate and integrate the Preconstruction Baseline Schedule with the services and activities of Owner, Construction Manager, Design Professional, other consultants/suppliers and the requirements of governmental entities. This Preconstruction Baseline Schedule shall become the comparison to the actual Preconstruction Services progress and become a part of the Preconstruction Work Progress Schedule.
 - 6.1.2 As design proceeds, Construction Manager shall update the Preconstruction Work Progress Schedule at least monthly to detail all activity sequences, durations, or milestone dates for activities of the Project, including, without limitation:
 - 6.1.2.1 commencement, milestone, and completion dates for facility program phase, schematic design phase, design development phase, construction

- documents phase, bidding/proposals phase, construction phase, and project stages;
- 6.1.2.2 times of commencement and completion for each Subcontractor
 - 6.1.2.3 contract document packages, completion dates, Owner contract document package review periods, construction contract bid dates;
 - 6.1.2.4 preparation and processing of shop Drawings and samples;
 - 6.1.2.5 a recommended schedule for Owner's purchase of materials and equipment requiring long lead-time procurement, delivery dates of products requiring long lead time procurement, and methods to expedite and coordinate delivery of long lead-time procurements including coordination of the schedule with the early preparation of relevant portions of the Contract Documents by Design Professional; and
 - 6.1.2.6 Owner's occupancy requirements and estimated date of Substantial Completion of the Project.
- 6.1.3 If updates indicate that milestone dates contained in the Preconstruction Work Progress Schedule will not be met, Construction Manager shall notify Owner in writing and make recommendations to Owner.
 - 6.1.4 If the Project is to be completed in phases, Construction Manager shall make recommendations to Owner and Design Professional regarding the phased issuance of the Drawings and Specifications.
 - 6.1.5 A separate schedule shall be prepared for each Stage and each set of bidding documents.
 - 6.1.6 Construction Manager shall provide the necessary Longest Path schedule control with a goal to attain Substantial Completion of the Project on or before the date set forth in the solicitation documentation, so that Owner can occupy and utilize the entire Project facilities on such date.
 - 6.1.7 Construction Manager shall create and maintain the Preconstruction Work Progress Schedule in a format acceptable to Owner (the license and training for which shall be at Construction Manager's sole expense).
 - 6.1.8 Prior to commencement of the Construction Services and concurrently with the submission of the GMP Proposal, Construction Manager shall submit an up-to-date Preconstruction Work Progress Schedule for the performance of Construction Services as specified. The Preconstruction Work Progress Schedule shall include reasonable periods of time for the Owner's and Design Professional's review and approval of shop drawings and submissions and for the approval of other authorities having jurisdiction over the Project.
- 6.2 Construction Baseline Schedule.
- 6.2.1 Construction Manager shall submit for review and approval a Construction Baseline Schedule to Owner and Design Professional no later than twenty-one (21) days after Notice to Proceed with construction. The Baseline Schedule shall indicate the dates for starting and completing the various aspects required to complete the Work and shall utilize the Longest Path Method with fully editable logic. The schedule shall include mobilization, procurement, installation, testing, inspection, delivery of Close-out Documents, and acceptance of all Work. This Construction Baseline Schedule shall

become the comparison to the actual conditions throughout the duration of the Agreement and become a part of the Construction Work Progress Schedule.

- 6.2.1.1 A Construction Baseline Schedule that does not have at least the minimum amount of Total Float at submission will result in Construction Manager forfeiting all claims to extensions and/or delays as a result of contract changes and/or excusable delays as described in the UGC.
- 6.2.2 In accordance with the UGC, the Construction Work Progress Schedule shall include at least ten percent (10%) Total Float and Weather Days from the effective date of Notice to Proceed for Construction Services to Substantial Completion Date (refer to UGCs for amendment to the Total Float requirement and weather days).
 - 6.2.2.1 Total Float shall not be shown as a single activity, but rather the results of the relationship between the early and late finish dates or early and late start dates of each Activity. The allocation of float shall be determined by the Project Team as conditions warrant.
- 6.2.3 As design proceeds, Construction Manager shall update and submit the Construction Work Progress Schedule to Owner and Design Professional with OAC meeting minutes. The Construction Work Progress Schedule shall detail all activity sequences, durations, or milestone dates for activities of the Project, including, without limitation:
 - 6.2.3.1 commencement, milestones, and completion dates for facility program phase, schematic design phase, design development phase, construction documents phase, bidding/proposals phase, construction phase, and project stages;
 - 6.2.3.2 times of commencement and completion for each Subcontractor;
 - 6.2.3.3 bid packages, anticipated issue dates, Owner review period of responses, and completion dates;
 - 6.2.3.4 other detailed schedule activities as directed by Owner including, but not limited to, Owner-managed work under separate contracts such as equipment, furniture and furnishings, telephones, project security, property protection, life-safety systems, integration with central campus monitoring systems, information and instructional technology, data-transmission systems, and computer technology systems;
 - 6.2.3.5 preparation and processing of shop Drawings and samples;
 - 6.2.3.6 a recommended schedule for Owner's purchase of materials and equipment requiring long lead-time procurement, delivery dates of products requiring long lead time procurement, and methods to expedite and coordinate delivery of long lead-time procurements including coordination of the schedule with the early preparation of relevant portions of the Contract Documents by Design Professional; and
 - 6.2.3.7 Substantial Completion Date and a projected date of achieving Substantial Completion of the Project;
 - 6.2.3.8 Activities of the Subcontractors and other parties affecting the progress of the Work, including, without limitation, activity sequences and durations, allocation of labor and materials.

- 6.2.4 Construction Manager shall provide regular monitoring, updating, and reissuing of all Project schedules as construction progresses and identify potential and actual variances between scheduled and probable completion dates.
- 6.2.5 Construction Manager shall review the schedules for Work not started or incomplete and recommend to Owner adjustments in the schedules to conform to the probable completion dates. Construction Manager shall also evaluate Subcontractor's personnel, equipment, and availability of supplies and materials, with respect to each Subcontractor's ability to meet the Schedule and recommend action to Owner when any subcontract requirements are not met, or appear unlikely to be met.
- 6.2.6 During OAC meetings, Construction Manager shall: review progress since last meeting with Owner and Design Professional; report progress on all activities that were behind schedule at any prior OAC meeting; determine whether each activity is on time, ahead of schedule, or behind schedule, in relation to Construction Manager's Construction Work Progress Schedule; determine how activities behind schedule will be expedited; secure commitments from parties involved to do so; discuss whether schedule revisions are required to ensure the current and subsequent activities will be completed within the Substantial Completion; and review Construction Work Progress Schedule for next period.
- 6.2.7 In addition to attending regularly scheduled OAC Project progress meetings, Construction Manager shall schedule, direct, and attend interim progress meetings (i.e., commissioning meetings, coordination meetings, pre-installation meetings) with other members of the Project Team as required to maintain Project progress. Construction Manager shall record and distribute the minutes of each meeting to each Project Team member. The minutes shall identify critical activities that require action and the dates by which each activity must be completed.
- 6.2.8 If schedule updates indicate the Longest Path contained in prior Construction Work Progress Schedule will not be met, Construction Manager shall, in writing, notify Owner within forty-eight (48) hours and make recommendations to Owner. Should the item be critical in nature, Construction Manager shall have a follow-up discussion with Owner.
- 6.2.9 Construction Manager concurrently with making revisions to Construction Work Progress Schedule shall prepare tabulated reports showing the following:
- 6.2.9.1 Identification of activities that have changed
 - 6.2.9.2 Changes in early and late start dates
 - 6.2.9.3 Changes in early and late finish dates
 - 6.2.9.4 Changes in activity durations in workdays
 - 6.2.9.5 Changes in the Longest Path
 - 6.2.9.6 Changes in Contract time
 - 6.2.9.7 Show relationship between activities on initial and updated Construction Work Progress Schedule
 - 6.2.9.8 Remaining Total Float and Weather Days.
- 6.2.10 If the Project is to be completed in phases, Construction Manager shall make recommendations to Owner and Design Professional regarding the phased issuance of the Drawings and Specifications.

- 6.2.11 Construction Manager shall provide the necessary Longest Path schedule control with a goal to attain the Substantial Completion Date of the Project.
- 6.2.11.1 Punch List and Final Completion: The Longest Path schedule control shall include not more than thirty (30) days or an agreed to timeframe approved by Owner for punch list and Final Completion.
- 6.2.12 Construction Manager shall coordinate preparation of the Schedule of Values (SOV) with preparation of the Construction Work Progress Schedule.
- 6.2.13 Construction Manager shall create and maintain the Construction Work Progress Schedule in a format acceptable to Owner (the license and training for which shall be at Construction Manager's sole expense).
- 6.2.14 Construction Manager shall notify Owner within forty-eight (48) hours should a periodic update to the Construction Work Progress Schedule indicate the Work is fourteen (14) or more calendar days behind the current approved Schedule, Construction Manager shall submit a separate recovery schedule indicating means by which Construction Manager intends to regain compliance with the Construction Work Progress Schedule. The recovery schedule shall indicate changes to working hours, working days, crew sizes, and equipment required for compliance, and date by which recovery will be accomplished.
- 6.2.15 Construction Manager shall refer to the Uniform General Conditions for schedule extension and delay processes.

ARTICLE 7 GUARANTEED MAXIMUM PRICE

- 7.1 At sixty percent (60%) completion of the Construction Documents, Construction Manager shall prepare and submit to Owner in writing a GMP proposal in the format in attached Exhibit B or similar form as required by Owner and at Owner's sole option and discretion. The GMP proposal shall require a breakdown of estimated costs organized by trade, allowances, Contingencies, Construction Manager's Construction Fee, General Conditions and other approved items, but shall not include compensation for Preconstruction Services. If accepted by Owner, the parties shall execute a GMP Amendment and the fully executed Amendment shall become a part of the Contract Documents.
- 7.2 Construction Manager shall include with the GMP proposal a written statement of its basis, which shall include:
- 7.2.1 List of the Drawings and Specifications, including all addenda, which were used in preparation of the GMP proposal;
- 7.2.2 Allowances and a statement of their basis;
- 7.2.3 Design Contingency up to a maximum of {Word} percent ({Numeral} %) of the Direct Construction Cost to allow for continued development and completion of the Drawings and Specifications which are not reasonably inferable except for material changes in scope;
- 7.2.4 Construction Contingency up to a maximum of {Word} percent ({Numeral} %) of the Direct Construction Cost to be used to fund increases in the Direct Construction Cost of the Project identified through the refinement of Construction Documents or procurement of the Work. Any reallocation of funds to cover increases in the Direct Construction Cost must be approved by Owner in advance and in writing. Construction Manager shall

provide detailed documentation of the scope affected and the bases for any increases in costs.

- 7.2.4.1 The Construction Contingency is not to be used for Contractor rework, cost increases caused by lack of coordination or communication with Design Professional or trade Subcontractors.
 - 7.2.4.2 After GMP is approved and payment application documents Project is fifty percent (50%) complete, fifty percent (50%) of the remaining Construction Contingency shall revert to the Owner's Contingency.
 - 7.2.5 Owner's Contingency, if applicable, for the exclusive use of Owner;
 - 7.2.6 The Date of Substantial Completion or the Date of Final Completion upon which the proposed GMP is based, and the Baseline Schedule upon which the Date of Substantial Completion or the Date of Final Completion is based;
 - 7.2.7 Catalog of applicable alternate prices; and
 - 7.2.8 Catalog of applicable unit prices.
- 7.3 Owner, at its sole option and discretion may reject the GMP proposal, attempt to renegotiate the GMP proposal with Construction Manager (with the right to cease negotiations at any time and reject the GMP proposal), or increase the Construction Cost Limitation. Construction Manager shall not withdraw its GMP proposal for ninety (90) days after submission to Owner. If Owner rejects the GMP Proposal or the parties are unable to agree on a GMP, Owner may terminate this Agreement.
- 7.4 Adjustments to the GMP Amendment will be made for changes to the scope of Work for the Project by mutual agreement of Owner, Design Professional and Construction Manager, in writing, and shall include the following for both additive and deductive changes in scope of Work:
- 7.4.1 Net amount of the actual reimbursable costs from the change in the scope of Work;
 - 7.4.2 Net amount of General Conditions, if applicable, from the change in the scope of Work;
 - 7.4.3 Net amount of the cost of bonds and insurance, as required by the Uniform General Conditions;

ARTICLE 8 CONSTRUCTION MANAGER'S CONSTRUCTION SERVICES

- 8.1 The Construction Services shall be deemed to commence upon the earlier of:
- 8.1.1 The date specified in a Notice to Proceed issued by Owner after approval by Owner of a GMP or the issuance of an early release package for the Work or portion of the Work specified in such Notice to Proceed. The Notice to Proceed date is the date the Construction schedule begins and informs Construction Manager to obtain Insurance and Bonds. Once Owner receives documentation of the insurance and bonds from Construction Manager, Owner will send an Acknowledgement and Receipt at which time Construction Manager is approved to proceed or
 - 8.1.2 Award of a subcontract in accordance with the requirements of this Agreement and after prior written authorization by Owner.
- 8.2 Preconstruction Services may overlap with Construction Services.

- 8.3 Construction Manager shall provide Project Control, including, without limitation, the following:
- 8.3.1 Construct the Work in strict accordance with the Contract Documents within the time required by the Construction Baseline Schedule approved by Owner.
 - 8.3.2 Award and enter into, as a general contractor, all subcontracts necessary and appropriate to provide all labor and materials for the construction of the Project. Construction Manager shall self-perform only General Conditions Work and other Work, which has been awarded to Construction Manager in accordance with the requirements of *Texas Education Code* section 51.782 and this Contract. Owner reserves the right to perform Work related to the Project and to award separate contracts for Work related to the Project.
 - 8.3.3 Coordinate, monitor and inspect the Work of the Subcontractors as required and coordinate such Work with the activities and responsibilities of the Project Team with a goal to attain completion of the Project at a cost not to exceed the CCL and GMP Amendment, and to attain Substantial Completion by the date set forth in the GMP Amendment.
 - 8.3.4 Schedule, direct, and attend weekly construction meetings in accordance with the Division 01 requirements. When requested, attend meetings scheduled by Owner and fully advise by written report the Project status.
 - 8.3.5 Maintain a competent, full-time staff at the Site to coordinate and provide general direction over the Work and progress of the Subcontractors on the Project.
 - 8.3.6 Establish onsite organization of personnel and clearly defined lines of authority in order to execute the overall plans of the Project Team. At a minimum, Construction Manager's site personnel shall include a project manager, project superintendent, project engineer and appropriate administrative support personnel.
 - 8.3.7 In consultation with Owner, establish procedures for coordination among the Project Team, Subcontractors, separate contractors, Design Professional, and other consultants with respect to all aspects of the construction of the Project, and implement such procedures.
 - 8.3.8 Expedite and coordinate delivery and installation of Owner procured material and equipment.
 - 8.3.9 Supervise and direct the Work and shall be solely responsible for construction means, methods, techniques, sequences, procedures, and the coordination of all portions of the Work. Construction Manager shall keep Owner informed of progress and quality of the Work.
 - 8.3.10 In accordance with Uniform General Conditions, provide and pay for all labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and all other facilities and services necessary for the proper execution and completion of the Work in strict accordance with the requirements of the Contract Documents.
 - 8.3.11 Obtain building permits and special permits for permanent improvements as required by law or the Contract Documents. Assist Owner or Design Professional in obtaining all approvals required from authorities having jurisdiction over the Project.
 - 8.3.12 Inspect the Work of Subcontractors to ensure conformance with the Contract Documents.
- 8.4 Construction Manager shall provide Cost Control, including, without limitation, the following:

- 8.4.1 Construction Manager shall maintain cost accounting records in good form on expenditures and materials, or for any other expenditures requiring accounting records; and afford Owner access to these records and preserve them for a period of five (5) years after Owner makes final payment to Construction Manager.
- 8.4.1.1 Accounting records maintained by Construction Manager shall include a project-to-date job cost report, including an itemized listing of all actual costs incurred, identification as to whether such amounts have or have not been paid and date paid for all costs necessarily incurred to complete the scope of work of the Project. The report shall include at least the contractor, subcontractor, vendor or payee name; invoice number; invoice date; description of the cost; line item number consistent with item number in the GMP Amendment breakdown; date cost was paid by Construction Manager; check number used to pay item; and other cost information requested by Owner.
- 8.4.1.2 Construction Manager shall maintain and make available to Owner all original third party invoices, receipts or other support documentation, for all costs billed to Owner. Construction Manager shall also maintain and make available documentation verifying incurred costs have been paid to all third parties.
- 8.4.1.3 For all amounts billed to Owner for the cost of Construction Manager's own labor forces, Construction Manager shall maintain and make available upon request by Owner original timesheets and other timekeeping records. The records shall reflect employee name; title; position or occupation; trade labor classification (including level); identification of Project; date worked; number of hours worked (by task if multiple tasks are worked); detailed description of the work performed for each time entry; employees signature; and supervisory signature for all time worked. Construction Manager shall maintain and make available actual cost support documentation verifying actual amount incurred and paid for salaries and wages; itemization of all actual labor burden costs billed and paid including, but not limited to, any employer paid taxes, workers compensation, union contributions, health and welfare and other benefits costs as a result of work performed on this Project.
- 8.4.2 Construction Manager shall prepare, administer, maintain and provide to Owner a current SOV containing information required by Owner, in a format acceptable to Owner. Construction Manager shall submit for review and approval the SOV to Owner with submission of GMP Proposal.
- 8.4.2.1 Construction Manager shall require, obtain, maintain, and submit to Owner, Subcontractors' sworn statements and waivers of lien, in a form and format acceptable to Owner, for all amounts paid to subcontractors, suppliers and vendors for all materials, labor and all other costs paid by Construction Manager.
- 8.4.2.2 Construction Manager shall maintain, and provide Owner a current listing of all change order requests proposed by Construction Manager to include estimated or agreed to cost, status, and other information if requested by Owner, in a format acceptable to Owner.
- 8.4.2.3 Construction Manager shall maintain the original SOV and actual costs incurred in a format acceptable to Owner. Construction Manager shall notify Owner in writing within forty-eight (48) hours in the event actual costs incurred exceed or are expected to exceed SOV costs for any SOV

line items. Should the item be critical, Construction Manager shall also provide follow-up notification to Owner.

- 8.4.3 Develop and implement a system acceptable to Owner for the preparation, review and processing of change order requests, construction change directives and requests for information, in accordance with Uniform General Conditions.
 - 8.4.4 Assist Owner in selecting and retaining professional services not otherwise described in this Agreement for the Project, and coordinate these services at Owner's request in order to meet the Schedule, without; however, assuming direct responsibility for the work of these consultants.
- 8.5 Documents, Shop Drawings, and Submissions.
- 8.5.1 Design Professional shall be the interpreter of the design intent of the Construction Contract Documents, subject to the terms and conditions of the agreement between Design Professional and Owner; however, Construction Manager shall request such interpretations from Design Professional, with Owner's consent, from time to time in order to facilitate Construction Manager's accomplishment of its duties under this Agreement.
 - 8.5.2 In collaboration with the other members of the Project Team, Construction Manager shall establish and implement procedures for expediting the processing and Design Professional's approval of shop Drawings and other submissions, and in accordance with Division 01 Specifications, as applicable. Receive from the Subcontractors, and review, all shop Drawings and other submissions for conformance with the Contract Documents. Coordinate shop Drawings and other submissions with the Contract Documents and other related documents prior to transmitting them to other members of the Project Team.
 - 8.5.3 Construction Manager shall record the progress of the Project, submit written progress reports to the other members of the Project Team, including information on the Subcontractor's Work and the percentage of completion, and keep a daily log of Project construction activities available to the other members of the Project Team in accordance with Uniform General Conditions. Each member of Construction Manager's site personnel, whose job function involves or includes observation of Project construction, shall maintain a daily log of construction activities and observations, the daily logs shall be submitted to Owner no less than once a week for the immediately preceding week.
 - 8.5.4 Construction Manager shall maintain at the Project site and make available to Owner, updated records of subcontracts, Drawings, examples, purchases, materials, equipment, maintenance and operating manuals, instructions, and other construction related documents. Documents to include all changes and revisions, a directory of personnel, Project correspondence, inspection procedures (as prepared by others), testing laboratory procedures (as prepared by others), contract changes, time extensions, progress payment data, final acceptance procedures, instructions from Owner; and shall obtain data from Subcontractors and maintain a current set of record Drawings and project manual.
 - 8.5.5 Coordinate and facilitate the creation of record and as-built Drawings, and the procurement of warranties and guarantees.
 - 8.5.6 Upon request provide Owner with complete, unaltered copies of all Subcontracts, and all amendments thereto.
 - 8.5.7 Submit to Owner all documents substantiating payments to all subcontractors as well as qualifying HUB's in a format designated by Owner.

8.6 Safety.

- 8.6.1 Construction Manager is solely responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the Work.
- 8.6.2 Construction Manager shall review safety programs developed by each of the Subcontractors and shall, within fourteen (14) days of Notice to Proceed submit to Owner a comprehensive safety program. The safety program shall comply with all applicable requirements of the Occupational Safety and Health Act of 1970 and all other applicable state, local, or federal laws or regulations, and with any Owner-controlled insurance program.
- 8.6.3 Construction Manager shall ensure compliance by the Subcontractors with their contractual safety requirements. The existence of any Owner-controlled insurance programs shall not operate to diminish or eliminate in any way Construction Manager's responsibilities under this paragraph.
- 8.6.4 Construction Manager shall provide recommendations and information to Owner and Design Professional regarding the assignment of responsibilities for safety precautions and programs, temporary Project facilities, and equipment, materials, and services for common use of the Subcontractors. Construction Manager shall verify that appropriate safety provisions are included in the Construction Documents.

8.7 Hazardous Waste.

- 8.7.1 Owner represents that it has disclosed to Construction Manager any Hazardous Waste known by Owner to exist on or near the Site. If unanticipated Hazardous Waste is discovered at the Site, Construction Manager will be entitled to immediately stop work in the affected area. Construction Manager will promptly report the condition to Owner and, if required, the governmental agency with jurisdiction. Construction Manager shall not be obligated to commence or continue Services until any Hazardous Waste discovered at the Site has been removed, rendered harmless, or determined to be harmless by Owner.
- 8.7.2 Construction Manager shall not be required to perform any Services relating to or in the area of unanticipated Hazardous Waste without written mutual agreement.
- 8.7.3 Owner shall be responsible for retaining an independent testing laboratory to determine the nature of the unanticipated material encountered and whether it is a Hazardous Waste requiring corrective measures or remedial actions. Such measures and actions shall be the sole responsibility of Owner, and shall be performed in a manner minimizing any adverse effect upon the Services of Construction Manager.
- 8.7.4 Material Safety Data Sheets (MSDS) as required by law and pertaining to materials or substances used or consumed in the performance of the Services, whether obtained by Construction Manager, Subcontractors, Owner, or others, shall be maintained at the Site by Construction Manager and made available to Owner and Subcontractors.
- 8.7.5 During Construction Manager's performance of the Services, Construction Manager shall be responsible for the proper handling of all materials brought to the Site by Construction Manager.

8.8 Additional Services.

- 8.8.1 Owner may request Construction Manager perform services in addition to those Services required or reasonably inferable herein (Additional Services). Each time Construction Manager is requested to perform services, which Construction Manager

deems to be Additional Services, and prior to performing such Additional Services, Construction Manager shall complete and forward to Owner for acceptance by Owner, a change order request in a format approved by Owner. The form shall describe in detail the nature or scope of the Additional Services; the basis upon which Construction Manager has determined the requested services are Additional Services; the maximum amount of fees and reimbursable expenses for which Construction Manager is prepared to perform such Additional Services; and a proposed schedule for the performance of such Additional Services. Construction Manager shall proceed only after written approval by Owner of the change order request.

- 8.8.2 If Owner concludes that all or part of the services described in the change order request are Services already required to be performed by Construction Manager pursuant to this Agreement, then Owner shall notify Construction Manager of Owner's determination and Owner and Construction Manager shall attempt, in good faith, to resolve by negotiation their differences. If within seven (7) business days Owner and Construction Manager are unable to resolve their differences, then Construction Manager shall nevertheless perform the services requested by Owner as if the services were Services required to be performed pursuant to this Agreement, without prejudice, however, to Construction Manager's right to pursue a claim for compensation for such disputed services.
- 8.8.3 Change orders are to include an updated Construction Work Progress Schedule that indicates the effect of the change, including, but not limited to, changes in activity duration, start and finish times, and activity relationship.
- 8.8.4 Upon written acceptance by Owner, each change order request and the services performed by Construction Manager pursuant to such change order request shall become part of this Agreement and shall be subject fully and completely under all the terms and conditions of this Agreement.

ARTICLE 9 OWNER'S RESPONSIBILITIES

- 9.1 Owner's Representative shall be fully acquainted with the Project, shall facilitate and coordinate Owner's Project issues with Construction Manager, and shall have authority to bind Owner in all matters requiring Owner's approval, authorization, or written notice. Upon request, Owner will furnish in writing the authorization of each representative of Owner to represent it in connection with the Project.
- 9.2 Owner shall cooperate in providing information to the other members of the Project Team regarding its requirements for the Project.
- 9.3 Owner shall inform all special consultants retained by Owner that they shall coordinate their services through Construction Manager. Owner shall provide special testing and inspection services to the extent required by Texas Education Code section 51.782, as amended.
- 9.4 If Owner has actual knowledge of any fault or defect in the Project or non-conformance with the Drawings and Project Manual, Owner shall give prompt written notice thereof to Construction Manager.
- 9.5 Prior to commencement of the Work and thereafter at the written request of Construction Manager, Owner shall provide Construction Manager with evidence of Project financing. Construction Manager shall be notified prior to any material change in Project financing.
- 9.6 Except for those permits and fees related to the Work, which are the responsibility of Construction Manager, Owner shall secure and pay for all other permits, approvals, easements, assessments,

and fees required for the development, construction, use, or occupancy of permanent structures or for permanent changes in existing facilities, including the building permit.

ARTICLE 10 COST OF WORK

- 10.1 The term Cost of Work shall include and be limited to those costs actually incurred and paid by Construction Manager that have been necessarily incurred to properly perform the Work in strict compliance with the Contract Documents. Cost of Work includes only the items set forth in this Article.
- 10.2 Costs to Be Reimbursed
- 10.2.1 In the event Construction Manager operates and maintains a fabrication shop to assemble pre-fab materials for installation at the job-site, Construction Manager's direct cost will be considered Costs to Be Reimbursed. However, Construction Manager's shop overhead such as plant and equipment, depreciation, taxes, utilities, etc. will be considered covered by the overall Fees quoted as markup on the various components of reimbursable Cost of Work.
- 10.2.2 Where any cost is subject to the Owner's prior approval (whether or not written approval is specified), Construction Manager shall obtain this approval in writing prior to incurring the cost. The parties shall endeavor to identify any such costs prior to executing the Guaranteed Maximum Price Amendment.
- 10.2.3 Costs as defined herein shall be actual costs with no additional charges for mark-ups, handling or any other charges or fees paid by Construction Manager; less all discounts, rebates, and salvages that shall be taken by Construction Manager, subject to this Agreement. All payments made by Owner pursuant to this Agreement, whether those payments are made before or after the execution of this Agreement, are included in the Guaranteed Maximum Price; provided, however, that in no event shall Owner be required to reimburse Construction Manager for any portion of the Cost of the Work incurred prior to the Commencement Date unless Construction Manager has received Owner's written consent prior to incurring such cost. Notwithstanding the breakdown or categorization of any costs to be reimbursed under this Agreement or elsewhere in the Contract Documents, there shall be no duplication of payment in the event any particular items for which payment is requested can be characterized as falling into more than one of the types of compensable or reimbursable categories
- 10.3 Labor and Administrative costs include:
- 10.3.1 Reasonable and customary wages paid to construction workers directly employed by Construction Manager who perform the construction of the Work.
- 10.3.2 Reasonable and customary wages or salaries of Construction Manager's supervisory and administrative personnel who were previously identified, but only when stationed full-time at the site with Owner's prior consent, unless otherwise approved in advance by Owner.
- 10.3.3 Costs paid or incurred by Construction Manager for labor costs arising out of taxes, insurance, and benefits which are:
- 10.3.3.1 required by law;
- 10.3.3.2 required by collective bargaining agreements; or

- 10.3.3.3 otherwise customary, so long as such costs are based on wages and salaries which are properly included in the Cost of Work as defined herein.
 - 10.3.4 Reasonable and customary travel expenses of Construction Manager's personnel incurred directly and solely in support of the Project, and approved in advance by Owner subject to limitations set forth in the UGCs. Construction Manager shall provide to Owner receipts, documenting travel expenses for reimbursement.
 - 10.3.5 Costs of long-distance telephone calls, postage, package delivery and courier service, telephone service, and reasonable and customary petty cash expenses of Construction Manager's jobsite office, incurred directly and solely in support of the Work, and all incurred at the site.
- 10.4 Materials, Equipment, Tools, and Rental costs include:
 - 10.4.1 Costs of materials and equipment to be incorporated into the Work, including transportation charges, and a reasonable and customary allowance for waste and spoilage. Owner shall be entitled to take possession of excess materials not incorporated into the Work, or at Owner's option, Construction Manager shall sell such materials and deduct the gross proceeds from the Cost of the Work. Payment for stored materials is subject to Uniform General Conditions.
 - 10.4.2 Costs of materials, supplies, temporary facilities, equipment, and hand tools except for those customarily owned by construction workers, all provided at the site by Construction Manager, if such items are fully consumed in the construction of the Work, and Owner approves such purchase in advance in writing. Cost for used items shall be based on fair market value and may include costs of transportation, installation, minor maintenance costs, and removal. If the item is not fully consumed, then the cost shall be based on cost of the item minus its fair market salvage value.
 - 10.4.3 Rental charges for temporary facilities, equipment, and hand tools except for those customarily owned by construction workers, all provided at the site by Construction Manager, and may include transportation, installation, and minor maintenance costs, and removal, all so long as Owner has approved such items and the rental rates in advance in writing. If tools, machinery or construction equipment are rented from Construction Manager, the amount of such rental, the rate of such rentals, including the freight and delivery cost thereon and all operating expenses except labor, shall be determined by application of "Contractor's Equipment Cost Guide," latest edition published by the AGC, approved by Owner before commitments are made and shall in no event be higher than the prevailing competitive rates paid in the locality for similar equipment. In no event shall the aggregate rental cost to Owner exceed seventy-five percent (75%) of the purchase price and maintenance cost of the item. In the event equipment can be purchased for an amount comparable to the aggregate rental cost of said equipment, Construction Manager shall purchase such equipment and turn it over to Owner upon final completion of the Work, or, at Owner's option, credit to Owner with the amount of the fair market resale value.
 - 10.4.4 Site debris removal and disposal costs in accordance with all applicable laws and regulations.
- 10.5 Payments made to Subcontractors by Construction Manager for the construction of the Work in accordance with the Contract Documents and the requirements of the subcontracts with such Subcontractors.
- 10.6 Other costs include:

- 10.6.1 Governmental sales and use taxes directly attributable to the Work. Owner is a state agency and Construction Manager shall avail itself of all exemptions, which may exist for such taxes based on Owner's status.
 - 10.6.2 Permit and inspection fees, except that as a state agency, Owner is typically exempt from such fees.
 - 10.6.3 Premiums for Construction Manager's insurance and bonds to the extent directly attributable to this Contract.
 - 10.6.4 Testing fees pursuant to the terms and conditions of Uniform General Conditions.
 - 10.6.5 Intellectual property royalties and licenses for items specifically required by the Contract Documents, which are, or will be, incorporated into the Work.
 - 10.6.6 Forfeited deposits, but only if such deposit has been forfeited in the absence of any fault or negligence of Construction Manager.
 - 10.6.7 Other costs approved in advance in writing by Owner at Owner's sole option and discretion.
- 10.7 The following shall not be included in the Cost of Work paid by Owner:
- 10.7.1 Costs including, but not limited to, the failure to perform of any Subcontractor or the bankruptcy or insolvency of any Subcontractor.
 - 10.7.2 Legal and administrative costs to review and negotiate these Contract Documents.
 - 10.7.3 Travel and subsistence expense of Construction Manager, its officers or employees incurred while traveling between the Project and Construction Manager's principal or branch offices, and travel in the metropolitan area of the Project.
 - 10.7.4 Fines, penalties, sanctions or impositions assessed or imposed by any governmental body, instrumentality or tribunal arising from the fault of Construction Manager.
 - 10.7.5 Costs incurred by Construction Manager resulting from the failure of Construction Manager or its Subcontractors to coordinate their work with that of Owner and its contractors, if any, after agreeing to the schedules therefore, or failure of Construction Manager to comply with directives of Owner not in conflict with said schedules.
 - 10.7.6 Costs resulting from the failure of Construction Manager or any Subcontractor to procure and maintain insurance as and to the extent required by the Contract Documents.
 - 10.7.7 All personnel costs, including, without limitation, wages, salaries, and benefits, except for personnel based at the site office and only as specifically provided herein.
 - 10.7.8 All overhead expense or office expense at any location, except site office expense to the extent specifically included herein.
 - 10.7.9 Costs related to Construction Manager's indemnification obligations pursuant to Article 12 hereof.
 - 10.7.10 The cost of capital, including, without limitation, interest on capital, regardless of whether it is related to the Project.
 - 10.7.11 Any cost arising out of the fault or negligence of Construction Manager, its Subcontractors, or any person or entity for whom they may be liable, including, without

- limitation, costs related to defective, rejected or nonconforming work, materials or equipment, and damage to persons or property.
- 10.7.12 Liquidated or actual damages imposed by Owner for failure of Construction Manager to complete the Work within the Contract Time.
 - 10.7.13 All costs not specifically authorized herein, including, without limitation, any cost which would cause the GMP to be exceeded.
 - 10.7.14 All General Condition costs included in the GMP Amendment itemized breakdown regardless of classification or amount listed.
- 10.8 The Cost of Work paid by Owner shall be credited with the following discounts, rebates, and refunds:
- 10.8.1 Proceeds of the sale of all tools, surplus materials, construction equipment, and temporary structures which have been charged to the Work other than by way of rental, and remaining after completion, whether such sale is made to Owner, Construction Manager, or to some other party; and any such sale, if made to others than Owner, shall be at fair market price. Upon completion of the Work or when no longer required, all tools, construction equipment and materials purchased for the Work shall be sold and Construction Manager shall use its best efforts to obtain the highest price in respect of such sales.
 - 10.8.2 If Owner makes funds available to Construction Manager, discounts earned by Construction Manager through advance or prompt payments. Construction Manager shall obtain all possible trade and time discounts on bills for material furnished, and shall pay said bills within the highest discount periods. Construction Manager shall purchase materials for this Project in such quantities as will provide the most advantageous prices to Owner.
 - 10.8.3 Reasonable market value as approved by Owner at the time of removal of all materials, tools, and equipment actually purchased for the work and upon completion of the work retained by Construction Manager.
 - 10.8.4 Rebates, discounts, or commissions allowed to and collected by Construction Manager from suppliers of materials or from Subcontractors, together with all other refunds, returns, or credits received for return of materials, or on bond premiums, or insurance and sales taxes.
 - 10.8.5 All discounts, deducts, rebates, negotiated settlements, or other credits received by Construction Manager from its subcontractors, vendors, or suppliers related to Work on the Project.
 - 10.8.6 Construction Manager shall reimburse Owner for deposits made by Owner and not returned to Owner due to the fault of Construction Manager. Should Construction Manager not promptly so reimburse Owner upon demand, Owner shall be entitled to recover said amount from Construction Manager, including, but not limited to, by deducting the amount from payments due Construction Manager.
- 10.9 Construction Manager and Owner will work together collaboratively in a good faith effort to reduce the cost of the Project while achieving the desired end product and complying with the conditions of Owner's funding. In the event the sum of the actual Cost of Work for the existing scope of Work (without taking into consideration reductions in scope by Change Order), plus compensable General Conditions, plus Construction Manager's Fee, is less than the GMP, then Construction Manager and Owner agree that 100% of all savings shall be to the benefit of Owner.

- 10.9.1 Buyout shall occur at thirty percent (30%) Project completion as documented on the SOV. All buyout savings realized at thirty percent (30%) completion of the SOV shall revert to the Owner for use on the Project.
 - 10.9.2 Construction Manager shall document any future buyout savings utilized by Construction Manager after thirty percent (30%) completion of the SOV.
 - 10.9.3 Construction Manager shall document the actual Cost of the Project buyout as compared to the GMP Proposal. Construction Manager shall track and report this information in the form of a buyout savings log to Owner on a monthly basis and with Construction Manager's recommendation for selection of a bid/proposal for each subcontracting package.
- 10.10 Related Party Transaction
- 10.10.1 Related Party shall mean any parent, subsidiary, affiliate or other entity having common ownership or management with Construction Manager, any entity in which any stockholder in, or management employee of, Construction Manager owns any interest in excess of ten percent (10%) in the aggregate, or any person or entity which has the right to control the business or affairs of Construction Manager. The term Related Party includes any member of the immediate family of any person identified above.
 - 10.10.2 If any of the costs to be reimbursed arise from a transaction between Construction Manager and a Related Party, Construction Manager shall notify Owner of the specific nature of the contemplated transaction, including the identity of the Related Party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If Owner, after such notification, authorizes the proposed transaction, then the cost incurred shall be included as a cost to be reimbursed, and Construction Manager shall procure the Work, equipment, goods or service from the Related Party, as a Subcontractor. If Owner fails to authorize the transaction, Construction Manager shall procure the Work, equipment, goods or service from some person or entity other than a Related Party.

**ARTICLE 11
COMPENSATION AND PAYMENT**

- 11.1 Preconstruction Services.
- 11.1.1 In full consideration of Construction Manager's Services during the Preconstruction of this Agreement, Owner will pay to Construction Manager the sum of {Word Amount} and No/100 dollars (\$ {Numeral} .00) payable as a lump sum at the completion of the Bidding/Proposal Phase.
 - 11.1.2 To receive payment, Construction Manager shall send an invoice with supporting documentation to Owner. Construction Manager's invoices shall specify the amount of Work completed and other information as required by Owner for payment purposes. No retainage is to be withheld from this amount.
 - 11.1.3 In addition to the stipulated sum, the following expenses of Construction Manager, incurred solely and directly in support of the Project are reimbursable as described below:
 - 11.1.3.1 Actual out-of-pocket coach class, air travel and other expenses previously approved in writing by Owner for travel outside the Project area and incurred solely in connection with Construction Manager's performance of its services hereunder; provided, however, that the cost of travel between

Construction Manager's offices and Owner's local offices or the Project shall not be reimbursed.

11.1.3.2 Reproductions, printing, binding, collating and handling of reports, Drawings and Specifications or other project-related work product, other than that used solely in-house by Construction Manager.

11.1.3.3 Fees and associated reimbursable expenses paid to Consultants hired in accordance with prior written approval from Owner.

11.1.4 Owner shall only be responsible for payment of actual amount of such reimbursable expenses. Payment of reimbursable expenses shall not exceed {Word Amount} and No/100 dollars (\$ {Numeral} .00) without the prior written consent of Owner. Construction Manager shall invoice for reimbursement and shall submit receipts necessary to verify reimbursable expenses along with any reimbursement request.

11.2 Construction Services.

11.2.1 The Construction Cost Sum is the total compensation due to Construction Manager for all Construction services. The Construction Cost Sum shall be the sum of:

11.2.1.1 The lesser of actual General Conditions costs incurred and paid by Construction Manager or, the original General Conditions amount as set forth in the GMP Amendment, plus or minus any changes agreed to by Construction Manager and Owner over the duration of the Project, plus

11.2.1.2 the lesser of actual reimbursable "Cost of Work" (as defined in Article 10) incurred and paid by Construction Manager or, the original reimbursable Cost of Work amount as set forth in the GMP Amendment, plus or minus any changes agreed to by Construction Manager and Owner over the duration of the Project, plus

11.2.1.3 Construction Manager's Construction Fee as set forth in the GMP Amendment, plus or minus any changes agreed to by Construction Manager and Owner over the duration of the Project, plus

11.2.1.4 the actual cost of required bonds, insurance, builder's risk and liability insurance.

11.2.2 The Construction Cost Sum shall not exceed the GMP Amendment amount as established in accordance with this Agreement. Any cost not authorized by the terms and conditions of the Contract Documents, but which would cause the GMP to be exceeded, shall be paid by Construction Manager without reimbursement by Owner.

11.2.3 In a format acceptable to Owner, Construction Manager must provide an estimated cost for General Conditions with the costs broken down by line item. General Conditions should be included in the SOV. Owner may accept or reject each line item of the estimated costs. Construction Manager's General Conditions cost is limited to a maximum of {Word Amount} and No/100 dollars (\$ {Numeral}). In the event the General Conditions actually incurred and paid exceeds the General Conditions limit, all amounts in excess of the General Condition limit shall be borne solely by Construction Manager and are not payable by Owner. In the event actual General Condition Costs incurred and paid are less than \$ {Numeral} , the GMP shall be reduced by an amount equal to the shortfall of actual costs incurred and paid by Construction Manager.

11.2.3.1 General Conditions generally follow the percentage complete for the total project Cost of Work. Owner recognizes initial start-up project costs may

result in a slightly higher General Conditions. Payment shall be made monthly in proportion to the Work performed following maximum percentages of the General Conditions cost as compared to the total project percentage complete. The following cumulative payment percentage shall apply:

Project Percentage Complete	33%	66%	90%	100%
General Conditions	45%	80%	95%	100%

11.2.4 Owner has afforded Construction Manager with unrestricted access to the existing improvements and conditions on the construction site and has given Construction Manager the opportunity to thoroughly investigate the existing conditions, which Construction Manager represents it has done. The results of Construction Manager’s investigation shall be taken into account in establishing the GMP of the Work. Construction Manager shall not be entitled to a claim for an adjustment in time or price under Uniform General Conditions for conditions which Construction Manager discovered or ought to have discovered in Construction Manager’s investigation. Before proceeding with the Work, Construction Manager shall review the Drawings and Specifications and notify Design Professional and Owner of any errors, omissions or discrepancies in the Drawings and Specifications it discovers with respect to the existing conditions. Construction Manager shall not proceed with the Work if any defect, defined as any error, omission, conflict, inconsistency or lack of clarity, is known or should be known by Construction Manager to exist in the Contract Documents. If Construction Manager nevertheless proceeds to perform the Work then Construction Manager shall be responsible for all foreseeable resulting cost, including the cost of redoing or remedying the Work and time delays resulting therefrom unless and to the extent such costs result from design or concealed conditions. Upon discovering a defect in the Contract Documents, Construction Manager shall immediately submit a written request for an explanation or decision to Design Professional and Owner.

11.2.5 If payments are made to Construction Manager in excess of the Contract Price, Construction Manager shall immediately return such amounts to Owner upon request by Owner. In the event payments are made in excess of the Contract Price and other amounts are due to Construction Manager from Owner, Owner may offset other amounts due by amounts paid in excess of Contract Price.

11.2.6 In the event the actual cost incurred and paid for Allowance is less than the amounts set forth in the GMP Amendment entered into by the Parties, which are noted as Allowance, one hundred percent (100%) of all savings shall be to the benefit of Owner. In the event the actual cost incurred and paid by Construction Manager for Allowance is not equal to the amounts set forth in the GMP Amendment for Allowance, the GMP shall be adjusted for the difference (increased for overruns and/or decreased for shortfalls). The adjustment amount shall be the difference between the actual cost incurred and paid for Allowance, and the amount set forth in the GMP Amendment

11.2.7 Contingencies shall be included in the GMP Amendment for the Project. Bonds, insurance, and fees will not be calculated until Contingency is utilized. Twenty-one (21) days after issuance of one hundred percent (100%) Construction Drawings, any remaining Design Contingency shall be converted to the Owner’s Contingency. Use of Owner’s Contingency shall be at the Owner’s sole discretion. Use of any Contingency shall only be authorized via a Contingency Release approved by Owner. In the event Owner approves less than the full amount of the Construction Contingency, all unapproved amounts shall be to the benefit of Owner. In the event the sum of all

approved uses of Contingencies is less than the initial Contingencies, the GMP shall be reduced by any shortfall.

- 11.2.8 In full consideration of Construction Manager's services during the Construction of this Agreement, Owner shall pay Construction Manager a Construction Fee as stipulated in the GMP Amendment which shall be calculated as follows: {Word} percent ({Numeral} %) of the cost of construction, which shall be converted to a fixed fee at the establishment of the GMP Amendment. Construction Manager's Fee shall be billed to, and paid by, Owner in direct proportion of the cost of construction in the event a balance is payable by Owner, or Owner has overpaid the fee as of the date of the final invoice, the remaining amount due or credit due to Owner shall be included in Construction Manager's final invoice. Change in the scope which require an increase in the GMP are entitled to an equitable increase in the Construction Manager's Construction Fee percentage which shall be calculated in direct proportion to the increase in Cost of Work times the Construction Fee percentage in this Article. The Construction Manager's Construction Fee will not be applied to changes which are funded by subcontractor trade buyout savings. The Construction Manager's Construction Services Fee will be applied to all changes which are funded by Contingencies. Construction Manager's Construction Fee shall be shown as a separate line item on the SOV.
- 11.2.9 In Uniform General Conditions, references to adjustments in "cost" or "costs" refer to Costs of Work as defined herein below, and references to Construction Manager's "overhead" and "profit" refer to Construction Manager's Construction Services Fee.
- 11.2.10 Construction Manager's Construction Fee shall cover Construction Manager's profit, general overhead and all expenses in connection with maintaining and operating Construction Manager's main office and any branch or field offices, excluding the following:
- 11.2.10.1 Salaries of personnel not stationed full time at the site, including but not limited to, Construction Manager's officers, project manager(s), estimators, and schedulers.
 - 11.2.10.2 Salaries of persons employed in the main or branch offices of Construction Manager whose time is devoted to the general conduct of Construction Manager's business, such as office managers, stenographers, plan clerks, file clerks, and draftsmen.
 - 11.2.10.3 Overhead or general expenses of any kind except those specifically included herein.
 - 11.2.10.4 Services and expenses of the estimating, personnel, accounting, budget control, audit and management information systems (other than preconstruction services) relating to accounting in Construction Manager's office and even if at the site, except as specifically identified herein.
 - 11.2.10.5 Interest on Construction Manager's capital or on money borrowed by Construction Manager, including the capital employed by Construction Manager in the performance of the Work.
 - 11.2.10.6 Amounts required to be paid by Construction Manager for Federal and/or State income and franchise taxes.
 - 11.2.10.7 Legal, accounting, or other similar professional services provided by or to Construction Manager, in regard to contracts, disputes, arbitrations, litigations or other such proceedings with Subcontractors, with municipal

authorities, with Owner, Design Professionals, or any other person or entity relating to the Project or otherwise.

- 11.2.10.8 Any professional fees, training, memberships, employee or subcontractor incentives or bonuses, and any subcontractor bonding or Sub-Guard.
 - 11.2.10.9 Cost of hiring and/or relocation of any of the Construction Manager's personnel
 - 11.2.11 On a monthly basis, Construction Manger shall submit a Pay Request, in accordance with the Division 01 Specifications. Support Documentation should include, but is not limited to, a project-to-date job cost report; a current period job cost report; copies of third party invoices; receipts and other third party support documentation, sufficient to evidence each cost billed for has been incurred by Construction Manager; a current SOV; sworn statements and waivers of lien for all amounts paid to Construction Manager for materials, labor, equipment and all other costs; project status report in a format acceptable to Owner; and a current Work Progress Schedule in .xer format or a format acceptable to Owner. Upon Owner's request, Construction Manager shall submit original timesheets and other timekeeping records.
 - 11.2.12 In no event shall Construction Manager invoice for nor, shall Owner be required to pay, any costs in excess of work put in place by Construction Manager and its subcontractors at any given time.
 - 11.2.13 Construction Manager shall promptly pay all bills validly due and owing for labor and material performed and furnished by others in connection with the performance of the Preconstruction Services and the construction of the Work.
 - 11.2.14 Owner shall have the right to verify and audit the details set forth in Construction Manager's billings, certificates, accountings, cost data, and statements, either before or after payment therefore, by (1) inspecting the books and records of Construction Manager during normal business hours; (2) examining any reports with respect to this Project; (3) interviewing Construction Manager's business employees; (4) visiting the Project site; and (5) other reasonable action.
 - 11.2.15 No partial payment made hereunder shall be, or shall be construed to be, final acceptance or approval of that part of the services to which such partial payment relates, or a release of Construction Manager of any of Construction Manager's obligations hereunder or liabilities with respect to such services.
 - 11.2.16 Owner shall be billed in accordance with Chapter 2251 if the Texas Government Code and payment shall be made no later than thirty (30) days following the later of (i) delivery of the goods or completion of the services and (ii) delivery of an invoice to Customer; and (iii) interest, if any, on past due payments shall accrue and be paid in accordance with Chapter 2251 of the Texas Government Code. Payee must be in good standing, not indebted to the State of Texas and current on all taxes owed to the State of Texas for payment to occur.
- 11.3 Application for Final Payment and Final Accounting
- 11.3.1 The final request for payment shall not be made until Construction Manager delivers to Owner a complete release of all liens arising out of this Agreement and an affidavit that so far as Construction Manager has knowledge or information, the release includes and covers all materials and services over which Construction Manager has control for which a lien could be filed, but Construction Manager may, if any agent or consultant refuses to furnish a release in full, furnish a bond satisfactory to Owner to indemnify Owner against any lien. If any lien remains unsatisfied after all payments are made,

Construction Manager shall refund to Owner all moneys Owner may be compelled to pay in discharging such lien, including all costs and reasonable attorneys' fees, and Owner shall have all remedies at law and in equity.

- 11.3.2 Upon completion of Construction Manager's work, Construction Manager shall submit an Application for Final Payment to Owner including all costs incurred and paid, that are payable by Owner pursuant to the Contract Documents. As a basis for the Application for Final Payment, Construction Manager shall provide Owner with a final listing of all project costs incurred and paid by Construction Manager, together with all reconciliations necessary to reconcile amounts billed to the final Contract Price. Construction Manager shall also provide all support documentation as required in 10.2.11 above for all costs not previously supported. To the extent that any costs have been incurred by Construction Manager, but have not been paid by Construction Manager, Construction Manager shall separately list any such costs and provide any additional support necessary to verify costs have been incurred and will be paid. Construction Manager shall include within Construction Manager's Application for Final Payment the benefit of all credits, charge backs and negotiated reductions to contract, subcontractor and vendor contracts and invoices.
- 11.3.3 Upon receipt of Construction Manager's Application for Final Payment, Owner shall have thirty (30) days to review and verify the amounts billed by Construction Manager prior to acceptance. During this time, Construction Manager shall cooperate with Owner, or its designee, and provide Owner with all project records and documents requested by Owner or its designee to verify the amounts billed by Construction Manager for its Work on the Project.
- 11.3.4 Owner's auditors will review and report in writing on Construction Manager's final accounting within thirty (30) days after delivery of the final accounting to Owner by Construction Manager. Based upon review of amounts billed, if Owner's auditors' report substantiates Construction Manager's final accounting and provided all other conditions for final payment have been met, Owner will, after receipt of the written report of Owners auditors, either issue to Construction Manager a final Payment or notify Construction Manager in writing of Owner's reasons for withholding final payment, in whole or in part.
- 11.3.5 If Owner's auditors' report finds that Construction Manager's final accounting contract price or actual costs incurred and paid are less than claimed by Construction Manager, Construction Manager shall be entitled to provide, for Owner's review, additional documentation to support the final accounting costs. Additional documentation shall be provided within thirty (30) days after Construction Manager's receipt of a copy of Owner's auditor's Final Certificate for Payment. Failure to provide additional documentation for review by Owner within the thirty (30) day period shall result in the substantiated amount reported by Owner's auditors becoming binding on Construction Manager. Owner shall pay Construction Manager the amount certified in the Final Certificate for Payment.
- 11.3.6 Owner shall have the right to withhold from payments due Construction Manager such sums as are necessary to protect Owner against any loss or damage which may result from negligence by Construction Manager or failure of Construction Manager to perform Construction Manager's obligations under this Agreement.
- 11.3.7 Owner shall not be obligated to make any payment (whether a progress payment or final payment) to Construction Manager if any one or more of the following conditions precedent exist:
- 11.3.7.1 Construction Manager is in breach or default under this Agreement;

- 11.3.7.2 any part of such payment is attributable to services which are not performed in accordance with this Agreement; provided, however, such payment shall be made as to the part thereof attributable to services which were performed in accordance with this Agreement;
- 11.3.7.3 Construction Manager has failed to make payments promptly to consultants or other third parties used in connection with the services for which Owner has made payment to Construction Manager; or
- 11.3.7.4 if Owner, in its good faith judgment, determines that the portion of the compensation then remaining unpaid will not be sufficient to complete the services in accordance with this Agreement, no additional payments will be due Construction Manager unless and until Construction Manager, at Construction Manager's sole cost, performs a sufficient portion of the remaining services so that such portion of the compensation then remaining unpaid is determined by Owner to be sufficient to so complete the then remaining services.
- 11.3.7.5 Nothing contained herein shall require Owner to pay Construction Manager an aggregate amount exceeding the GMP or to make payment if in Owner's belief the cost to complete the Work would exceed the GMP less previous payments to Construction Manager.

ARTICLE 12 BONDS

- 12.1 Construction Manager shall provide performance and payment bonds in accordance with the requirements set forth in the Uniform General Conditions. The penal sum of the payment and performance bonds shall be no less than the GMP. If construction is phased or staged with different GMPs established at different times, the penal sum of the bonds shall be increased at the start of each stage or phase based on the cumulative total value of all GMPs in effect. No retainage is to be withheld with respect to the cost of the required bonds.
- 12.2 Construction Manager shall not cause or allow any of its bonds to be canceled nor permit any lapse during the term of the Agreement or as required in the Agreement.

ARTICLE 13 INDEMNITY AND INSURANCE

- 13.1 **Construction Manager covenants and agrees to FULLY INDEMNIFY and HOLD HARMLESS Owner, and its component institutions, Regents, elected and appointed officials, directors, officers, employees, agents, representatives, and volunteers, individually or collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability, and suits of any kind and nature, including but not limited to, personal or bodily injury, death, or property damage, made upon Owner directly or indirectly arising out of, resulting from, or related to Construction Manager's activities under the Contract, including any acts or omissions of Construction Manager, or any director, officer, employee, agent, representative, consultant, or Subcontractor of Construction Manager, and their respective directors, officers, employees, agents, and representatives while in the exercise of performance of the rights or duties under the Contract. The indemnity provided for in this paragraph does not apply to any liability resulting from the negligence of Owner or separate contractors in instances where such negligence causes personal injury, death, or property damage. IN THE EVENT CONSTRUCTION MANAGER AND OWNER ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY WILL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, WITHOUT WAIVING ANY**

GOVERNMENTAL IMMUNITY AVAILABLE TO THE STATE UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.

- 13.1.1 The provisions of this indemnification are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.
- 13.1.2 Construction Manager shall promptly advise Owner in writing of any claim or demand against Owner or against Construction Manager known to Construction Manager related to or arising out of Construction Manager's activities under this Contract.
- 13.2 Except for the obligation of Owner to pay Construction Manager certain fees and expenses pursuant to the terms of this Agreement, and to perform certain other obligations pursuant to the terms and conditions explicitly set forth herein, Owner shall have no liability to Construction Manager or to anyone claiming through or under Construction Manager by reason of the execution or performance of this Agreement. Notwithstanding any obligation or liability of Owner to Construction Manager, no present or future partner or affiliate of Owner or any Regent, director, officer, employee, or agent of Owner, or of the components comprising the University of North Texas System, or anyone claiming under Owner has or shall have any personal liability to Construction Manager or to anyone claiming through or under Construction Manager by reason of the execution or performance of this Agreement.
- 13.3 Insurance.
- 13.3.1 Construction Manager shall not commence work under the Agreement until it has obtained all insurance required in accordance with this Agreement and the Uniform General Conditions and until such insurance has been reviewed and approved in writing by Owner. Approval of the insurance by Owner shall not relieve nor decrease the liability of Construction Manager hereunder. Prior to commencing any of the Preconstruction Services, Construction Manager shall provide evidence as required by this Article that demonstrates coverage for Employer's Liability, Workers' Compensation, Commercial General Liability, and Automobile Liability as set forth in the Uniform General Conditions are in full force and effect. Prior to commencing any construction work, Builder's Risk as set forth in the Uniform General Conditions shall be in full force and effect and shall be increased as necessary for each separate bid package, phase, or Stage of construction prior to the commencement of construction for that package, phase, or Stage. No retainage is to be withheld with respect to the cost of the required insurance.
- 13.3.2 Construction Manager shall include Owner, {Campus if different from Owner}, and the Board of Regents of the University of North Texas System as loss payees and Additional Insured's on General Liability and Business Automobile Liability. The Commercial General Liability, Business Automobile Liability, and Worker's Compensation policies shall include a waiver of subrogation in favor of Owner.
- 13.3.3 Insurance policies required under this Article shall contain a provision that the insurance company must give Owner written notice transmitted in writing: (a) thirty (30) calendar days before coverage is non-renewed by the insurance company and (b) within ten (10) business days after cancellation of coverage by the insurance company. Prior to start of Services and upon renewal or replacement of the insurance policies, Construction Manager shall furnish Owner with certificates of insurance until one year after acceptance of the Services. If any insurance policy required under this Article is not to be immediately replaced without lapse in coverage when it expires, exhausts its limits, or is to be cancelled, Construction Manager will give Owner written notice within forty-eight (48) hours upon actual or constructive knowledge of such condition.
- 13.3.4 Owner reserves the right to review the insurance requirements set forth in this Article during the effective period of the Agreement and to make reasonable adjustments to

the insurance coverage and their limits when deemed necessary and prudent by Owner based upon changes in statutory law, court decisions, or the claims history of the industry as well as Construction Manager.

- 13.3.5 Owner shall be entitled, upon request, and without expense, to receive copies of the policies, all endorsements thereto and documentation to support costs and may make any reasonable requests for deletion, or revision or modification of particular policy terms, conditions, limitations, exclusions and costs, except where policy provisions are established by law or regulation binding upon either of the Parties or the underwriter of any of such policies. Any price credits determined in the insurance review will be refundable to Owner. Actual losses not covered by insurance as required by this Article shall be paid by the Construction Manager.
- 13.3.6 Construction Manager shall not cause or allow any of its insurance to be canceled nor permit any lapse during the term of the Agreement or as required in the Agreement.

ARTICLE 14 TERMINATION AND OWNER'S REMEDIES

- 14.1 With or without cause, Owner reserves and has the right to terminate this Agreement or to cancel, suspend or abandon execution of all or any Services in connection with this Agreement at any time upon written notice to Construction Manager. Construction Manager may terminate this Agreement upon seven (7) days written notice to Owner only if Owner substantially fails to perform obligations under Article 9 of this Agreement or fails to timely pay Construction Manager as required under Article 11, and after adequate written notice is delivered to Owner and Owner has failed to take action within thirty (30) days in order to begin to correct the problem.
- 14.1.1 In the event of termination, cancellation, suspension, or abandonment that is not the fault of Construction Manager, Owner shall pay to Construction Manager as full payment for all services performed and all expenses incurred under this Agreement, the appropriate portion of sum due under Article 11 as shall have become payable because of the progress in the Work as the services actually rendered hereunder by Construction Manager bear to the total services necessary, plus any sum due Construction Manager for Additional Services described under Section 8.8 herein which were previously approved by Owner.
- 14.1.2 In ascertaining the services actually rendered hereunder up to the date of termination, cancellation, suspension, or abandonment of this Agreement, consideration shall be given to both completed work and work in progress, to complete and incomplete Drawings, and to other related documents, whether delivered to Owner or in possession of Construction Manager.
- 14.1.3 For any said sum paid under this Article, Construction Manager agrees to accept same in full settlement of all claims for services rendered under this Agreement.
- 14.2 If, upon payment of the amount required to be paid under this Article following the termination of this Agreement, Owner thereafter should determine to complete the original project or, substantially, the same project without major change in scope; Owner, for such purposes, shall have the right of utilization of any and all original tracings, Drawings, calculations, design analysis, Specifications, estimates, related data, and other documents including Construction Documents, prepared under this Agreement by Construction Manager who shall make them available to Owner upon request, with compensation to Construction Manager limited to actual reproduction costs. Owner agrees to credit Construction Manager with such authorship as may be due to him but is not required to renew this Agreement.

- 14.3 Upon request at the termination, cancellation, suspension, or abandonment of this Agreement, Construction Manager agrees to furnish to Owner copies of the latest documents prepared by Construction Manager for the Project.
- 14.4 A termination, cancellation, suspension, or abandonment under this Article shall not relieve Construction Manager or any of its employees of liability for violations of this Agreement, or any willful, negligent or accidental act or omission of Construction Manager. In the event of a termination under this Article, Construction Manager hereby consents to employment by Owner of a substitute Construction Manager to complete the services under this Agreement, with the substitute Construction Manager having all rights and privileges of the original Construction Manager of the Project.
- 14.5 Construction Manager shall, at its own cost, remedy any defects in the Work as soon as Construction Manager becomes aware of such defects or is notified of such defects. Should Construction Manager refuse or neglect to remedy such within a reasonable time after receiving notice requesting such remedial work, then Owner shall be entitled to remedy such defective services at the expense of Construction Manager. Should the defects be critical in nature, Construction Manager shall provide immediate notice as well as a follow-up discussion. This commitment by Construction Manager is in addition to, and not in substitution for, any other remedy for defective Services which Owner may have at law or in equity.
- 14.6 Construction Manager shall keep critical activities from impacting the Longest Path and shall keep activities scheduled to finish the Work on or before the Substantial Completion Date. Should Construction Manager neglect or refuse to remedy the scheduled activities to maintain Substantial Completion, then Owner shall be entitled to remedy such delayed scheduling at the expense of Construction Manager.

ARTICLE 15 MISCELLANEOUS

- 15.1 Assignment. The terms and conditions of this Agreement shall be binding upon the Parties, their partners, successors, and legal representatives. This Agreement is a personal service Agreement for the services of Construction Manager, and Construction Manager's interest in this Agreement, duties hereunder and/or fees due hereunder may not be assigned or delegated to a third party. The benefits and burdens of this Agreement are, however, assignable by Owner to a component or affiliate of Owner or a branch or agency of the State of Texas.
- 15.2 Death or Incapacity. If Construction Manager transacts business as an individual, his death or incapacity shall automatically terminate this Agreement as of the date of such event, and neither he nor his estate shall have any further right to perform hereunder; and Owner shall pay him or his estate the compensation payable under the Agreement for any services rendered prior to such termination. If Construction Manager is a firm comprised of more than one principal and any one of the members thereof dies or becomes incapacitated and the other members continue to render the services covered herein, Owner will make payments to those continuing as though there had been no such death or incapacity, and Owner will not be obliged to take any account of the person who died or became incapacitated or to make any payment to such person or his estate. This provision shall apply in the event of progressive or simultaneous occasions of death or incapacity among any group of persons named as Construction Manager; and if death or incapacity befalls the last one of such group before this Agreement is fully performed, then the rights shall be as if there had been only one Construction Manager. In any event, notice of the death or incapacity of any principal shall be given to Owner by any surviving principal within a reasonable time.
- 15.3 Irreparable Injury. It is acknowledged and agreed that Construction Manager's services to Owner are unique, which gives Construction Manager a peculiar value to Owner and for the loss of which Owner cannot be reasonably or adequately compensated in damages; accordingly, Construction Manager acknowledges and agrees that a breach by Construction Manager of the provisions hereof

will cause Owner irreparable injury and damage. Construction Manager, therefore, expressly agrees that Owner shall be entitled to injunctive and/or other equitable relief in any court of competent jurisdiction to prevent or otherwise restrain a breach of this Agreement, but only if Owner is not in breach of this Agreement.

15.4 Certifications.

15.4.1 Pursuant to Texas Family Code, Section 231.006, Construction Manager certifies that it is not ineligible to receive the award of or payments under this Agreement and acknowledges that this Agreement may be terminated and payment may be withheld if this certification is inaccurate.

15.4.2 Pursuant to Texas Government Code, Section 2155.004, Construction Manager certifies that the business entity named in this Agreement is not ineligible to receive the award of or payments under this Agreement and acknowledges that this Agreement may be terminated and payment withheld if this certification is inaccurate.

15.4.3 If a corporate or limited liability company, Construction Manager certifies that it is not currently delinquent in the payment of any Franchise Taxes due under Texas Tax Code, Chapter 171, or that the corporation or limited liability company is exempt from the payment of such taxes, or that the corporation or limited liability company is an out-of-state corporation or limited liability company that is not subject to the Texas Franchise Tax, whichever is applicable.

15.4.4 Pursuant to Texas Government Code Sections 2107.008 and 2252.903, Construction Manager agrees that any payments owing to Construction Manager under this Agreement may be applied directly toward any debt or delinquency that Construction Manager owes the State of Texas or any agency of the State of Texas regardless of when it arises, until such debt or delinquency is paid in full.

15.4.5 Pursuant to Texas Government Code Chapter 2252, Subchapter F, Construction Manager certifies that it is not engaged in business with Iran, Sudan, or a foreign terrorist organization. Construction Manager acknowledges this Agreement may be terminated if this certification is inaccurate.

15.4.6 Pursuant to Texas Government Code Sections 2252.201-2252.205, Construction Manager certifies that it is in compliance with the requirement that any iron or steel product produced through a manufacturing process and used in the Project is produced in the United States.

15.4.7 Construction Manager certifies that no member of the Board of Regents of the University of North Texas System, or Executive Officers, including component institutions, has a financial interest, directly or indirectly, in the transaction that is the subject of this Agreement.

15.5 Illegal Dumping. Construction Manager shall ensure that it and all of its subcontractors and assigns prevent illegal dumping of litter in accordance with Title 5, Texas Health and Safety Code, Chapter 365.

15.6 Asbestos Containing Materials.

15.6.1 Construction Manager shall provide a notarized certification to Owner that all equipment and materials used in fulfillment of its Contract responsibilities are non-Asbestos Containing Building Materials (ACBM) no later than Construction Manager's application for Final Payment as required by the UGCs.

- 15.6.2 All materials used in this Project shall be certified as non-ACBM. Construction Manager shall take whatever measures it deems necessary to insure that all employees, suppliers, fabricators, material men, subcontractors, or their assigns, comply with the following acts:
- 15.6.2.1 Asbestos Hazard Emergency Response Act (AHERA—40 CFR 763, Subpart E)
 - 15.6.2.2 National Emission Standards for Hazardous Air Pollutants (NESHAP—EPA 40 CFR 61, Subpart M, National Emission Standard for Asbestos)
 - 15.6.2.3 Texas Asbestos Health Protection Rules (TAHRP—Tex. Admin. Code Title 25, Part 1, Ch. 295, Subchapter C, Asbestos Health Protection)
- 15.7 Business Ethics. During the performance of Construction Manager’s contract responsibilities, Construction Manager agrees to maintain business ethics standards aimed at avoiding any impropriety or conflict of interest with Owner’s best interests. Neither Construction Manager nor its employees, agents, representatives, or subcontractors will assist or cause Owner to violate Owner’s Conflicts of Interest Policy or applicable state ethics laws or rules.
- 15.8 Records. Records of Construction Manager’s costs, reimbursable expenses pertaining to the Project and payments shall be kept on a generally recognized accounting basis and shall be made available to Owner or its authorized representative during business hours for audit or other purposes as determined by Owner. Such records shall be maintained by Construction Manager and shall be available to Owner or his authorized representative for a period of at least five (5) years after the provision of Construction Manager’s Services.
- 15.9 Notices. All notices, consents, approvals, demands, requests or other communications provided for or permitted to be given under any of the provisions of this Agreement shall be in writing and shall be deemed to have been duly given or served when delivered by hand delivery or when deposited in the U.S. Mail by registered or certified mail, return receipt requested, postage prepaid, and addressed as follows:
- | | |
|---|--|
| <u>If to Owner:</u>
{Name}
{Title}
University of North Texas [System or Institution Name]
{Address} | <u>If to Construction Manager:</u>
{Contact Name}
{Firm Name}
{Street Address}
{City, State Zip} |
|---|--|
- or to such other person or address as may be given in writing by either party to the other in accordance with the aforesaid.
- 15.10 Independent Contractor. Construction Manager recognizes that it is engaged as an independent contractor and acknowledges that Owner will have no responsibility to provide transportation, insurance or other fringe benefits normally associated with employee status. Construction Manager, in accordance with its status as an independent contractor, covenants and agrees that it shall conduct itself consistent with such status, that it will neither hold itself out as nor claim to be an officer, partner, employee or agent of Owner by reason hereof, and that it will not by reason hereof make any claim, demand or application to or for any right or privilege applicable to an officer, partner, employee or agent of Owner, including, but not limited to, unemployment insurance benefits, social security coverage or retirement benefits. Construction Manager hereby agrees to make its own arrangements for any of such benefits as it may desire and agrees that it is responsible for all income taxes required by applicable law.
- 15.11 Loss of Funding. Performance by Owner under the Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the “Legislature”) and/or

allocation of funds by the Board of Regents of The University of North Texas System (the "Board"). If the Legislature fails to appropriate or allot the necessary funds, or the Board fails to allocate the necessary funds, then Owner shall issue written notice to Construction Manager and Owner may terminate the Agreement. Construction Manager acknowledges that appropriation, allotment, and allocation of funds are beyond the control of Owner.

- 15.12 Confidentiality. All information owned, possessed or used by Owner which is communicated to, learned, developed or otherwise acquired by Construction Manager in the performance of services for Owner, which is not generally known to the public, shall be confidential and Construction Manager shall not, beginning on the date of first association or communication between Owner and Construction Manager and continuing through the term of this Agreement and any time thereafter, disclose, communicate or divulge, or permit disclosure, communication or divulgence, to another or use for Construction Manager's own benefit or the benefit of another, any such confidential information, unless required by law. Except when defined as part of the Work, Construction Manager shall not make any press releases, public statements, or advertisement referring to the Project or the engagement of Construction Manager as an independent Construction Manager of Owner in connection with the Project, or release any information relative to the Project for publications, advertisement or any other purpose without the prior written approval of Owner. Construction Manager shall obtain assurances similar to those contained in this subparagraph from persons, and subcontractors retained by Construction Manager. Construction Manager acknowledges and agrees that a breach by Construction Manager of the provisions hereof will cause Owner irreparable injury and damage. Construction Manager, therefore, expressly agrees that Owner shall be entitled to injunctive and/or other equitable relief in any court of competent jurisdiction to prevent or otherwise restrain a breach of this Agreement.
- 15.13 Open Records. Owner shall release information to the extent required by the Texas Public Information Act and other applicable law. If required, Construction Manager shall make public information available to Owner in an electronic format. The requirements of Subchapter J, Chapter 552, Government Code, may apply to this Agreement and the Construction Manager agrees that the Agreement can be terminated if the Construction Manager knowingly or intentionally fails to comply with a requirement of that subchapter.
- 15.14 Governing Law and Venue. This Agreement and all of the rights and obligations of the parties hereto and all of the terms and conditions hereof shall be construed, interpreted and applied in accordance with and governed by and enforced under the laws of the State of Texas and venue shall be as provided in Texas Education Code Section 105.151 for any legal proceeding pertaining to this Agreement.
- 15.15 Waivers. No delay or omission by either of the parties hereto in exercising any right or power accruing upon the non-compliance or failure of performance by the other party hereto of any of the provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either of the parties hereto of any of the covenants, conditions or agreements hereof to be performed by the other party hereto shall not be construed to be a waiver of any subsequent breach thereof or of any other covenant, condition or agreement herein contained.
- 15.16 Severability. Should any term or provision of this Agreement be held invalid or unenforceable in any respect, the remaining terms and provisions shall not be affected and this Agreement shall be construed as if the invalid or unenforceable term or provision had never been included.

IN WITNESS WHEREOF, intending to be bound, the Parties have entered into this Construction Manager-at-Risk Agreement as of the Effective Date.

OWNER:

CONSTRUCTION MANAGER-AT-RISK:

UNIVERSITY OF NORTH TEXAS [SYSTEM or INSTITUTION NAME]

{FIRM NAME}

By: _____
(signature)

By: _____
(signature)

Name: {Name}
Title: {Title}

Name: _____
Title: _____

Date: {Date}

Date: _____

Street/PO Box

City, State, ZIP

Telephone

State of TX Vendor ID Number

EXHIBIT A
UNIFORM GENERAL CONDITIONS 2019

This Exhibit contains the Uniform General Conditions 2019, all of which is made part of this Agreement between Owner and Construction Manager.

Initialed by Owner

Initialed by Construction Manager

EXHIBIT B

GUARANTEED MAXIMUM PRICE (GMP) PROPOSAL

{PROJECT}
Project Name

We hereby submit to the Owner for the use and benefit of the Owner pursuant to the provisions of Article 7 of the Construction Manager-at-Risk Agreement by and between the Owner and {Firm Name} , dated {Contract Month, Date, Year} (Agreement), a GMP for the Project (as defined in the Agreement) based on the Contract Documents (as defined by the Agreement) developed for the Project, as follows:

1. A not-to-exceed amount for General Conditions pursuant to the Agreement		\$ <u>{Amount}</u>
1a. CMAR Payment and Performance Bond Cost <i>(Included in General Conditions cost)</i>	\$ <u>{Amount}</u>	
1b. CMAR Insurance cost for Builder's Risk / Liability / Auto / etc. pursuant to Agreement <i>(Included in General Conditions cost)</i>	\$ <u>{Amount}</u>	
2. A not-to-exceed amount for Cost of Work pursuant to the Agreement		\$ <u>{Amount}</u>
2a. General Requirements (Division 1 Costs) <i>(Included in Cost of Work above)</i>	\$ <u>{Amount}</u>	
3. Direct Construction Cost (DCC) [lines 1 & 2 above]		\$ <u>{Amount}</u>
4. Construction Manager's Construction Fee pursuant to the Agreement (% in Agreement x DCC)		\$ <u>{Amount}</u>
5. Total Construction Cost Sum = Direct Construction Cost [line 3] + CM Fee [line 4]		\$ <u>{Amount}</u>
6. Contingencies <i>(Insurance, Bonds & Fee calculated and applied when used)</i>		\$ <u>{Amount}</u>
a. Design Contingency	\$ <u>{Amount}</u>	
b. Construction Contingency	\$ <u>{Amount}</u>	
c. Owner's Contingency	\$ <u>{Amount}</u>	
7. GMP AMENDMENT TOTAL [lines 3+4+5+6]		\$ <u>{Amount}</u>

This figure shall be the GMP, which we hereby guarantee to the Owner. The document prepared by {Firm Name} titled {Document Title} dated {Month, Date, Year} is hereby incorporated by reference for all purposes and provides *(INSERT SECTION HEADINGS FROM GMP)* . The Schedule of Values reflects how the Construction Manager anticipates bidding the project.

Construction Manager agrees to substantially complete all Work on the Project as specified in the Agreement and Contract Documents by the **{Date}** day of **{Month}** **{Year}** (Substantial Completion), which shall be the total amount of time to substantially complete the Work.

Upon acceptance of the GMP by the Owner, the Owner will issue to the Construction Manager a Notice to Proceed for the Project.

Presented by:
{FIRM NAME}

Accepted and Agreed by:
UNIVERSITY OF NORTH TEXAS [SYSTEM or
Institution Name]

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

Date: _____

Date: _____



HUB Subcontracting Plan (HSP) QUICK CHECKLIST

While this HSP Quick Checklist is being provided to merely assist you in readily identifying the sections of the HSP form that you will need to complete, it is very important that you adhere to the instructions in the HSP form and instructions provided by the contracting agency.

- **If you will be awarding all of the subcontracting work you have to offer under the contract to only Texas certified HUB vendors, complete:**
 - Section 1 - Respondent and Requisition Information
 - Section 2 a. - Yes, I will be subcontracting portions of the contract.
 - Section 2 b. - List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors.
 - Section 2 c. - Yes
 - Section 4 - Affirmation
 - GFE Method A (Attachment A) - Complete an Attachment A for each of the subcontracting opportunities you listed in Section 2 b.
- **If you will be subcontracting any portion of the contract to Texas certified HUB vendors and Non-HUB vendors, and the aggregate percentage of all the subcontracting work you will be awarding to the Texas certified HUB vendors with which you do not have a continuous contract* in place for more than five (5) years meets or exceeds the HUB Goal the contracting agency identified in the "Agency Special Instructions/Additional Requirements", complete:**
 - Section 1 - Respondent and Requisition Information
 - Section 2 a. - Yes, I will be subcontracting portions of the contract.
 - Section 2 b. - List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors and Non-HUB vendors.
 - Section 2 c. - No
 - Section 2 d. - Yes
 - Section 4 - Affirmation
 - GFE Method A (Attachment A) - Complete an Attachment A for each of the subcontracting opportunities you listed in Section 2 b.
- **If you will be subcontracting any portion of the contract to Texas certified HUB vendors and Non-HUB vendors or only to Non-HUB vendors, and the aggregate percentage of all the subcontracting work you will be awarding to the Texas certified HUB vendors with which you do not have a continuous contract* in place for more than five (5) years does not meet or exceed the HUB Goal the contracting agency identified in the "Agency Special Instructions/Additional Requirements", complete:**
 - Section 1 - Respondent and Requisition Information
 - Section 2 a. - Yes, I will be subcontracting portions of the contract.
 - Section 2 b. - List all the portions of work you will subcontract, and indicate the percentage of the contract you expect to award to Texas certified HUB vendors and Non-HUB vendors.
 - Section 2 c. - No
 - Section 2 d. - No
 - Section 4 - Affirmation
 - GFE Method B (Attachment B) - Complete an Attachment B for each of the subcontracting opportunities you listed in Section 2 b.
- **If you will not be subcontracting any portion of the contract and will be fulfilling the entire contract with your own resources (i.e., employees, supplies, materials and/or equipment), complete:**
 - Section 1 - Respondent and Requisition Information
 - Section 2 a. - No, I will not be subcontracting any portion of the contract, and I will be fulfilling the entire contract with my own resources.
 - Section 3 - Self Performing Justification
 - Section 4 - Affirmation

***Continuous Contract:** Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service, to include under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.



HUB Subcontracting Plan (HSP)

In accordance with Texas Gov't Code §2161.252, the contracting agency has determined that subcontracting opportunities are probable under this contract. Therefore, all respondents, including State of Texas certified Historically Underutilized Businesses (HUBs) must complete and submit this State of Texas HUB Subcontracting Plan (HSP) with their response to the bid requisition (solicitation).

NOTE: Responses that do not include a completed HSP shall be rejected pursuant to Texas Gov't Code §2161.252(b).

The HUB Program promotes equal business opportunities for economically disadvantaged persons to contract with the State of Texas in accordance with the goals specified in the 2009 State of Texas Disparity Study. The statewide HUB goals defined in 34 Texas Administrative Code (TAC) §20.284 are:

- **11.2 percent for heavy construction other than building contracts,**
- **21.1 percent for all building construction, including general contractors and operative builders' contracts,**
- **32.9 percent for all special trade construction contracts,**
- **23.7 percent for professional services contracts,**
- **26.0 percent for all other services contracts, and**
- **21.1 percent for commodities contracts.**

- - Agency Special Instructions/Additional Requirements - -

*In accordance with 34 TAC §20.285(d)(1)(D)(iii), a respondent (prime contractor) may demonstrate good faith effort to utilize Texas certified HUBs for its subcontracting opportunities if the total value of the respondent's subcontracts with Texas certified HUBs meets or exceeds the statewide HUB goal or the agency specific HUB goal, whichever is higher. When a respondent uses this method to demonstrate good faith effort, the respondent must identify the HUBs with which it will subcontract. If using existing contracts with Texas certified HUBs to satisfy this requirement, only the aggregate percentage of the contracts expected to be subcontracted to HUBs with which the respondent **does not** have a **continuous contract*** in place for **more than five (5) years** shall qualify for meeting the HUB goal. This limitation is designed to encourage vendor rotation as recommended by the 2009 Texas Disparity Study.*

SECTION 1: RESPONDENT AND REQUISITION INFORMATION

- a. Respondent (Company) Name: _____ State of Texas VID #: _____
 Point of Contact: _____ Phone #: _____
 E-mail Address: _____ Fax #: _____
- b. Is your company a State of Texas certified HUB? - Yes - No
- c. Requisition #: _____ Bid Open Date: _____

(mm/dd/yyyy)

Enter your company's name here: _____ Requisition #: _____

SECTION 2: RESPONDENT'S SUBCONTRACTING INTENTIONS

After dividing the contract work into reasonable lots or portions to the extent consistent with prudent industry practices, and taking into consideration the scope of work to be performed under the proposed contract, including all potential subcontracting opportunities, the respondent must determine what portions of work, **including contracted staffing, goods and services will be subcontracted**. Note: In accordance with 34 TAC §20.282, a "Subcontractor" means a person who contracts with a prime contractor to work, to supply commodities, or to contribute toward completing work for a governmental entity.

a. Check the appropriate box (Yes or No) that identifies your subcontracting intentions:

- *Yes*, I will be subcontracting portions of the contract. (If *Yes*, complete Item b of this SECTION and continue to Item c of this SECTION.)
- *No*, I will not be subcontracting any portion of the contract, and I will be fulfilling the entire contract with my own resources, including employees, goods and services. (If *No*, continue to SECTION 3 and SECTION 4.)

b. List all the portions of work (subcontracting opportunities) you will subcontract. Also, based on the total value of the contract, identify the percentages of the contract you expect to award to Texas certified HUBs, and the percentage of the contract you expect to award to vendors that are not a Texas certified HUB (i.e., Non-HUB).

Item #	Subcontracting Opportunity Description	HUBs		Non-HUBs
		Percentage of the contract expected to be subcontracted to HUBs with which you do not have a continuous contract* in place for more than five (5) years .	Percentage of the contract expected to be subcontracted to HUBs with which you have a continuous contract* in place for more than five (5) years .	Percentage of the contract expected to be subcontracted to non-HUBs.
1		%	%	%
2		%	%	%
3		%	%	%
4		%	%	%
5		%	%	%
6		%	%	%
7		%	%	%
8		%	%	%
9		%	%	%
10		%	%	%
11		%	%	%
12		%	%	%
13		%	%	%
14		%	%	%
15		%	%	%
Aggregate percentages of the contract expected to be subcontracted:		%	%	%

(Note: If you have more than fifteen subcontracting opportunities, a continuation sheet is available online at <https://www.comptroller.texas.gov/purchasing/vendor/hub/forms.php>.)

c. Check the appropriate box (Yes or No) that indicates whether you will be using **only** Texas certified HUBs to perform **all** of the subcontracting opportunities you listed in SECTION 2, Item b.

- *Yes* (If *Yes*, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method A (Attachment A)" for **each** of the subcontracting opportunities you listed.)
- *No* (If *No*, continue to Item d, of this SECTION.)

d. Check the appropriate box (Yes or No) that indicates whether the aggregate expected percentage of the contract you will subcontract **with Texas certified HUBs** with which you **do not** have a **continuous contract*** in place with for **more than five (5) years**, **meets or exceeds** the HUB goal the contracting agency identified on page 1 in the "Agency Special Instructions/Additional Requirements."

- *Yes* (If *Yes*, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method A (Attachment A)" for **each** of the subcontracting opportunities you listed.)
- *No* (If *No*, continue to SECTION 4 and complete an "HSP Good Faith Effort - Method B (Attachment B)" for **each** of the subcontracting opportunities you listed.)

***Continuous Contract:** Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.

Enter your company's name here: _____

Requisition #: _____

SECTION 2: RESPONDENT'S SUBCONTRACTING INTENTIONS (CONTINUATION SHEET)

This page can be used as a continuation sheet to the HSP Form's page 2, Section 2, Item b. Continue listing the portions of work (subcontracting opportunities) you will subcontract. Also, based on the total value of the contract, identify the percentages of the contract you expect to award to Texas certified HUBs, and the percentage of the contract you expect to award to vendors that are not a Texas certified HUB (i.e., Non-HUB).

Item #	Subcontracting Opportunity Description	HUBs		Non-HUBs
		Percentage of the contract expected to be subcontracted to HUBs with which you do not have a continuous contract* in place for more than five (5) years .	Percentage of the contract expected to be subcontracted to HUBs with which you have a continuous contract* in place for more than five (5) years .	Percentage of the contract expected to be subcontracted to non-HUBs.
16		%	%	%
17		%	%	%
18		%	%	%
19		%	%	%
20		%	%	%
21		%	%	%
22		%	%	%
23		%	%	%
24		%	%	%
25		%	%	%
26		%	%	%
27		%	%	%
28		%	%	%
29		%	%	%
30		%	%	%
31		%	%	%
32		%	%	%
33		%	%	%
34		%	%	%
35		%	%	%
36		%	%	%
37		%	%	%
38		%	%	%
39		%	%	%
40		%	%	%
41		%	%	%
42		%	%	%
43		%	%	%
Aggregate percentages of the contract expected to be subcontracted:		%	%	%

***Continuous Contract:** Any existing written agreement (including any renewals that are exercised) between a prime contractor and a HUB vendor, where the HUB vendor provides the prime contractor with goods or service under the same contract for a specified period of time. The frequency the HUB vendor is utilized or paid during the term of the contract is not relevant to whether the contract is considered continuous. Two or more contracts that run concurrently or overlap one another for different periods of time are considered by CPA to be individual contracts rather than renewals or extensions to the original contract. In such situations the prime contractor and HUB vendor are entering (have entered) into "new" contracts.

Enter your company's name here: _____	Requisition #: _____
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SECTION 3: SELF PERFORMING JUSTIFICATION (If you responded "No" to SECTION 2, Item a, you must complete this SECTION and continue to SECTION 4.) If you responded "No" to SECTION 2, Item a, in the space provided below **explain how** your company will perform the entire contract with its own employees, supplies, materials and/or equipment.

SECTION 4: AFFIRMATION

As evidenced by my signature below, I affirm that I am an authorized representative of the respondent listed in SECTION 1, and that the information and supporting documentation submitted with the HSP is true and correct. Respondent understands and agrees that, if awarded any portion of the requisition:

- The respondent will provide notice as soon as practical to all the subcontractors (HUBs and Non-HUBs) of their selection as a subcontractor for the awarded contract. The notice must specify at a minimum the contracting agency's name and its point of contact for the contract, the contract award number, the subcontracting opportunity they (the subcontractor) will perform, the approximate dollar value of the subcontracting opportunity and the expected percentage of the total contract that the subcontracting opportunity represents. A copy of the notice required by this section must also be provided to the contracting agency's point of contact for the contract no later than ten (10) working days after the contract is awarded.
- The respondent must submit monthly compliance reports (Prime Contractor Progress Assessment Report – PAR) to the contracting agency, verifying its compliance with the HSP, including the use of and expenditures made to its subcontractors (HUBs and Non-HUBs). (The PAR is available at <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/ProgressAssessmentReportForm.xls>).
- The respondent must seek approval from the contracting agency prior to making any modifications to its HSP, including the hiring of additional or different subcontractors and the termination of a subcontractor the respondent identified in its HSP. If the HSP is modified without the contracting agency's prior approval, respondent may be subject to any and all enforcement remedies available under the contract or otherwise available by law, up to and including debarment from all state contracting.
- The respondent must, upon request, allow the contracting agency to perform on-site reviews of the company's headquarters and/or work-site where services are being performed and must provide documentation regarding staffing and other resources.

Signature	Printed Name	Title	Date <small>(mm/dd/yyyy)</small>
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Reminder:

- If you responded "Yes" to SECTION 2, Items c or d, you must complete an "HSP Good Faith Effort - Method A (Attachment A)" for each of the subcontracting opportunities you listed in SECTION 2, Item b.
- If you responded "No" SECTION 2, Items c and d, you must complete an "HSP Good Faith Effort - Method B (Attachment B)" for each of the subcontracting opportunities you listed in SECTION 2, Item b.

HSP Good Faith Effort - Method B (Attachment B)

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Enter your company's name here: _____	Requisition #: _____
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IMPORTANT: If you responded “No” to **SECTION 2, Items c and d** of the completed HSP form, you must submit a completed “HSP Good Faith Effort - Method B (Attachment B)” for **each** of the subcontracting opportunities you listed in **SECTION 2, Item b** of the completed HSP form. You may photo-copy this page or download the form at <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/hub-sbcont-plan-gfe-achm-b.pdf>.

SECTION B-1: SUBCONTRACTING OPPORTUNITY

Enter the item number and description of the subcontracting opportunity you listed in SECTION 2, Item b, of the completed HSP form for which you are completing the attachment.

Item Number: _____ Description: _____

SECTION B-2: MENTOR PROTÉGÉ PROGRAM

If respondent is participating as a Mentor in a State of Texas Mentor Protégé Program, submitting its Protégé (Protégé must be a State of Texas certified HUB) as a subcontractor to perform the subcontracting opportunity listed in **SECTION B-1**, constitutes a good faith effort to subcontract with a Texas certified HUB towards that specific portion of work.

Check the appropriate box (Yes or No) that indicates whether you will be subcontracting the portion of work you listed in SECTION B-1 to your Protégé.

- Yes (If *Yes*, continue to SECTION B-4.)
- No / Not Applicable (If *No* or *Not Applicable*, continue to SECTION B-3 and SECTION B-4.)

SECTION B-3: NOTIFICATION OF SUBCONTRACTING OPPORTUNITY

When completing this section you **MUST** comply with items **a, b, c and d**, thereby demonstrating your Good Faith Effort of having notified Texas certified HUBs and trade organizations or development centers about the subcontracting opportunity you listed in SECTION B-1. Your notice should include the scope of work, information regarding the location to review plans and specifications, bonding and insurance requirements, required qualifications, and identify a contact person. When sending notice of your subcontracting opportunity, you are encouraged to use the attached HUB Subcontracting Opportunity Notice form, which is also available online at <https://www.comptroller.texas.gov/purchasing/docs/hub-forms/HUBSubcontractingOpportunityNotificationForm.pdf>.

Retain supporting documentation (i.e., certified letter, fax, e-mail) demonstrating evidence of your good faith effort to notify the Texas certified HUBs and trade organizations or development centers. Also, be mindful that a working day is considered a normal business day of a state agency, not including weekends, federal or state holidays, or days the agency is declared closed by its executive officer. The initial day the subcontracting opportunity notice is sent/provided to the HUBs and to the trade organizations or development centers is considered to be “day zero” and does not count as one of the seven (7) working days.

- a.** Provide written notification of the subcontracting opportunity you listed in SECTION B-1, to three (3) or more Texas certified HUBs. Unless the contracting agency specified a different time period, you must allow the HUBs at least seven (7) working days to respond to the notice prior to you submitting your bid response to the contracting agency. When searching for Texas certified HUBs and verifying their HUB status, ensure that you use the State of Texas’ Centralized Master Bidders List (CMBL) - Historically Underutilized Business (HUB) Directory Search located at <http://mycpa.cpa.state.tx.us/tpasscmbsearch/index.jsp>. HUB status code “A” signifies that the company is a Texas certified HUB.
- b.** List the **three (3) Texas certified HUBs** you notified regarding the subcontracting opportunity you listed in SECTION B-1. Include the company’s Texas Vendor Identification (VID) Number, the date you sent notice to that company, and indicate whether it was responsive or non-responsive to your subcontracting opportunity notice.

Company Name	Texas VID <small>(Do not enter Social Security Numbers.)</small>	Date Notice Sent <small>(mm/dd/yyyy)</small>	Did the HUB Respond?
			- Yes - No
			- Yes - No
			- Yes - No

- c.** Provide written notification of the subcontracting opportunity you listed in SECTION B-1 to **two (2)** or more trade organizations or development centers in Texas to assist in identifying potential HUBs by disseminating the subcontracting opportunity to their members/participants. Unless the contracting agency specified a different time period, you must provide your subcontracting opportunity notice to trade organizations or development centers at least seven (7) working days prior to submitting your bid response to the contracting agency. A list of trade organizations and development centers that have expressed an interest in receiving notices of subcontracting opportunities is available on the Statewide HUB Program’s webpage at <https://www.comptroller.texas.gov/purchasing/vendor/hub/resources.php>.

- d.** List **two (2) trade organizations or development centers** you notified regarding the subcontracting opportunity you listed in SECTION B-1. Include the date when you sent notice to it and indicate if it accepted or rejected your notice.

Trade Organizations or Development Centers	Date Notice Sent <small>(mm/dd/yyyy)</small>	Was the Notice Accepted?
		- Yes - No
		- Yes - No

HSP Good Faith Effort - Method B (Attachment B) Cont.

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Enter your company's name here: _____	Requisition #: _____
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SECTION B-4: SUBCONTRACTOR SELECTION

Enter the item number and description of the subcontracting opportunity you listed in **SECTION 2, Item b**, of the completed HSP form for which you are completing the attachment.

- a. Enter the item number and description of the subcontracting opportunity for which you are completing this Attachment B continuation page.

Item Number: _____ Description: _____

- b. List the subcontractor(s) you selected to perform the subcontracting opportunity you listed in **SECTION B-1**. Also identify whether they are a Texas certified HUB and their Texas Vendor Identification (VID) Number or federal Employer Identification Number (EIN), the approximate dollar value of the work to be subcontracted, and the expected percentage of work to be subcontracted. When searching for Texas certified HUBs and verifying their HUB status, ensure that you use the State of Texas' Centralized Master Bidders List (CMBL) - Historically Underutilized Business (HUB) Directory Search located at <http://mycpa.cpa.state.tx.us/tpasscmbsearch/index.jsp>. HUB status code "A" signifies that the company is a Texas certified HUB.

Company Name	Texas certified HUB	Texas VID or federal EIN <small>Do not enter Social Security Numbers. If you do not know their VID / EIN, leave their VID / EIN field blank.</small>	Approximate Dollar Amount	Expected Percentage of Contract
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%
	- Yes - No		\$	%

- c. If any of the subcontractors you have selected to perform the subcontracting opportunity you listed in **SECTION B-1** is **not** a Texas certified HUB, provide written justification for your selection process (attach additional page if necessary):

REMINDER: As specified in SECTION 4 of the completed HSP form, if you (respondent) are awarded any portion of the requisition, you are required to provide notice as soon as practical to **all** the subcontractors (HUBs and Non-HUBs) of their selection as a subcontractor. The notice must specify at a minimum the contracting agency's name and its point of contact for the contract, the contract award number, the subcontracting opportunity it (the subcontractor) will perform, the approximate dollar value of the subcontracting opportunity and the expected percentage of the total contract that the subcontracting opportunity represents. A copy of the notice required by this section must also be provided to the contracting agency's point of contact for the contract no later than ten (10) working days after the contract is awarded.

Welcome.

UNT New College at Frisco

A NEW WAY OF
THINKING.
A NEW WAY OF DOING
BUSINESS.
A NEW KIND OF
EDUCATION.

NEW COLLEGE AT FRISCO | **UNT**
972-648-7100 | newcollege.unt.edu

Location

We are located in Hall Office Park at the corners of Dallas North Tollway & Hwy 121. Address: 2811 Internet Blvd. Suite 100. Entrance on the South side of the building.

Parking

Free. Yes, really FREE.

Attached is a map of our location, and the parking areas. You can park anywhere you can find an open spot, as long as it is not marked "reserved." You may also use the student parking on the upper level of the garage across the street.

**The reserved UNT spaces on the North side require a Hall Park Permit.*

Break

There is a breakroom located in the center of the facility for your use. There is vending, tables & chairs.



Driving Directions:

From Denton:

Option 1:

East on 380
Right onto Dallas north Tollway
(You can take the Tollway Frontage if you do not want to pay the tolls)
Exit Warren

or

I-35 to Swisher
East on Swisher – go over Lewisville toll bridge
This turns into Eldorado
Stay on Eldorado until you reach the tollway
Right onto Dallas North Tollway
(You can take the Tollway Frontage if you do not want to pay the tolls)

THEN

Right on Warren
2nd left onto Internet Blvd.
2811 Internet Blvd on RIGHT
Look for UNT sign on upper level of building
See attached parking map.

Option 2:

Take I-35E south then take exit 450 toward TX-121 Bus/Lewisville. Turn left onto TX-121 Bus/E. State Highway 121. Take Sam Rayburn Tollway north. Exit Legacy Dr. and turn left onto Legacy Dr. Turn right onto Warren Pkwy. then turn right onto Internet Blvd. UNT New College at Frisco will be on the right.

From Fort Worth:

Take Sam Rayburn Tollway north. Exit Legacy Dr. and turn left onto Legacy Dr. Turn right onto Warren Pkwy. then turn right onto Internet Blvd. UNT New College at Frisco will be on the right.