Vendor Name:

_____

TARRANT COUNTY
PURCHASING DEPARTMENT

JACK BEACHAM, C.P.M., A.P.P.
PURCHASING AGENT

MELISSA LEE, C.P.M., A.P.P.
ASSISTANT PURCHASING AGENT

VOLUME 1 – BIDDING DOCUMENTS

BID NO. 2018-021

PROJECT MANUAL
FOR
TARRANT COUNTY 350 W. BELKNAP BUILDING COOLING TOWER REPLACEMENT PROJECT

350 W. BELKNAP
FORT WORTH, TEXAS 76102

BIDS DUE OCTOBER 23, 2017
2:00 P.M.

Technical Specifications Prepared by
MEP Consulting Engineers, Inc.
2928 Story Road West
Irving, Texas 75038

RFB NO. 2018-021

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***NOTE: THESE PAGES <u>MUST</u> BE RETURNED WITH BID.**

This Table of Contents is intended as an aid to bidders and not as a comprehensive listing of the bid package. Bidders are responsible for reading the entire bid package and complying with all specifications.

TARRANT COUNTY 350 W. BELKNAP BUILDING
COOLING TOWER REPLACEMENT PROJECT

PRE-BID CONFERENCE

All bidders are encouraged to attend a Pre-Bid Conference and Walk-Through of the Job-Site to be held:

DATE: **THURSDAY, OCTOBER 5, 2017**

TIME: **1:00 P.M.**

LOCATION: **TARRANT COUNTY ADMINISTRATION BUILDING**
100 E. WEATHERFORD STREET, SUITE 303
PURCHASING DEPARTMENT CONFERENCE ROOM
FORT WORTH, TEXAS 76102

Bidders will be escorted to the project site for walk-through of the project immediately after pre-bid meeting.

Note: **There is NO opportunity for remote attendance of this meeting.**

RSVP: Vendors planning to attend the pre-bid conference should RSVP, in writing, via facsimile, no later than 5:00 p.m., Wednesday, October 4, 2017.

Send RSVPs to Janel Jenkins at (817) 884-2629.

Questions from bidders will be addressed at the pre-bid conference. Any vendor who submits a bid without attending the scheduled pre-bid conference does so at his own risk. Such applicant who submits a bid and does not attend the scheduled pre-bid conference waives any right to assert claims due to undiscovered conditions.

TARRANT COUNTY 350 W. BELKNAP BUILDING
COOLING TOWER REPLACEMENT PROJECT

Tarrant County is soliciting bids for furnishing the merchandise, supplies, services, and/or equipment set forth in this Bid Proposal.

BY MAIL VIA US POSTAL SERVICE
ORIGINAL AND ONE (1) COPY
OF
COMPLETED BID PROPOSALS
MUST BE RECEIVED IN THE
PURCHASING DEPARTMENT
AT 100 E. WEATHERFORD, SUITE 303
FORT WORTH, TEXAS 76196-0104
ON OR BEFORE OCTOBER 23, 2017
AT 2:00 P.M.

BY COURIER, FEDERAL EXPRESS, UPS
ORIGINAL AND ONE (1) COPY
OF
COMPLETED BID PROPOSALS
MUST BE RECEIVED IN THE
PURCHASING DEPARTMENT
AT 100 E. WEATHERFORD, SUITE 303
FORT WORTH, TEXAS 76102
ON OR BEFORE OCTOBER 23, 2017
AT 2:00 P.M.

All bids, including a "NO BID", are due in the Purchasing Department by the due date, in sealed envelopes or boxes. **All bids must be clearly marked with the Bid Number, the name of the company submitting the bid, and date and time of opening on the outside of the envelope/box and/or Air Bill/Delivery Receipt. Bids must be submitted on the enclosed Bid Proposal Forms.** Original bid must be clearly marked **"ORIGINAL"** and contain all original signatures.

Any bid received after the advertised date and/or hour set for the bid opening will not be accepted. Bidder will be notified and will advise Tarrant County Purchasing as to the disposition by either pick up, return at Bidder's expense, or destroyed with written authorization of the Bidder. If bids are sent by mail to the Purchasing Department, the Bidder shall be responsible for actual delivery of the bid to the Purchasing Department before the advertised date and hour set for the bid opening. If mail is delayed either in the postal service or in the internal mail system of Tarrant County beyond the advertised date and hour set for the bid opening, bids thus delayed will not be considered and will be disposed of as authorized.

Bids may be withdrawn at any time prior to the official opening. Alterations made before opening time must be initialed by bidder guaranteeing authenticity. After the official opening, bids become the property of Tarrant County and may not be amended, altered or withdrawn without the recommendations of the Purchasing Agent and the approval of Commissioners' Court.

The Contractor is solely responsible for complying with the contents of the State of Texas House Bill 11, that became effective October 1, 1991, in regard to payment of taxes. Tarrant County is exempt from Federal Excise and State Sales Tax; therefore, tax must not be included in this bid.

Tarrant County reserves the right to accept or reject in part or in whole any bids submitted, and to waive any technicalities for the best interest of the County.

TARRANT COUNTY 350 W. BELKNAP BUILDING
COOLING TOWER REPLACEMENT PROJECT

All documents relating to this Bid including but not limited to, the bid document, questions and their answers, addenda and special notices will be posted under the Bid number on the Tarrant County website and available for download by bidders and other interested parties. No document will be faxed or e-mailed after the initial Notice of Intent prior to bid award. It is the Bidder's sole responsibility to review this site and retrieve all related documents prior to the Bid due date.

The deadline for receipt of all questions is 12:00 (Noon), Fort Worth time, Thursday, October 12, 2017. All questions and their responses will be posted on the website and available for download by bidders after the deadline for questions.

All questions should be submitted in writing and directed to:
JANEL JENKINS, SENIOR BUYER-CONSTRUCTION
Fax: (817) 884-2629

CONSTRUCTION METHOD: Contractors will work under the direction and supervision of the Tarrant County Facilities Management Department who will act for the Owner as his representative in effecting the completion of the project.

Continuing non-performance of the vendor in terms of Specifications shall be a basis for the termination of the contract by the County. The County shall not pay for work, equipment, or supplies which are unsatisfactory. Vendors will be given a reasonable opportunity before termination to correct the deficiencies. This, however, shall in no way be construed as negating the basis for termination for non-performance.

Payments to Contractors and Suppliers will be prepared and processed by the Owner after the work and material have been approved by the Tarrant County Facilities Management Department and with Owner's voucher payable directly to the Contractor.

Invoices/Applications for Payment: Applications for payment shall be made on AIA Document G702, Application and Certificate for Payment, supported by AIA Document 6703, Continuation Sheet. Upon completion of work, the Contractor shall submit AIA Document G706, Contractor's Affidavit of Payment of Debts and Claims, and AIA Document G706A, Contractor's Affidavit of Release of Liens, to Owner. It is the intention of Tarrant County to make payment on completed orders within thirty (30) days after receipt of invoice or items; whichever is later, unless unusual circumstances arise. **Invoices must be fully documented as to labor, materials, and equipment provided.**

SUBSTITUTIONS: Whenever a material, article, or piece of equipment is identified on the drawings or in the specifications by reference to manufacturer's or vendor's names, trade names, catalog numbers, etc., it is intended merely to establish a standard; and, any material, article, or equipment of other manufacturers and vendors which will perform adequately the duties imposed by the general design will be considered equally acceptable provided the material, article or equipment so proposed, is, in the opinion of the Owner, of equal substance and function. All equals shall be submitted to the Owner five (5) working days prior to bidding and no equal shall be purchased or installed by the Contractor without the Owner's written approval.

Bids will be considered irregular if they show any omissions, alteration of form, additions or conditions not called for, or irregularities of any kind. However, Tarrant County reserves the right to waive any irregularities and to make award in the best interest of the County.

Tarrant County reserves the right to accept or reject in part or in whole any bids submitted, and to waive any technicalities for the best interest of the County. Bids may be rejected, among other reasons, for any of the following specific reasons:

1. Bids received after the time limit for receiving bids.
2. Bids containing any irregularities.
3. Unbalanced value of any items.

Bidders may be disqualified and their bids not considered, among other reasons, for any of the following specific reasons:

1. Reason for believing collusion exists among the Bidders.
2. Reasonable grounds for believing that any Bidder is interested in more than one Bid for the work contemplated.
3. The Bidder being interested in any litigation against the County.
4. The Bidder being in arrears on any existing contract or having defaulted on a previous contract
5. Lack of competency as revealed by a financial statement, experience and equipment, questionnaires, etc.
6. Uncompleted work, which in the judgement of the County, will prevent or hinder the prompt completion of additional work, if awarded.
7. Bidders shall not owe delinquent property tax in Tarrant County.

It is the Bidders' sole responsibility to print and review all pages of the bid document, attachments, questions and their answers, addenda and special notices. The Bid Proposal Signature Form must be signed and returned. Failure to provide signature on this form renders bid non-responsive. Failure to complete and the submission of all required forms, including but not limited to the Bid Proposal Signature Form, Certification of Eligibility, Reference Page(s), Checklist, Questionnaires (when applicable), Addenda (including revised forms), and any other specified forms or documents will be grounds for rejection of entire Bid.

CONFIDENTIALITY: Any material that is to be considered confidential must be clearly marked as such and may be treated as confidential to the extent allowable under Chapter 552, Government Code. Trade secrets or confidential information **MUST** be placed in a separate envelope marked "**CONFIDENTIAL INFORMATION.**" Note: **PRICING INFORMATION IS NOT CONSIDERED CONFIDENTIAL AND IF MARKED AS SUCH, WILL RESULT IN REJECTION OF YOUR BID.**

Due care and diligence has been used in preparation of this information, and it is believed to be substantially correct. However, the responsibility for determining the full extent of the exposure and the verification of all information presented herein shall rest solely with the proposer. Tarrant County and its representatives will not be responsible for any errors or omissions in these specifications, nor for the failure on the part of the proposer to determine the full extent of the exposures.

CONTRACTOR AGREES THAT IT WILL PROTECT, DEFEND, INDEMNIFY AND SAVE WHOLE AND HARMLESS TARRANT COUNTY, AND ALL OFFICERS, AGENTS AND EMPLOYEES OF TARRANT COUNTY (HEREINAFTER "THE INDEMNIFIED PARTIES") FROM AND AGAINST ALL CLAIMS, DEMANDS, CAUSES OF ACTION, DAMAGES, JUDGMENTS, LOSSES AND EXPENSES, INCLUDING ATTORNEY'S FEES, LITIGATION EXPENSES AND COURT COSTS OF WHATSOEVER NATURE, CHARACTER OR DESCRIPTION THAT ANY PERSON OR ENTITY HAS OR MAY HAVE ARISING FROM OR ON ACCOUNT OF ANY EMPLOYMENT RELATED MATTER ASSERTED BY ANY OF ITS EMPLOYEES AGAINST THE INDEMNIFIED PARTIES OR FOR ANY INJURIES OR DAMAGES (INCLUDING, BUT NOT RESTRICTED TO, DEATH) RECEIVED OR SUSTAINED BY ANY PERSON, PERSONS OR PROPERTY, ON ACCOUNT OF, ARISING OUT OF, OR IN CONNECTION WITH THE PERFORMANCE OF THE WORK, INCLUDING WITHOUT LIMITING THE GENERALITY OF THE FOREGOING, ANY NEGLIGENT ACT OR OMISSION OF CONTRACTOR OR ANY AGENT, SERVANT, EMPLOYEE OR SUBCONTRACTOR OF CONTRACTOR IN THE EXECUTION OR PERFORMANCE OF THIS AGREEMENT. CONTRACTOR FURTHER AGREES TO PROTECT, INDEMNIFY AND HOLD THE INDEMNIFIED PARTIES HARMLESS AGAINST AND FROM ANY AND ALL CLAIMS AND AGAINST AND FROM ANY AND ALL LOSS, COST, DAMAGE, JUDGMENTS OR EXPENSE, INCLUDING ATTORNEY'S FEES, LITIGATION EXPENSES AND COURT COSTS ARISING OUT OF THE BREACH OF ANY OF THE REQUIREMENTS AND PROVISIONS OF THIS AGREEMENT BECAUSE OF ANY FAILURE OF CONTRACTOR, ITS EMPLOYEES, OFFICERS, AGENTS, CONTRACTORS, INVITEES OR ASSIGNS IN ANY RESPECT TO COMPLY WITH AND PERFORM ALL THE REQUIREMENTS AND PROVISIONS HEREIN.

THE SUCCESSFUL BIDDER(S) WILL COMPLY WITH ALL STATE, FEDERAL, AND LOCAL LAWS INCLUDING BUT NOT LIMITED TO THE AMERICANS WITH DISABILITIES ACT, TITLE VII OF THE CIVIL RIGHTS OF 1964, AGE DISCRIMINATION IN EMPLOYMENT ACT, CIVIL RIGHTS ACT OF 1991, FEDERAL INSURANCE CONTRIBUTIONS ACT (FICA), FAIR LABOR STANDARDS ACT, EQUAL PAY ACT OF 1963 AND THE AFFORDABLE HEALTH CARE ACT, AS TO TREATMENT AND COMPENSATION OF ITS EMPLOYEES.

THE SUCCESSFUL BIDDER(S) WILL PREPARE PAYROLL CHECKS, MAKE ALL NECESSARY DEDUCTIONS AND PAY ALL TAXES, AND INSURANCE REQUIRED BY FEDERAL, STATE, AND LOCAL LAWS. THE SUCCESSFUL BIDDER ACCEPTS FULL RESPONSIBILITY FOR THE PAYMENT OF WAGES, COMPENSATION, OVERTIME AND BENEFITS TO PERSONNEL. THE SUCCESSFUL BIDDER ACCEPTS RESPONSIBILITY FOR PAYMENT OF ALL TAXES, ASSESSMENTS, FEES, AND FINES THAT MAY BE DUE AND OWING TO ANY LOCAL, STATE OR FEDERAL GOVERNMENT AGENCIES.

BOND REQUIREMENTS

Bid Bond

THERE IS "NO BID BOND" REQUIRED ON THIS PROJECT!!!

Power of Attorney

Attorney-in-fact who signs bids or contract bonds must file with each bond a certified and current copy of the power of attorney.

Payment Bond and Performance Bond shall be as follows:

For a contract in excess of $100,000, a Performance Bond shall be executed in the amount of the contract upon the faithful performance of the work in accordance with the plans, specifications, and contract documents. This bond shall be solely for the protection of Tarrant County.

For a contract in excess of $25,000, a Payment Bond shall be executed in the amount of the contract solely for the protection of all claimants supplying labor or furnishing the material used on this project.

The cost for Bond premiums must be included in the Bid Price.

Note: Payment and Performance Bonds must be issued by an insurance/surety company licensed and authorized by the Texas State Board of Insurance to do business in the State of Texas.

SPECIAL CONDITIONS ON THE CONTRACT

1. **EXAMINATION OF EXISTING PREMISES:** It is understood and agreed that the Contractor has by careful examination, satisfied himself as to the nature and location of the work, the character and quality of the materials to be encountered, the character of equipment and facilities needed preliminary to and during the prosecution of the work, the general and local conditions, and all other matters which can in any way affect the work under this contract. No verbal agreement or conversation with any officer, agent, or employee of the Owner, either before or after the execution of this contract, shall affect or modify any of the terms or obligations herein contained. The bid shall be based on the specifications, supplemented by the affecting conditions.

2. **RISK:** The work under this contract in every respect shall be at the risk of the Contractor until finished and accepted.

3. **EXECUTION, CORRECTION, AND INTENT OF DOCUMENTS:** The intent of the contract documents, plans and specifications is to describe the complete work to be performed under such contract. Unless otherwise provided, it is also the intent of the plans and specifications and contract documents that the respective Contractors(s) shall furnish all materials, supplies, tools, equipment, machinery, labor and supervision necessary for the prosecution and completion of the work in full compliance with the proposal, plans, specification and other documents.

4. **INSURANCE:**

   A. The Contractor shall take out, pay for and maintain at all times during the prosecution of the work under the contract, the following forms of insurance, in carriers acceptable to and approved by Tarrant County.

      1) Workers' Compensation/Employer's Liability
         a. Workers' Compensation — statutory
         b. Employer's liability — $500,000

      2) Commercial General Liability:
         a. Bodily Injury/Personal Injury/Property Damage — $1,000,000 per occurrence/$2,000,000 aggregate

      3) Automobile Liability:
         a. Bodily injury — $500,000 minimum combined single limit

      4) Contractual liability — same limits as above.

B. The County reserves the right to review the insurance requirements of this section during the effective period of the contract and to require adjustment of insurance coverage and their limits when deemed necessary and prudent by the County based upon changes in statutory law, court decisions, or the claims history of the industry as well as the Contractor.

C. Required Provisions:

1. Proof of Carriage of Insurance - All certificates of insurance will be required in duplicate and filed with the Purchasing Agent and the Budget and Risk Management Department at 100 East Weatherford Street.
2. All certificates shall provide Tarrant County with an unconditional thirty days written notice in case of cancellation or any major change.
3. As to all applicable coverage, certificates shall name Tarrant County and its officers, employees, and elected representatives as an additional insured.
4. All copies of the certificates of insurance shall reference the project name and bid number for which the insurance is being supplied.
5. The Contractor agrees to waive subrogation against Tarrant County, its officers, employees, and elected representatives for injuries, including death, property damage, or any other loss to the extent the loss, if any, is covered by the proceeds of insurance.
6. The Contractor/Vendor is responsible for making sure any sub-contractor(s) performing work under this agreement has the required insurance coverage(s) and supplies Tarrant County with the proper documents verifying the coverage.

5. **LABOR**: Perform labor in a workmanlike manner by skilled mechanics of their respective trades.

6. **TIME OF COMPLETION:** Each Bidder shall state in his bid, in the space provided, the number of calendar days required from the date of receipt of “Notice to Proceed” to complete the work.

7. **WORKMEN'S SAFETY:** The Contractor shall meet all safety and health regulations required by the Occupational Safety and Health Administration, Department of Labor and all state regulations dealing with occupational safety.

8. **SALES TAX:** Contracts or subcontracts let on this project are exempt from the "Limited Sales Tax" of the State of Texas, and no provisions should be made in any bid for an amount to be used to pay such tax, either directly or indirectly.

9. **MATERIAL SUBSTITUTION:**

   A. Where several materials are specified by name for one use, select for use of those specified. Wherever item or class of material is specified exclusively by trade name, manufacturer's name or catalog reference, use only such item unless written approval for substitution is secured.

   B. The Specifications specify the quality of the materials to be used. The method of fabrication and incorporation into the building shall be governed by the best known practices in each of the respective trades.

10. **CODE REQUIREMENTS:** The rules and regulations, ordinances and laws governing the installation of the work and/or equipment shall be in accordance with all regulations and codes of the Federal, State, and Municipal departments having jurisdiction, the National Board of Fire Underwriters, Factory Mutual Insurance, and Texas Engineering and Fire Prevention Bureau, and the local utility companies which are in force at the time of the execution of the work.

11. **PROTECTION:** The Contractor shall provide and maintain all protections required by the governing laws, regulations, and ordinances. The Contractor shall be responsible for any loss or damage caused by him or his workmen to the property of the Owner or to the work or materials installed and shall make good any loss, damage, or injury without cost to the owner.

12. **INDEMNIFICATION.** The Contractor agrees to fully indemnify and save whole and harmless the County of Tarrant from all costs or damages arising out of any real or asserted claim or cause of action against it of whatsoever kind or character and in addition, from any and all costs or damages arising out of any wrongs, injuries, demands or suits for damages, either real or asserted, claimed against it that may be occasioned by any act, omission, neglect or misconduct of the said Contractor, his agents, servants, and employees.

13. **CONTINGENCY ALLOWANCE:**

   A. Use the contingency allowance only as directed for the Owner's purposes, and only by Contingency Fund Change Orders which designate amounts to be charge to the allowance.

   B. The Contractor's related costs for products or equipment ordered by the Owner under the contingency allowance, including delivery, installation, taxes, insurance, equipment rental, and similar costs are not part of the Contract Sum.

   C. Change Order authorizing use of funds from the contingency allowance will not include the Contractor's related costs and reasonable overhead and profit margins. Contractor shall include in base bid, Contractor's overhead, profit, insurance, bond and other direct cost.

   D. At Project closeout, credit unused amounts remaining in the contingency allowance to Owner by Change Order or transfer the remaining amounts to other allowances as directed by the Owner.

14. **CRIMINAL BACKGROUND CHECK:**

All vendor designated personnel performing work for Tarrant County to include on-site or remote access will be required to undergo a Criminal Justice Information Services (CJIS) Criminal Background Check.

a. Vendor shall provide information, including, but not limited to, name, date of birth, and driver's license number for each individual who will be performing work for Tarrant County.

b. Personnel who perform work for Tarrant County must submit to and pass a CJIS Criminal Background Check. That status must be maintained by all Vendor personnel for the duration of the contract.

c. Criminal Background checks conducted by Vendor for vetting purposes are desired but are not acceptable due to particular requirements. Tarrant County reserves the right to conduct additional Criminal Background Checks as it deems necessary.

d. Failure of the Vendor to supply personnel who pass a CJIS Criminal Background Check could result in termination of the contract.

Note: The CJIS Criminal Background Check applies to the individual and not the Company.

15. **The following is not relevant to all engagements, but instead is applicable when there is a hosted or cloud solution.**

Confidentiality, Integrity, Availability (CIA)
Vendor shall protect the Confidentiality, Integrity, and Availability (CIA) of all Tarrant County Data ensuring extra levels of security. All County information must remain private and permit redaction of protected information before publication, and audit trails cannot be altered.

Breach Notification
Vendor agrees that upon discovery of unauthorized access to Tarrant County data, Vendor shall notify Tarrant County both orally and in writing. In no event shall the notification be made more than forty-eight (48) hours after Vendor knows or reasonably suspects unauthorized access has or may have occurred. In the event of a suspected unauthorized Access, Vendor agrees to reasonably coordinate with Tarrant County to investigate the occurrence.

Data
All Tarrant County data will remain in the 48 contiguous states at all times.

Right to Audit
Tarrant County reserves the right to audit vendor datacenters which house Tarrant County data or receive SSAI 16 SOC Type II audits from a reputable security advisory service firm (e.g. EY, Deloitte, KPMG, PWC, Coalfire, etc.).

SPECIAL CONDITIONS

TWCC Rule 110.110
Workers' Compensation Insurance Coverage

A. Definitions:

Certificate of coverage ("certificate") – A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (TWCC-81, TWCC-82, TWCC-83, or TWCC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.

Duration of the project – Includes the time from the beginning of the work on the project until the contractor's/person's work on the project has been completed and accepted by the governmental entity.

Persons providing services on the project ("subcontractor" in §406.096) – Includes all persons or entities performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

B. The contractor shall provide coverage, based on proper reporting of classification code and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the contractor providing services on the project, for the duration of the project.

C. The contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.

D. If the coverage period shown on the contractor's current certificate of coverage ends during the duration of the project, the contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.

TWCC Rule 110.110
Workers' Compensation Insurance Coverage

E. The contractor shall obtain from each person providing services on a project, and provide to the governmental entity:

(1) a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and

(2) no later than seven (7) days after receipt by the contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate ends during the duration of the project.

F. The contractor shall retain all required certificates of coverage for the duration of the project and for one (1) year thereafter.

G. The contractor shall notify the governmental entity in writing by certified mail or personal delivery, within ten (10) days after the contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.

H. The contractor shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.

I. The contractor shall contractually require each person with whom it contracts to provide services on a project to:

(1) provide coverage, based on reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project for the duration of the project;

(2) provide to the contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;

(3) provide the contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

(4) obtain from each person with whom it contracts, and provide to the contractor:

(a) a certificate of coverage, prior to the other person beginning work on the project; and

(b) a new certificate of coverage showing the extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate ends during the duration of the project;

TWCC Rule 110.110
Workers' Compensation Insurance Coverage

(5) retain all required certificates of coverage on file for the duration of the project and for one (1) year thereafter;

(6) notify the governmental entity in writing by certified mail or personal delivery, within ten (10) days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and

(7) contractually require each person with whom it contracts, to perform as required by paragraphs (1) – (7)., with the certificates of coverage to be provided to the person for whom they are providing services.

J. By signing this contract or providing or causing to be provided a certificate of coverage, the contractor is representing to the governmental entity that all employees of the contractor who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

K. The contractor's failure to comply with any of these provisions is a breach of contract by the contractor which entitles the governmental entity to declare the contract void if the contractor does not remedy the breach within ten (10) days after receipt of notice of breach from the governmental entity.

Evaluation criteria shall include, but is not limited to the following:

a. Price
b. Vendor's past performance record with Tarrant County
c. Tarrant County's evaluation of vendor's ability to perform
d. Tarrant County's experience with services bid
e. Special needs and requirements of Tarrant County
f. Contractor’s experience with similar projects.

Any **catalog, brand name or manufacturer's reference** used is considered to be descriptive -- not restrictive -- and is indicative of the type and quality the County desires to purchase. Bids on similar items of like quality will be considered if the bid is noted and fully descriptive brochures are enclosed. If notation of substitution is not made, it is assumed vendor is bidding item specified. Successful vendor will not be allowed to make unauthorized substitutions after award.

TARRANT COUNTY SUPPLEMENTARY CONDITIONS FOR CONTRACTOR

The following Supplementary Conditions modify the General Conditions (A201 -- 2007) of the Contract for Construction. These Supplementary Conditions replace any General Conditions (A201 – 2007) to the extent the two documents contradict each other. The Standard Agreement between the Contractor and the Owner controls the Supplementary Conditions to the extent these two documents contradict each other. So the order of precedence for interpretation is: (1) The Standard Agreement between the Contractor and the Owner; (2) The Supplementary Conditions; and (3) The General Conditions (A201 – 2007).

Delete existing 1.1.3 and replace with the following:

1.1.3

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor's obligations and labor, materials, equipment and services provided or to be provided by trade contractors, subcontractors, sub-subcontractors, material suppliers, or any other entity for whom the Contractor is responsible under or pursuant to the Contract. The Work may constitute the whole or a part of the Project.

Delete existing 1.1.8 and Replace with the following:

1.1.8 DEFINITIONS

1.1.8.1 “Provide” and its derivatives will mean to properly coordinate, fabricate, complete, transport, deliver, install, erect, construct, test and furnish all labor, materials, equipment, apparatus, appurtenances, and all items and expenses necessary to properly complete in place, and render operational or usable under the terms of the Specifications.

1.1.8.2 “Knowledge,” “recognize,” and “discover,” their respective derivatives and similar terms used in the Contract Documents, as used in reference to the Contractor, will be interpreted to mean that which the Contractor knows (or should know), recognizes (or should recognize) and discovers in exercising the care, skill and diligence required of a Contractor (but not a design professional) by the Contract Documents.

Add the following as 1.2.4

1.2.4 Intent of Drawings

1.2.4.1 Drawings are in part diagrammatic, and do not necessarily show complete details of construction, materials, or installation, and do not necessarily show how construction details or other items of work or fixtures or equipment may affect any particular installation. The drawings will be ascertained by the Contractor and correlated to bring the parts together to a complete whole.

1.2.4.2 All dimensions will be verified by field measurements and all work laid out to permit pipes, valves, ductwork, lights, panels, other items of construction, to be located as closely as possible to locations shown. All items will be checked before installation to determine that they can be concealed properly, and that they clear any structural components, supports for other items, and cabinets and equipment or other mechanical, electrical or architectural items having fixed locations.

1.2.4.3 Work will be laid out to assure ready accessibility to valves, fittings, and other items requiring servicing, adjustment or checking.

1.2.4.5 If Work is required in a manner which makes it impossible to produce the Work in accordance with the Contract Documents, or should errors, omissions, or discrepancies be discovered in the Contract Documents, the Contractor will request in writing an interpretation before proceeding with Work. If Contractor fails to make such a written request after discovering same, no excuse or claim will be entertained for failure to carry out Work in a satisfactory manner. Should conflict occur in or between Drawings and Specifications, Contractor is deemed to have estimated and included in the Contract Sum the more expensive way of doing the Work, unless he will have asked for and obtained a written decision before execution of the Agreement.

Delete all of 1.5 and replace with the following:

1.5 OWNERSHIP AND USE OF DRAWINGS, SPECIFICATIONS AND OTHER INSTRUMENTS OF SERVICE

1.5.1 The Drawings, Specifications and other documents, including those in electronic form, prepared by the Architect and the Architect's consultants are Instruments of Service through which the Work to be executed by the Contractor is described. The Contractor may retain one record set. Neither the Contractor nor any Subcontractor, Sub-subcontractor or material or equipment supplier will own or claim a copyright in the Drawings, Specifications and other documents prepared by the Architect or the Architect's consultants, and unless otherwise indicated the Architect and the Architect's consultants will be deemed the authors of them. All copies of Instruments of Service, except the Contractor's record set, will be returned or suitably accounted for to the Architect, on request, upon completion of the Work. The Drawings, Specifications and other documents prepared by the Architect and the Architect's consultants, and copies thereof furnished to the Contractor, are for use solely with respect to this Project. They are not to be used by the Contractor or any Subcontractor, Sub-subcontractor or material or equipment supplier on other projects or for additions to this Project outside the scope of the Work without the specific written consent of the Owner. The Contractor, Subcontractors, Sub-subcontractors and material or equipment suppliers are authorized to use and reproduce applicable portions of the Drawings, Specifications and other documents prepared by the Architect and the Architect's consultants appropriate to and for use in the execution of their Work under the Contract Documents. All copies made under this authorization will bear the statutory copyright notice, if any, shown on the Drawings, Specifications and other documents prepared by

the Architect and the Architect's consultants. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with this Project is not to be construed as publication in derogation of the copyrights or other reserved rights.

Add the following as 1.7:

1.7 EXECUTION OF CONTRACT DOCUMENTS

1.7.1 The drawing log list of Contract Documents will be signed by the Owner and Contractor. If either the Owner or Contractor or both do not sign all the Contract Documents, the Architect will identify such unsigned Documents upon request.

1.7.2 The Contractor acknowledges and declares that it has visited and examined the site and reasonably examined the physical and other conditions affecting the work including, without limitation, survey and engineering reports and studies delivered to or obtained by Contractor. In connection therewith, Contractor specifically will represent to Owner that to its best knowledge and belief it has, by careful examination, satisfied itself as to: (1) the nature, location, and character of the Project and the site, excluding subsurface and latent conditions; (2) the nature, location, and character of the general area in which the Project is located; and (3) the quality and quantity of all materials, supplies, tools, equipment, labor, necessary to complete the Work in the manner and within the cost and time frame required by the Contract Documents. In arriving at the Contract Sum and the Contract Time, Contractor has, as an experienced and prudent manager and contractor, exercised its reasonable judgment and expertise to include the impact of such circumstances upon the Contract Sum and the Contract Time.

1.7.2.1 Claims for additional compensation or time because of the failure of the Contractor to familiarize itself with visible surface conditions, excluding subsurface and latent conditions, at the site will not be allowed.

1.7.2.2 The Contractor will evaluate and satisfy themselves as to the conditions and limitations under which the Work is to be performed, including, without limitation (1) the location, layout and nature of the Project site and surrounding areas, (2) generally prevailing climatic conditions, (3) anticipated labor supply and costs, and (4) availability and cost of materials, tools and equipment. The Owner assumes no responsibility or liability for the physical condition or safety of the Project site or any improvements located on the Project Site other than unforeseen concealed or latent conditions. The Contractor will be solely responsible for providing a safe place for the performance of the Work. The Owner will not be required to make any adjustment in either the Contract Sum or Contract Time in connection with any failure by the Contractor to comply with the requirements of Subparagraph 1.7.2 and its subparts.

Delete 2.1.1 and 2.1.2 and replace with the following:

2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner will designate in writing a representative who will have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. However, the owner's representative has no authority to approve a change to the cost of the project or a change to the time of the project. The Architect does not have authority to approve a change to the cost of the project or change to the time of a project. The term "Owner" means the Owner or the Owner's authorized representative.

2.1.2. The Owner will furnish to the Contractor within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of or enforce mechanic's lien rights. Such information will include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

Delete 2.2.1, 2.2.2, 2.2.3, 2.2.4 and 2.2.5 and replace with the following:

2.2 INFORMATION AND SERVICES REQUIRED OF THE OWNER

2.2.1 Except for permits and fees, including those required under Subparagraph 3.7.1, which are the responsibility of the Contractor under the Contract Documents, the Owner will secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities. Owner will pay for all permit fees, inspection fees and Certificates of Occupancy fees. The Owner will pay for all utility assessment fees.

2.2.3 The Owner will furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor will be entitled to rely on the accuracy of information furnished by the Owner but will exercise proper precautions relating to the safe performance of the Work. Contractor will confirm the location of each utility, will excavate and dispose of each on-site utility and will cap each off-site utility as required by the Work and as may be included in the Specifications, At the Owner's request, the Contractor will make available the results of any site investigation, test borings, analyses, studies or other tests conducted by or in possession of the Contractor or any of its agents. The Contractor represents that it is generally familiar with the Project site. The Contractor represents that it has inspected the location of the Work and has satisfied itself as to the condition thereof, including without limitation, all observable structural and surface conditions. The Contractor will exercise special care in executing subsurface work in proximity of known subsurface utilities, improvements and easements.

2.2.4 Upon receipt of a written request from the Contractor, information or services required of the Owner by the Contract Documents will be furnished by the Owner with reasonable promptness. Any other information or services relevant to the Contractor's performance of the Work under the Owner's control will be furnished by the Owner after receipt from the Contractor of a written request for such information or services.

2.2.5 Unless otherwise provided in the Contract Documents, the Contractor will be furnished, free of charge, all required copies of Drawings and Project Manuals.

Delete 2.3 and replace with the following:

2.3 OWNER'S RIGHT TO STOP THE WORK

2.3.1 If the Contractor fails to correct Work which is not in accordance with the requirements of the Contract Documents as required by Paragraph 12.2 or fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work will not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Subparagraph 6.1.3,

Delete 3.2.2 and replace with the following:

3.2.2 Since the Contract Documents are complementary, before starting each portion of the Work, the Contractor will carefully study and compare the various Drawings and other Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Subparagraph 2.2.3, will take field measurements of any existing conditions, excluding concealed or latent conditions, related to that portion of the Work and will observe any conditions at the site affecting it. These obligations are for the purpose of facilitating construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, any errors, inconsistencies or omissions discovered by the Contractor will be reported promptly to the Architect and Owner as a request for information in such form as the Architect and Owner may require.

Delete 3.2.3 and replace with the following:

3.2.3 Any design errors or omissions noted by the Contractor during this review will be reported promptly to the Architect and Owner, but it is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional unless otherwise specifically provided in the Contract Documents. The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, building codes, and rules and regulations, but any nonconformity discovered by or made known to the Contractor will be reported promptly to the Architect and Owner.

Delete 3.2.4 and replace with the following:

3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions issued by the Architect in response to the Contractor's notices or requests for information pursuant to Subparagraphs 3.2.3 and 3.2.2, the Contractor will make Claims as provided in Article 15. If the Contractor fails to perform the obligations of Subparagraphs 3.2.1 and 3.2.2, the Contractor will pay such costs and damages to the Owner as would have been avoided if the Contractor had performed such obligations. The Contractor will not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents or for differences between field measurements or conditions and the Contract Documents unless the Contractor recognized such error, inconsistency, omission or difference and failed to report it to the Architect.

Add 3.2.5:

3.2.5 The Contractor will notify the Architect of materials, systems, procedures or methods of construction, either shown on the drawings or specified, that it believes are incorrect, inadequate, obsolete, unsuitable for the purpose intended, or which could have an adverse effect upon installation or completion by others under separate contracts. The Architect will make a determination of these matters in writing to the Contractor who will forward the determination to the Owner for the Owner’s final approval.

Replace 3.3.1 with the following:

3.3.1 The Contractor will supervise and direct the Work, using the Contractor's best skill and attention. The Contractor will be solely responsible for and have control over construction means, methods, techniques, sequences and procedures and for coordinating all portions of the Work under the Contract, unless the Contract Documents give other specific instructions concerning these matters. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences or procedures, the Contractor will evaluate the jobsite safety thereof and, except as stated below, will be fully and solely responsible for the jobsite safety of such means, methods, techniques, sequences or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor will give timely written notice to the Owner and Architect and will not proceed with that portion of the Work without further written instructions from the Architect and approval by the Owner. If the Contractor is then instructed by Owner to proceed with the required means, methods, techniques, sequences or procedures without acceptance of changes proposed by the Contractor, the Owner will be solely responsible for any loss or damage arising solely from those Owner-required means, methods, techniques, sequences or procedures.

Add 3.3.4, 3.3.5, 3.3.6, 3.3.7, 3.3.8 and 3.3.9 as follows:

3.3.4 All employees and subcontractors of the Contractor will be qualified by training and experience to perform their assigned tasks. At the request of Owner, the Contractor will not use in the performance of the Work any employee or subcontractor deemed by Owner to be incompetent, careless, unqualified to perform the Work assigned to him, or otherwise unsatisfactory to Owner. Contractor will engage sufficient workers on the Project at all times to perform the Work in the time periods required by the Contract.

3.3.5 The Contractor agrees that in the performance of the Work called for by this Agreement, it will employ only such labor, and engage Subcontractors that employ only such labor, as will not delay or interfere with the speedy and lawful progress of the Project, and as will be acceptable to and work in harmony with all other workers employed on the Project site or on any other building, structure or other improvement which the Contractor or any other contractor may then be erecting or altering on behalf of Owner. In the event of a strike or stoppage of work resulting from a dispute involving or affecting the labor employed by the Contractor or any of its Subcontractor, Owner may, at its option and without demand, terminate this Agreement unless the Contractor will remedy the strike or work stoppage or other disruption within seven (7) calendar days after the dispute arises.

3.3.6 **Contractor will furnish Owner, on request, resumes of Contractor's key personnel involved** in the day-to-day Work on the project.

3.3.7 Contractor will not permit at any time alcohol, controlled substances or firearms to be present at the Project Site.

3.3.8 Contractor will be responsible for properly laying out the Work, and for all lines, elevations and measurements for all of the Work executed under the Contract Documents. He will verify the figures shown on the drawings before laying out the Work and will be held responsible for activities resulting from his failure to do so.

3.3.9 The Contractor has the responsibility to ensure that all material suppliers and Subcontractors, their agents, and employees adhere to the Contract Documents, and that they order materials on time, taking into account the current market and delivery conditions, and that they provide materials on time. The Contractor will coordinate its Work with that of all others on the Project including deliveries, storage, installations and construction utilities. The Contractor will be responsible for the space requirements, locations, and routing of all materials and equipment. In areas and locations where the proper and most effective space requirements, locations, and routing cannot be made as indicated, the Contractor will meet with all others involved, before installation, to plan the most effective and efficient method of overall installation.

Add 3.4.4 as follows:

3.4.4 Should the Contractor elect to perform work after regular working hours, the additional cost of such work will be borne by the Contractor, as part of the Contract Sum.

3.4.5 Products are generally specified by ASTM, other reference standard, manufacturer's name and model number or trade name. When specified by reference standard, the Contractor may select any product meeting this standard, by any manufacturer, if approved by the Architect. When several products or manufacturers are specified as being equally acceptable, the Contractor has the option of using any listed product and manufacturer combination. When one product and manufacturer is specified, the Contractor may not substitute for that product.

3.4.5.1 After Contract execution, the Owner may consider product substitution, if the formal request meets the following:

(a) If the product is no longer available, the Contractor must submit its written request within 15 days of the Contract execution. For a request after that deadline, the request must include a certified statement from the manufacturer that the product is no longer available;

(b) The written request includes data identifying the product and substantiating its compliance with the Contract Documents. Where applicable, the request should include performance and test data, references, samples and an itemized comparison of the proposed substitution with the item specified; and

(c) The request includes cost data comparing the substitution with the specified product.

3.4.5.2 By submitting a written request for substitution the Contractor represents:

(a) The proposed substitution is equal or superior to the specified item in all respects;

(b) The proposed substitution does not change the Contractor warranty for the construction;

(c) The cost of the proposed substitution is completely disclosed;

(d) The Contractor waives all claims for additional costs related to the substitution which subsequently become apparent; and

(e) The Contractor will coordinate the substitution's installation, making changes that the substitution may cause in order for the Work to be complete.

3.4.5.3 Owner will not consider substitutions if:

(a) Made after the expiration of the specified time period;

(b) Indicated or implied on shop drawings submissions without the formal request described in 3.4.5.1; or

(c) Implementation of the substitution would substantially revise the Work or the Contract Documents.

Delete 3.5 and replace with the following:

3.5 WARRANTY

3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless otherwise required or permitted by the Contract Documents, that the Work will be free from defects not inherent in the quality required or permitted, and that the Work will conform to the requirements of the Contract Documents. Work not conforming to these requirements, including substitutions not properly approved and authorized, may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, modifications not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor will furnish satisfactory evidence as to the kind and quality of materials and equipment. The Contractor further warrants to the Owner that the Work will be performed and completed in a good and workmanlike manner, in accordance with the Contract Documents, all applicable building codes, good engineering and construction practices provided that the design meets all applicable building codes and good engineering practices. The Contractor will correct Work with errors, omissions, defects or deviations from the Contract Documents, without additional cost to Owner.

3.5.2 All warranties will include labor and materials and will be signed by the manufacturer and/or Subcontractor as the case may be and countersigned by the Contractor. All warranties will be delivered to the Owner's Representative with copies to the Architect upon completion of the Work and before the submission of request for final payment. At the time of final completion of the Work, the Contractor agrees to assign to the Owner any and all manufacturers' warranties relating to materials and labor used in the Work and further agrees to perform the Work in such manner so as to preserve any and all such manufacturers' warranties.

3.5.3 The Contractor represents, warrants and covenants to the Owner that it is fully licensed, certified and authorized to enter into the Contract and that it and the Subcontractors are and will continue to be fully licensed, certified and authorized to perform the Work contemplated by the Contract Documents and any other work performed at the Project, and will provide evidence of the same to the Owner upon request.

Delete 3.6 and add the following:

3.6 TAXES

3.6.1 The Work qualifies for exemption from state and local sales tax. Contractor will provide exemption certificates as required by state law to suppliers. Owner will cooperate with Contractor regarding this exemption.

3.6.2 All prices quoted by the Contractor or any subcontractor or supplier engaged by the Contractor or any subcontractor, are deemed to include all federal, state and local taxes, including without limitation, sales taxes, custom duties and excise taxes, effective at the date of purchase. Any such tax which is found to be inapplicable or for which exemption may be obtained is, to the extent of any refund or exemption available, the property of Owner. The purchase, lease, rental, storage, use or other consumption of tangible personal property for the performance of this Contract by the Contractor is exempt from state and local sales tax pursuant to section 151.311 of the Texas Tax Code. Contractor must use all reasonable efforts to claim the benefit of any exemption. Owner will receive the benefit of all reductions in the cost of construction attributable to the sales tax exemptions. This provision will control over any provision of the Contract Documents to the contrary.

Delete 3.7.2 and replace with the following:

3.7.2 The Contractor will comply with and give notices required by laws, ordinances, rules, regulations and lawful orders of public authorities applicable to performance of the Work. In addition to and not in derogation of Contractor's duties under Subparagraphs 1.2.1 hereof, Contractor will have the obligation to carefully study and compare the Contract Documents with one another and with its own information and the information furnished by the Owner pursuant to Subparagraph 2.2.3 and promptly report to Architect and Owner any errors, inconsistencies, or omissions discovered or any variance from applicable laws, codes or regulations of which Contractor is or reasonably should be aware other than the responsibilities of the Architect or Engineer.

Delete 3.10.1 and replace with the following:

3.10.1 The Contractor, promptly after being awarded the Contract, will prepare and submit for the Owner's and Architect's review and approval a Contractor's construction schedule for the Work. The schedule will not exceed time limits current under the Contract Documents, will be revised at appropriate intervals as required by the conditions of the Work and Project, will be related to the entire Project to the extent required by the Contract Documents, and will provide for expeditious and practicable execution of the Work.

Delete 3.11 and replace with the following:

3.11 DOCUMENTS AND SAMPLES AT THE SITE

The Contractor will maintain at the site for the Owner one record copy of the Drawings, Specifications, Addenda, Change Orders and other Modifications, in good order and marked currently to record field changes and selections made during construction, and one record copy of approved Shop Drawings, Product Data, Samples and similar required submittals. These will be available to the Architect and will be delivered to the Architect for submittal to the Owner upon completion of the Work, signed by the Contractor, certifying that they show complete and "as-built" conditions.

Delete 3.12.7 and replace with the following:

3.12.7 The Contractor will submit to Owner one copy of all submissions made to the Architect pursuant to this Paragraph 3.12. The Owner will review each submission with promptness and provide any comments to the Architect prior to the Architect submitting back to the Contractor.

The Contractor will perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples or similar submittals until the respective submittal has been reviewed by the Architect.

3.12.8 add to the end of the paragraph ", except for error and omissions which are within the Architect's design responsibilities."

Delete 3.12.10 and replace with the following:

3.12.10 The Contractor will not be required to provide professional services which constitute the practice of Architecture and Engineering.

Add a new 3.12.11 which follows:

3.12.11 The Contractor will assemble for the Architect's review two complete copies in loose leaf binders of operating and maintenance data from the manufacturers whose equipment is or will be installed in the Work. The Contractor will also prepare a checklist or schedule showing the type of lubricant to be used at each point of application and the intervals between lubrication for each item of equipment.

Delete 3.15.1 and replace with the following:

3.15.1 The Contractor will keep the premises and surrounding area free from accumulation of waste materials or rubbish caused by operations under the Contract. At completion of the Work, the Contractor will remove from and about the Project waste materials, rubbish, the Contractor's tools, construction equipment, machinery and surplus materials. The Contractor will maintain streets and sidewalks around the Project site in a clean condition. The Contractor will remove all spillage and tracking arising from the performance of the Work from such areas, and will establish a regular maintenance program of sweeping and hosing to minimize accumulation of dirt and dust upon such areas.

Delete 3.15.2 and replace with the following:

3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the cost thereof will be charged to the Contractor by deductive Change Order.

Delete 3.17 and replace with the following:

3.17 ROYALTIES, PATENTS AND COPYRIGHTS

3.17.1 The Contractor will pay all royalties and license fees. The Contractor will defend suits or claims for infringement of copyrights, intellectual property rights and patent rights and will hold the Owner and Architect harmless from loss on account thereof, but will not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Contract Documents or where the copyright violations are contained in Drawings, Specifications or other documents prepared by the Owner or Architect. In the latter event, the Owner will indemnify and hold the Contractor harmless on account of any such loss or damage. However, if either party knows that the required design, process or product is an infringement of a copyright, intellectual property rights or a patent, then that party will be responsible for such loss unless such information is promptly furnished to the other.

Delete 3.18.1 and replace with the following:

3.18 INDEMNIFICATION

3.18.1 TO THE FULLEST EXTENT PERMITTED BY LAW, THE CONTRACTOR WILL DEFEND, INDEMNIFY AND HOLD HARMLESS THE OWNER, ARCHITECT, ARCHITECT'S CONSULTANTS AND AGENTS AND EMPLOYEES OF ANY OF THEM FROM AND AGAINST SUITS, CLAIMS, DAMAGES, LOSSES AND EXPENSES, INCLUDING, BUT NOT LIMITED TO ATTORNEYS' FEES, ARISING OUT OF OR RESULTING FROM PERFORMANCE OF THE WORK, PROVIDED THAT SUCH CLAIM,DAMAGE, LOSS OR EXPENSE IS ATTRIBUTABLE TO BODILY OR PERSONAL INJURY, SICKNESS, DISEASE OR DEATH, OR TO INJURY TO OR DESTRUCTION OF TANGIBLE PROPERTY, except damage to the Work itself, INCLUDING LOSS OF USE RESULTING THEREFROM AND IS CAUSED IN WHOLE OR IN PART BY NEGLIGENT ACTS OR OMISSIONS OR ACTS OR OMISSIONS RESULTING IN THE LIABILITY OF THE CONTRACTOR, A SUBCONTRACTOR, ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM OR ANYONE FOR WHOSE ACTS THEY MAY BE LIABLE, REGARDLESS OF WHETHER OR NOT SUCH CLAIM, DAMAGE, LOSS OR EXPENSE IS CAUSED IN PART BY THE NEGLIGENCE OF A PARTY INDEMNIFIED HEREUNDER. THIS INDEMNITY WILL INCLUDE, BUT NOT BE LIMITED TO, ANY CLAIMS OR SUIT BROUGHT BY AN EMPLOYEE OR CONTRACTOR OR ANY OF CONTRACTOR'S SUBCONTRACTORS. THIS INDEMNITY OBLIGATION WILL NOT BE CONSTRUED TO NEGATE, ABRIDGE OR REDUCE OTHER RIGHTS OR OBLIGATIONS OF INDEMNITY WHICH WOULD OTHERWISE EXIST AS TO A PARTY OR PERSON DESCRIBED IN THIS SUBPARAGRAPH 3.18.

Add 3.18.3 as follows:

3.18.3 The provisions of Paragraph 3.18 will survive the termination of this Contract, howsoever caused, and no payment, partial payment, nor issuance of a certificate of Substantial Completion nor a certificate of final completion nor acceptance of occupancy in whole or in part of the Work will waive or release any of the provisions of Paragraph 3.18.

3.18.4 The Owner will cause any other contractor who may have a contract with the Owner to perform construction or installation Work in the areas where Work will be performed under the Owner/Contractor Agreement, to agree to indemnify the Owner and Contractor and hold them harmless from all claims for bodily injury and property damage that may arise from that contractor's operations. Such provisions will be in a form satisfactory to the Contractor

3.18.5 The obligations of the Contractor under this Paragraph 3.18 will not extend to the liability of the Architect, the Architect's consultants, and agents and employees of any of them arising out of (1) the preparation or approval of maps, drawings, opinions, reports, surveys, change orders, designs or specifications, or (2) the giving of or the failure to give directions or instructions by the Architect, the Architect's consultants, and agents and employees of any of them provided such giving or failure to give is the primary cause of the injury or damage.

Delete 4.2.1 and replace with the following:

4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents (1) during construction, (2) until final payment is due and (3) with the Owner's concurrence, from time to time during the one-year period for correction of Work described in Paragraph 12.2, provided, however, Owner reserves the right to appoint one or more Representatives empowered to act for Owner during the Construction Phase and to supersede the Architect's Construction Phase responsibility to the extent set forth in the written notice to the Architect and Contractor. Architect will no longer bear responsibility with respect to those superseded responsibilities, unless the Owner directs the Architect in a written notice to resume those superseded responsibilities. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents, unless otherwise modified in writing in accordance with other provisions of the Contract.

Delete 4.2.2. and replace with the following:

4.2.2 The Architect, as a representative of the Owner, will visit the site at intervals appropriate to the stage of the Contractor's operations

(A) to become generally familiar with and to keep the Owner informed about the progress and quality of the portion of the Work completed;

(B) to endeavor to guard the Owner against defects and deficiencies in the Work; and,

(C) to determine in general if the Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents.

However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. Architect will promptly inform Contractor and Owner of any non-compliance observed. The Architect will exercise care and diligence when on site in discovering and properly reporting to the Owner any defects and deficiencies in the Work of the Contractor or any of its Subcontractors, or their agents or employees, or any other person performing any of the work in the construction of the Project. The Architect will neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents, except as provided in Subparagraph 3.3.1.

Delete 4.2.4, 4.2.5, 4.2.6, 4.2.7, 4.2.8 and replace with the following:

4.2.4 COMMUNICATIONS FACILITATING CONTRACT ADMINISTRATION

The Owner and the Contractor may communicate directly with each other, with copies of such communications delivered to the Architect. Communications by and with the Architect's consultants will be through the Architect. Communications by and with Subcontractors and material suppliers will be through the Contractor. Communications by and with separate contractors will be through the Owner.

4.2.5 Based on the Architect's evaluations of the Work progress and quality of the Work and the Contractor's Applications for Payment, the Architect will make written recommendations as to the amounts due the Contractor and will issue Certificates for Payment in such amounts.

4.2.6 The Architect and Owner will have authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Subparagraphs 13.5.2 and 13.5.3, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority will give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees, or other persons or entities performing portions of the Work.

4.2.7 The Architect will review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect will carefully study and compare Shop Drawings and other information furnished by the Contractor with the Contract Documents and will at once report to the Contractor errors, inconsistencies or

omissions discovered. The Architect's action will be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals will not relieve the Contractor of the obligations under Paragraphs 3.3, 3.5 and 3.12. The Architect's review will not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item will not indicate approval of an assembly of which the item is a component. The Architect's action will be taken in accordance with the Contractor's approved construction schedule, so as to cause no delay in the Work or in the Owner's obligations.

4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may authorize minor changes in the Work as provided in Paragraph 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4. Any change affecting the Contract Sum or schedule must be approved by the Owner in writing prior to commencement.

Delete 4.2.11 and replace with the following:

4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor which will be copied to the other.

The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If no agreement is made concerning the time within which interpretations required of the Architect will be furnished in compliance with this Paragraph 4.2, then delay will not be recognized on account of failure by the Architect to furnish such interpretations until 15 days after written request is made for them.

Delete 4.2.12 and replace with the following:

4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of and reasonably inferable from the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and initial decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor and will not show partiality to either.

Delete 4.2.13 and replace with the following:

4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents, subject to the prior approval of the Owner and industry acceptable tolerances and standards.

Delete 4.2.14 and replace with the following:

4.2.14 The Architect's review of Shop Drawings, Product Data and Samples and on-site observation of the construction Work is to determine if the Contractor's submittals and Work appear to be in general conformance with the design concept set forth in the Contract Documents prepared by the Architect. It is understood that the Architect's review will not be considered to be complete in every detail or exhaustive and will also not relieve any Contractor, Subcontractor, manufacturer, supplier, fabricator, consultant or other third party from responsibility for any deficiency that may exist or from any departures or deviations from the requirements of the Contract Documents or for the responsibility to coordinate the Work, or portion of the Work, of one trade with another.

Delete 5.1.1 and replace with the following:

5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site or to otherwise furnish labor or materials. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a separate contractor or subcontractors of a separate contractor. If the Standard Agreement between the parties utilizes the Construction Manager At Risk construction delivery method, then a Subcontractor is also a Trade Contractor.

Delete 5.1.2 and replace with the following:

5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site or otherwise furnish labor or materials. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

Delete 5.2.1 and replace with the following:

5.2.1 Selection of subcontractors will be made in accordance with the terms of Chapter 271.118 of the Texas Local Government Code.

Delete 5.2.3

Delete all of 5.3 and replace with the following:

5.3 SUBCONTRACTUAL RELATIONS

5.3.1 By appropriate written agreement, the Contractor will require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work, which the Contractor, by these Documents, assumes toward the Owner and Architect. Each subcontract agreement will preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and will allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor will require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor will make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

5.3.2 The Contractor will not enter into any subcontract, contract, agreement, purchase order or other arrangement ("Arrangement") for the furnishing of any portion of the materials, services, equipment or Work with any party or entity if such party or entity is an Affiliated Entity (as defined below), unless such Arrangement has been approved by the Owner, after full disclosure in writing by the Contractor to the Owner of such affiliation or relationship and all details relating to the proposed Arrangement. The term "Affiliated Entity" means any entity related or affiliated with the Contractor or with respect to which the Contractor has direct or indirect ownership or control, including, without limitation, any entity owned in whole or part by the Contractor; any holder of more than 10% of the issued and outstanding shares of, or the holder of any interest in the Contractor; any entity in which any director, officer, employee, partner or shareholder (or member of the family of any of the foregoing persons) of the Contractor or any entity owner by the Contractor has a direct or indirect interest, which interest includes, but is not limited to, that of a partner, employee, agent or shareholder.

5.3.3 Each such subcontract will:

(a) Require that such Work be performed in accordance with the requirements of the Contract Documents;

(b) Require the Subcontractor to carry and maintain liability insurance in accordance with the Contract Documents;

(c) Require the Subcontractor to furnish such reasonable certificates and waivers as the Owner may request;

(d) Require that any Subcontractor and any Sub-subcontractor waives any rights it may have against the Owner for damage cause by fire or other perils covered by property or risk insurance maintained by the Subcontractor (or Sub-subcontractor) in connection with the Project;

(e) Provide that all warranties provided to Contractor, including material warranties, are fully assignable to the Owner;

(f) Omitted by Agreement

(g) Require the Subcontractor to provide a certificate in writing that it provided workers compensation insurance coverage for each employee.

Delete 6.2.5 and replace with the following:

6.2.5 The Owner and each separate contractor will have the same responsibilities for cutting and patching as are described for the Contractor in Subparagraph 3.14. If such separate contractor initiates legal or any other proceedings against the Owner on account of any damage alleged to have been caused by the Contractor, the Owner will notify the Contractor, who will defend such proceedings at its own expense, and if any judgment or award against the Owner arises therefrom, the Contractor will pay or satisfy it and will reimburse the Owner for all attorneys' fees and court or other costs which the Owner has incurred over and above those paid for directly by the Contractor.

Delete 7.1.2 and replace with the following:

7.1.2 A Change Order will be based upon agreement among the Owner, Contractor and Architect; a Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor; an order for a minor change in the Work may be issued by the Architect alone (provided that it does not affect the Contract Time or Contract Sum).

Add the following:

7.1.4 When a cost or credit for a proposed change is requested from the Contractor, it will submit an itemized breakdown showing quantities and unit cost or credit on each item which is contained in the proposed change including profit and overhead.

7.1.5 A field directive or field order does not have an impact on the Contract Sum or the Contract Time, unless the Contractor submits a change order within 15 working days after the date of the directive or order.

7.1.6 When submitting its change proposal, the Contractor will include and set forth in clear and precise detail, breakdowns of labor and materials for all trades involved and the estimated impact on the Progress Schedule. The Contractor will furnish spreadsheets from which the breakdowns were prepared, plus spreadsheets, if requested by Owner, from any subcontractor.

Add the following:

7.2.2 Methods used in determining adjustments to the Contract Sum may include those listed in Subparagraph 7.3.3.

7.2.3 It is understood and agreed that refinement and detailing will be accomplished from time to time with respect to the Drawings and Specifications contained in the Contract Documents. No adjustment in the Contract Sum or the Scheduled Completion Date will be made unless such refinement or detailing results in changes in the scope, quality, function or intent of the Drawings and Specifications. The delivery of supplemental or revised drawings to the Contractor by either the Architect or the Owner's Representative will not be interpreted by the Contractor as fulfilling their requirements of the Article for a written order to proceed with the Work. The written order (signed by the Owner) must be in addition to such drawings.

Delete 7.3.9 and add the following:

7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines to be reasonably justified. The Architect's interim determination, if approved by Owner, will adjust the Contract Sum on the same basis as a Change Order, subject to the right of the Contractor to disagree and assert a Claim in accordance with Article 15.

Delete 7.3.10 and add the following:

7.3.10 When the Owner and Contractor agree with the determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement will be effective immediately and will be recorded by preparation and execution of an appropriate Change Order. When either the Owner or the Contractor or both do not agree with the determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, such disagreement will be resolved in the manner proscribed by Paragraph 15.3.

7.3.11 The execution by Owner and Contractor of a Change Order will include all adjustments to the Contract Sum or Contract Time applicable to the Work covered or impacted by such Change Order, and no additional claims based on the Work performed in such Change Order or its impact on other Work will be valid.

7.3.12 All proposals for a change involving an increase or decrease in the amount of the Contract Sum will be submitted by the Contractor in a completely itemized breakdown form which will include but not be limited to the following:

a. Material quantities and input prices (separated into trades).

b. Labor costs and their respective burdens.

c. Construction equipment.

On proposals involving an increase to the amount of the Contract, overhead and profit will be allowed on the increase. On proposals involving both increases and decreases in the amount of the Contract, overhead and profit will be allowed on the net increase. On proposals involving a decrease in the amount of the Contract, overhead and profit will be included in the decrease.

Unless otherwise specified in the Agreement, the percentages for overhead and profit to be allowed to the Contractor and subcontractors on increases will not exceed the following:

Combined Percentage Allowed (Overhead and Profit)

To Contractor for Work performed by the Contractor's own forces – 10% overhead and 10% profit.

To Contractor for Work performed by other than his own forces – 10% overhead and 5% profit.

To Subcontractor for Work performed by his own forces – 10% overhead and 10% profit

To Subcontractor for Work performed by other than his own forces – 10% overhead and 5% profit

Allowable percentages will include all costs for preparing change order (office personnel including field layout and supervision if required by the change).

For changed orders, the Contractor has the option of using one of the following methods of calculating the General Conditions associated with a particular change order:

a. Itemize as a separate element general conditions costs required by a particular change order; or

b. Add 10% of the cost of the work included in a particular change order when the cost of the work is $10,000 or less.

Delete 8.3 and add the following:

8.3 DELAYS AND EXTENSIONS OF TIME

8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by an act or neglect of the Owner or Architect, or of an employee of either, or of a separate contractor employed by the Owner, or by changes ordered in the Work, or by fire, weather conditions not reasonably anticipatable, unavoidable casualties or other causes beyond the Contractor's control, or by delay authorized by the Owner pending mediation ("Delay"), then the Contract Time will be extended by Change Order for such reasonable time as the Architect and Owner may determine. Any such extension of Contract Time will be net of any delays caused by or due to the fault or negligence of

the Contractor or which are otherwise the responsibility of the Contractor (including the financial condition of the Contractor or any of its Subcontractors).

8.3.2 Claims relating to time will be made in accordance with applicable provisions of Paragraph 15.3 or they will be deemed waived.

8.3.3 **Except as provided in this subparagraph, the Contractor will not be entitled to any other compensation or recovery of any damages of any kind due to a Delay, including, without limitation, consequential damages, lost opportunity costs, impact damages or other similar remuneration. The Contractor may receive an adjustment in the Contract Sum if any delays, either individually or taken in the aggregate, cause the Contract Time to be increased by more than 30 days(the "Grace Period"). Any adjustment in the Contract Sum is limited to the increase of direct costs incurred by the Contractor in performing the Work as a result of that portion of any Delay or Delays which cause the Contract Time to be increased beyond the Grace Period. Direct costs include general conditions items and direct on-site supervision.**

Add the following:

9.1.2 Notwithstanding anything to the contrary contained in the Contract Documents, the Owner may withhold any payment to the Contractor hereunder if and for so long as the Contractor fails to perform any of its obligations hereunder or otherwise is in default under any of the Contract Documents; provided, however, that any such holdback will be limited to an amount sufficient in the reasonable opinion of the Owner to cure any such default or failure of performance by the Contractor.

Delete 9.3.1.1 and add the following:

9.3.1.1 As provided in Subparagraph 7.3.9, such applications may include requests for payment on account of changes in the Work which have been properly authorized by Construction Change Directives, or by interim determinations of the Architect if approved by Owner, but not yet included in Change Orders.

Delete 9.4.1 and add the following:

9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either issue to the Owner a Certificate for Payment, with a copy to the Contractor, for such amount as the Architect recommends as properly due, or notify the Contractor and Owner in writing of the Architect's reasons for withholding certification in whole or in part as provided in Subparagraph 9.5.1. Failure of the Architect to comply with this time frame will not relieve the Owner of their obligation to pay the Contractor within the time required in paragraph 8.1 of the Contract Agreement.

Delete 9.5 and add the following:

9.5 DECISIONS TO WITHHOLD CERTIFICATION

9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Subparagraph 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Subparagraph 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect or Owner may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's or Owner's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Subparagraph 3.3.2, because of:

(.1) defective Work not remedied;

(.2) third party claims filed or reasonable evidence indicating probable filing of such claims unless security acceptable to the Owner is provided by the Contractor;

(.3) failure of the Contractor to make payments properly to Subcontractors or for labor, materials or equipment;

(.4) reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;

(.5) damage to the Owner or another contractor;

(.6) reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay;

(.7) failure to carry out the Work in accordance with the Contract Documents; or

(.8) failure to provide any submittals or documentation required under the Contract Documents in a timely manner, including a schedule of values and a construction schedule.

9.5.2 When the above reasons for withholding certification are removed, certification will be made for amounts previously withheld. The Owner will not be deemed to be in breach of the Contract documents by reason of the withholding of any payment which Owner is entitled to withhold pursuant to or withholds in good faith in reliance on any provision of the Contract Documents, and no interest will accrue in connection with the withheld payment(s).

Delete 9.6.4 and add the following:

9.6.4 Neither the Owner nor Architect will have an obligation to pay or to see to the payment of money to a Subcontractor except as may otherwise be required by law.

Modify 9.7 as follows:

Change the word “binding dispute resolution” to “mediation” in the paragraph.

Delete 9.8.1 and add the following:

9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use. The Work will be considered suitable for Substantial Completion review when all required governmental inspections and certifications have been made and posted, all final finishes within the Contract Documents are in place as required by the Specifications, and there will have been a completion of and acceptance by Owner of all critical punch-list items so that the Owner could occupy or otherwise utilize the project on that date and the completion of the Work by the Contractor would not materially interfere or hamper the Owner’s (or those claiming by, through or under the Owner) normal business operations. As a further condition of Substantial Completion acceptance, the Contractor will certify that all remaining Work will be completed within, thirty (60) consecutive calendar days following the date of Substantial Completion.

Delete 9.10.3 and add the following:

9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner, will upon application by the Contractor and recommendation by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed and accepted, less any retainage. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of surety to payment of the balance due for that portion of the Work fully completed and accepted will be submitted by the Contractor to the Architect prior to certification of such payment. Such payment will be made under terms and conditions governing final payment, except that it will not constitute a waiver of claims.

Delete 9.10.5 and add the following:

9.10.5 Acceptance of final payment by the Contractor, a Subcontractor or material supplier will constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment. Final payment is considered to have taken place when Contractor or any of its representatives negotiates Owner’s final payment check, whether labeled final or not, for cash or deposits the check in any financial institution.

Delete 10.1 and add the following:

10.1 SAFETY PRECAUTIONS AND PROGRAMS

10.1.1 The Contractor will be responsible for initiating, maintaining and supervising all safety precautions and programs in connection with the performance of the Contract. Contractor will be responsible for providing such security on the Work site as necessary to protect against loss or damage to materials or the Work.

Delete 10.2.5 and add the following:

10.2.5 The Contractor will promptly remedy damage and loss (provided that Contractor may fulfill this obligation through prompt action taken by the Contractor's insurance company under property insurance covering said loss) to property referred to in Clauses 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Clauses 10.2.1.2 and 10.2.1.3, except damage or loss attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Paragraph 3.18.

Add the following:

10.2.9 The performance of the foregoing services by the Contractor will not relieve the Subcontractors of their responsibilities for the safety of persons and property and for compliance with all Federal, State and local statutes, rules, regulations and orders of any governmental authority applicable to the conduct of the Work

Delete 10.3.3 and add the following

10.3.3 To the fullest extent permitted by law, the Owner will indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself) and provided that such damage, loss or expense is not due to the sole negligence of a party seeking indemnity.

Delete 10.3.6 and add the following:

10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents the Owner will indemnify the Contractor for all cost and expense thereby incurred.

Modify 11.1.1 as follows: delete the words "set forth below" from the first sentence

Delete 11.2 and add the following:

11.2.1 Owner will cause other than the Architect any contractor, construction manager, subcontractor, or others working on any of their behalf who are not hired by Contractor or its subcontractors, but who provide work or services (or who work in or around the such project site) for the Project, to: (a) name Contractor, its directors, officers, employees, affiliates (collectively "Additional Insureds") as additional insureds on a primary, non-contributory basis on all liability policies applicable to any such work or services that they perform, except for any workers compensation and professional liability policies. The additional insured coverage provided to the Additional Insureds on any commercial general liability policy will include coverage for any actual or alleged bodily injury, property damage or personal and advertising injury liability whether arising out of premises-operations or products-completed operations. The additional insured coverage required in this paragraph will apply before commencement of any work or services are performed and after the final completion of such project until the later of the statute of limitations or statute of repose for the types of claims covered by the policy to which the additional insured coverage applies and (b) waive any right of recovery, where permitted by law, against the Additional Insureds for damages to the extent covered by any insurance policy applicable to any such work or services, including but not limited to any general liability, business automobile, excess liability, builder's risk and installation floater policies. Where a policy does not provide an automatic waiver, then the waiver shall be evidenced by a waiver of subrogation endorsement issued in the Additional Insureds' names.

Delete 11.1.2, 11.1.3, 11.1.4, and add the following:

11.1.2 The insurance required by Section 11.1.1 will be written for not less than limits of liability specified in paragraph 9.2.3 of the Agreement or required by law, as applicable. Coverages, whether written on an occurrence or claims-made basis, will be maintained without interruption from the date of commencement of the Work until the date of final payment and thereafter as required in this Contract.

11.1.3 Contractor will file certificates of insurance with the Owner prior to commencement of the Work and thereafter upon Owner's request at renewal or replacement of each required policy of insurance. These certificates and the insurance policies required by this Section 11.1 will contain a provision that coverage afforded under the policies will

not be canceled until at least 30 days' prior written notice has been given to the Owner. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, will be submitted with the final Application for Payment as required by Section 9.10.2 and thereafter upon Owner's request after renewal or replacement of such coverage until the expiration of the time required by Section 11.1.2.

11.1.4 The Contractor will cause the commercial liability coverage required by the Contract Documents to include the Owner as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's completed operations.

Add the following:

11.1.5 In the event the Owner elects to provide insurance coverage for the Contractor and/or its Subcontractors and Sub-subcontractors via a wrap-up insurance program or otherwise, and the Owner's insurance program does not afford the same coverage as stated hereinabove, the Contractor may purchase a difference in conditions policy the premium of which shall be reimbursed to the Contractor as a Cost of Work of the Project.

Delete 11.3 and its subparagraphs and replace with the following:

11.3 PROPERTY INSURANCE

11.3.1 The Contractor will purchase and maintain, in a company or companies lawfully authorized to do business in the jurisdiction in which the Project is located, property insurance written on a builder's risk "all-risk" or equivalent policy form in the amount of the initial Contract Sum, plus value of subsequent Contract Modifications and cost of materials supplied or installed by others, comprising total value for the entire Project at the site on a replacement cost basis. Such property insurance will be maintained until Substantial Completion, as defined in the Contract Documents. This insurance will include the Contractor as the named insured and the interests of the Owner, Subcontractors and Sub-subcontractors in the Project.

11.3.1.1 Property insurance will be on an "all-risk" or equivalent policy form and will include insurance against the perils of fire and physical loss or damage including vandalism, malicious mischief, collapse, earthquake, flood, windstorm, falsework, testing and startup, temporary buildings and debris removal including demolition occasioned by enforcement of any applicable legal requirements, and will cover reasonable compensation for Architect's and Contractor's services and expenses required as a result of such insured loss. These coverages may include a sublimit of insurance.

11.3.1.2 Intentionally left blank.

11.3.1.3 If the property insurance requires deductibles, the Contractor will be responsible as a cost of the work for the first $10,000 of costs not covered because of such deductibles, and Owner will be responsible for any cost of deductibles greater than $10,000, not to exceed $25,000.

11.3.1.4 This property insurance will cover portions of the Work stored off the site, and also portions of the Work in transit. These coverages may include a sublimit of insurance.

11.3.1.5 Partial occupancy or use in accordance with Section 9.9 will not commence until the insurance company or companies providing property insurance have consented to such partial occupancy or use by endorsement or otherwise. The Owner and the Contractor will take reasonable steps to obtain consent of the insurance company or companies and will, without mutual written consent, take no action with respect to partial occupancy or use that would cause cancellation, lapse or reduction of insurance.

11.3.2 BOILER AND MACHINERY INSURANCE

The Contractor will purchase and maintain boiler and machinery insurance required by the Contract Documents or by law, which will specifically cover such insured objects during installation and until Substantial Completion; this insurance shall include the Contractor as the named insured and the interests of the Owner, Contractor, Subcontractors and Sub-subcontractors in the Work.

11.3.3 LOSS OF USE INSURANCE

The Owner, at the Owner's option, may purchase and maintain such insurance as will insure the Owner against loss of use of the Owner's property due to fire or other hazards, however caused. The Owner waives all rights of action against the Contractor for loss of use of the Owner's property, including consequential losses due to fire or other hazards however caused.

11.3.4 Intentionally left blank.

11.3.5 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, the Owner shall waive all rights in accordance with the terms of Section 11.3.7 for damages caused by fire or other causes of loss covered by this separate property insurance. All separate policies shall provide this waiver of subrogation by endorsement or otherwise.

11.3.6 Upon Owner's request, the Contractor will file with the Owner a copy of each policy that includes insurance coverages required by this Section 11.3. Each policy will contain all generally applicable conditions, definitions, exclusions and endorsements related to this Project. Each policy will contain a provision that the policy will not be canceled until at least 30 days' prior written notice has been given to the Owner.

11.3.7 WAIVERS OF SUBROGATION

The Owner and Contractor waive all rights against each other and any of their subcontractors, sub-subcontractors, agents and employees, each of the other, and separate contractors described in Article 6, if any, and any of their subcontractors, sub-subcontractors, agents and employees, for damages caused by fire or other causes of loss to the extent covered by property insurance obtained pursuant to this Section 11.3 or other property insurance applicable to the Work, except such rights as they have to proceeds of such insurance held by the Owner as fiduciary. The Owner or Contractor, as appropriate, will require of the Architect, Architect's consultants, separate contractors described in Article 6, if any, and the subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies will provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation will be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

11.3.8 A loss insured under the Contractor's property insurance shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear.

11.3.9 Intentionally left blank.

11.3.10 The Owner as fiduciary will have power to adjust and settle a loss with insurers.

Delete 11.4.1 and replace with the following:

11.4.1 The Owner requires the Contractor to furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder as stipulated in the Contract Documents.

Delete 12.1 and replace with the following:

12.1 UNCOVERING OF WORK

12.1.1 If a portion of the Work is covered without written concurrence of Owner or Architect, contrary to the Architect's or Owner's written request or to requirements specifically expressed in the Contract Documents, it must, if required in writing by the Architect or Owner, be uncovered for the Architect's or Owner's examination and be replaced without change in the Contract Time and within the Contract Sum at no additional expense to the Owner.

12.1.2 If a portion of the Work has been covered which the Architect has not specifically requested to examine prior to it being covered, the Architect or Owner may request to see such Work and it will be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, costs of uncovering and replacement will, by

appropriate Change Order, be at the Owner's expense. If such Work is not in accordance with the Contract Documents, the cost of correction will be within the Contract Sum unless the condition was caused by the Owner or a separate contractor in which event the Owner will be responsible for payment of such costs.

Delete 12.2.1 and replace with the following:

12.2.1 The Contractor will promptly correct Work rejected by the Architect or Owner or failing to conform to the requirements of the Contract Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections and compensation for the Architect's services and expenses made necessary thereby, and repair or replacement of any work which may be displaced or damaged by Contractor's correction will be at the Contractor's expense.

Delete 12.2.2 and replace with the following:

12.2.2 AFTER SUBSTANTIAL COMPLETION

12.2.2.1 In addition to the Contractor's obligations under Paragraph 3.5, if, within one year after the date of Substantial Completion of the entire Work or after the date for commencement of warranties established under Subparagraph 9.9.1, or by terms of an applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor will correct it promptly after receipt of written notice from the Owner to do so unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner will give such notice promptly after discovery of the condition. If the Owner fails to so notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Paragraph 2.4. Owner's making of a claim for repair or replacement of any item of Work will toll the running of the Warranty Period with respect to the item that is the subject of that claim and the warranty set forth in this Paragraph 12.2.2 will remain in effect as to that item until Contractor repairs or replaces the defective item of work even though the warranty period would otherwise have expired.

12.2.2.2 The one-year period for correction of Work will be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual performance of the Work.

12.2.3 The Contractor will remove from the site portions of the Work which are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

12.2.4 The Contractor will correct destroyed or damaged construction, whether completed or partially completed, of the Owner or separate contractors caused by the Contractor's correction or removal of Work which is defective or otherwise not in accordance with the requirements of the Contract Documents.

12.2.5 Nothing contained in this Paragraph 12.2 will be construed to establish a period of limitation with respect to other obligations which the Contractor might have under the Contract Documents. Establishment of the one-year period for correction of Work as described in Subparagraph 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work. The corrective remedies set forth in this Paragraph 12.2 are not exclusive and will not deprive the Owner of any action, right or remedy otherwise available to it for breach of any of the provisions of the Contract Documents.

Delete 12.3 and replace with the following:

12.3 ACCEPTANCE OF NONCONFORMING WORK

12.3.1 If the Owner prefers to accept Work which is not in accordance with the requirements of the Contract Documents, and the Contractor agrees, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as agreed to by the Owner and Contractor. Such adjustment will be effected whether or not final payment has been made. Contractor will pay all claims, costs, losses and damages attributable to Owner’s evaluation of and determination to accept such defective Work as well as the amount by which the value of the Work is diminished by the defect. If any such acceptance occurs prior to final payment, a Change Order will be issued incorporating the necessary revisions in the Contract Documents and compensating Owner for the costs described above and the diminished value of the defective Work. If acceptance occurs after final payment, Contractor will pay to Owner the appropriate amount.

Delete 13.1 and replace with the following:

13.1 GOVERNING LAW

13.1.1 The Contract will be governed by the law of Texas and venue for causes of action concerning the Contract will be in the district courts of Tarrant County.

Delete 13.3 and replace with the following:

13.3 All notices to be given hereunder will be in writing, and all payments to be made hereunder will be by check, and may be given, served or made by depositing the same in the United States mail addressed to the party to be notified, postpaid and registered or certified with return receipt requested, or by delivering the same via fax/telecopy, overnight delivery service, or in person to such party. Notice deposited in the mail will be deemed delivered from and after the fourth day following the date deposited in the mail. Notice given in any other manner will be effective only if and received by the party to be notified. All notices to be given to the parties of will be sent or made at the addresses heretofore set forth. By giving the other party at least fifteen (15) days written notice thereof, the parties hereto will have the right to change their respective addresses and specify as its address for the purposes hereof any other address in the United States of America.

Delete 13.5.1 and replace with the following:

13.5.1 Tests, inspections and approvals of portions of the Work required by the Contract Documents or by laws, ordinances, rules, regulations or orders of public authorities having, jurisdiction will be made at an appropriate time. Unless otherwise provided, the Contractor will make arrangements for such tests, inspections and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, the cost of which will be reimbursable to the Contractor as a Cost of the Work. If requested by Owner, Contractor will coordinate with testing laboratory to provide adequate time and notice for the testing laboratory to perform testing in accordance with the requirements of the Work. No inspection performed or failed to be performed by Owner hereunder will be a waiver of any of Contractor's obligations hereunder or be construed as an approval or acceptance of the Work or any part thereof. The Contractor will give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner will bear costs of tests, inspections or approvals which do not become requirements until after bids are received or negotiations concluded.

Add the following:

13.5.7 If a proposed substitution requires investigation, testing or approval to determine its suitability for incorporation into the Work, the testing of the proposed substitution will be as determined by the Architect. The cost of such investigations or tests will be reimbursable to the Contractor as a Cost of the Work.

13.5.8 If Work installed is found not in compliance with the Contract Documents, investigation, testing and subsequent re-testing of the Work arising out of such deficiencies and defects will be performed by the Contractor. The type and nature of the inspections and tests will be as reasonably determined by the Architect. The cost of such investigations, testing and re-testing as well as any corrective work required will be responsibility of the Contractor and no additional expense to the Owner.

Delete 13.6 and replace with the following:

13.6.1 Except as provided in the Contract Documents, undisputed payments due and unpaid under the Contract Documents due to a default by Owner in its obligations under the Contract will bear interest from the date payment is due at such rate as the parties may agree upon in writing or, in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located and applicable to Owner.

Add the following:

13.8 SIGNAGE

13.8.1 All construction signage including, but not limited to, that appearing on tower cranes and other construction equipment located at the Project site, will be subject to the prior written approval of Owner. The Contractor recognizes that all signage may be disallowed, in Owner's sole discretion and that existing signage or advertising on construction equipment, field offices, trailers, construction fences, etc., may be required to be masked or deleted, all or not cost or expense to Owner.

13.8.2. The Contractor will treat all information relating to the Project and all information supplied to the Contractor by Owner or Architect as confidential and proprietary information of Owner and will not permit its release to other parties or make any public announcement or publicity releases without Owner's written authorization unless required to do so by applicable law, other than information that is public knowledge. The Contractor will also require Subcontractors and vendors to comply with this requirement.

13.9 CONTRACTOR'S RECORDS

13.9.1 The Contractor will keep and maintain such full and detailed accounts as may be necessary for proper financial management under this Agreement and the Contractor's system will be satisfactory to Owner. Owner will be afforded access to all of the Contractor's records, books, correspondence, instructions, drawings, calculations, contracts, subcontracts, purchase orders, receipts, memoranda, daily journals, computer discs and tapes and similar data relating to this Agreement with the right to audit same, other than Contractor’s proprietary systems. The Contractor will preserve all such records for a period of not less than three (3) years after the final payment is made hereunder or any longer period required by Owner. Owner's audit rights in this Paragraph will be applicable only to verification of prevailing wages on all subcontractors employed by the Contractor and the Contractor will be responsible for insuring that subcontractors maintain such records, allow such access and will include a provision to this in each subcontract with its subcontractors for the verification of prevailing wages.

Delete 14.1.1 and add the following:

14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor or a Subcontractor, Sub-subcontractor or their agents or employees or any other persons or entities performing portions of the Work under direct or indirect contract with the Contractor, for any of the following reasons:

(.1) issuance of an order of a court or other public authority having jurisdiction which requires all Work to be stopped;

(.2) an act of government, such as a declaration of national emergency which requires all Work to be stopped;

(.3) because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Subparagraph 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time required by the Contract Documents, subject to any right of Owner to withhold funds or suspend payment under the Contract; or,

Delete 14.1.3 and add the following:

14.1.3 If one of the reasons described in Subparagraph 14.1.1 or 14.1.2 exists, the Contractor may, upon seven (7) days' written notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed and for proven loss with respect to materials, equipment, tools, and construction equipment and machinery, including reasonable overhead earned and profit earned

Delete 14.2.1 and replace with the following:

14.2.1 The Owner may terminate the Contract or terminate Contractor's rights to perform under the Contract if the Contractor:

(.1) refuses or fails to supply sufficient skilled workers or suitable materials or equipment to complete the Work in a diligent, efficient, workmanlike or timely manner;

(.2) fails to make prompt payment to Subcontractors for materials, equipment or labor in accordance with the respective agreements between the Contractor and the Subcontractors. Other than disputes between the Contractor and Subcontractor;

(.3) disregards laws, ordinances, or rules, regulations or orders of a public authority having jurisdiction; or,

(.4) disregards the instructions of the Architect or the Owner (when such instructions are based on the requirements of the Contract Documents);

(.5) fails to perform the Work in accordance with the Contract Documents or makes fraudulent statements;

(.6) makes an assignment for the benefit of creditors, admits in writing its inability to pay its debts generally as they become due, files a petition in bankruptcy, is adjudicated insolvent or bankrupt, petitions or applies to any tribunal for any receiver or any trustee for the Contractor or any substantial part of its property, commences any action relating to the Contractor under any reorganization, arrangement, readjustment or debt, dissolution or liquidation law or statute of any jurisdiction, whether now or hereafter in effect, or if there is commenced against the Contactor any such action or the Contractor by any act indicates its consent to or approval of any trustee for the Contractor or any substantial part of its property or suffers any receivership or trustee to continue undischarged; or

(.7) otherwise does not fully comply with the Contract Documents.

Delete 14.2.2 and replace with the following:

14.2.2 When any of the above reasons exist, the Owner, may without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety seven (7) days' written notice, terminate employment of the Contractor and may:

(.1) take possession of the site and the Project and of all materials, equipment, tools, and construction equipment and machinery thereon owned, rented and leased and utilized solely for the Work or the Project (with consent of lessor) by the Contractor; and/or

(.2) accept assignment of subcontracts pursuant to Paragraph 5.4; and/or,

(.3) finish the Work by whatever reasonable method the Owner may deem expedient including demand on the surety. Upon request of the Contractor, the Owner will furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work, unless the Work was performed by the surety.

Delete 14.2.4 and replace with the following:

14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect’s services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess will be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor will pay the difference to the Owner. The obligation to pay the amount to the Contractor or Owner will survive termination of the Contract.

Add 14.2.5 and 14.2.6.

14.2.5 It is recognized that (i) if any order for relief is entered on behalf of or against the Contractor pursuant to Title 11 of the United States Code, (ii) if any other similar order is entered under any other debtor relief laws, (iii) if the Contractor makes a general assignment for the benefit of its creditors, or (iv) if a receiver is appointed for the benefit of creditors, or (v) if a receiver is appointed on account of its insolvency, any such event could impair or frustrate the Contractor's performance of the Contract Documents.

Accordingly, it is agreed that upon the occurrence of any such event, the Owner, in addition to other rights and remedies hereunder, will be entitled to request of the Contractor or its successor in interest adequate assurance of future performance in accordance with the terms and conditions of the Contract Documents. Failure to comply with such request within ten (10) days of delivery of the request will entitle the Owner to terminate the Contract Documents or Contractor's right to perform thereunder and to the accompanying rights set forth above in Subparagraphs 14.2.1 through 14.2.4 hereof. In all events, pending receipt of adequate assurance of performance and actual performance in accordance therewith, the Owner will be entitled to make demand on the surety or proceed with the Work with its own forces or with other contractors on a time and material or other appropriate basis, the cost of which will be backcharged against the Contract Sum. To the extent the costs of completing the Work, including compensation for additional professional services and expenses, exceed those costs which would have been payable to the Contractor to complete the Work except for the Contractor's default, the Contractor will pay the difference to the Owner, subject to any rights of the surety, if the surety perform Contractor's obligations, and this be determined by the Owner and confirmed by the Architect.

14.2.6 Owner may, if Contractor neglects to prosecute the Work properly or to perform any provision of the Contract Documents, or otherwise does, or omits to do, anything whereby safety or proper construction may be endangered or whereby damage or injury may result to person or property, after three (3) days written notice to Contractor, without prejudice to any other remedy Owner may have, make all work, material, omissions or deficiencies, and may deduct the cost therefore from the amount included in the Contract Sum due or which may thereafter become due Contractor, but no action taken by Owner hereunder will affect any of the other rights or remedies of Owner granted by this Agreement or by law or relieve Contractor from any consequences or liabilities arising from such acts or omissions.

Delete all of Article 15 and replace with the following:

15.3 CLAIMS AND DISPUTES

15.3.1 DEFINITION

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, adjustment or interpretation of Contract terms, payment of money, extension of time or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. Claims must be initiated by written notice. The responsibility to substantiate Claims will rest with the party making the Claim.

15.3.2 TIME LIMITS ON CLAIMS

Contractor must notify Owner and Architect in writing (a) within twenty-one (21) days after the occurrence of the event giving rise to a Claim or (b) within twenty-one (21) days after the Contractor first recognized the condition giving rise to a Claim, whichever is later. Within twenty (20) days of submitting a Claim, Contractor must provide complete and detailed documentation concerning the nature and amount of the Claim, to the extent such information is reasonably available. Failure to comply with the requirements of this Subparagraph 15.3.2 constitutes a waiver of Contractor's Claim.

15.3.3 CONTINUING CONTRACT PERFORMANCE

Pending final resolution of a Claim except as otherwise agreed in writing or as provided in Subparagraph 9.7 and Article 14, the Contractor will proceed diligently with performance of the Contract and the Owner will continue to make payments in accordance with the Contract Documents.

15.3.4 CLAIMS FOR CONCEALED OR UNKNOWN CONDITIONS

If conditions are encountered at the site which are:

(A) subsurface or otherwise concealed physical conditions which differ materially from those indicated in the Contract Documents; or,

(B) unknown physical conditions of an unusual nature, which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, then notice by the observing party will be given to the other party promptly before conditions are disturbed and in no event later than twenty-one (21) days after first observance of the conditions.

The Architect will promptly investigate such conditions and, if they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend an equitable adjustment in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect will so notify the Owner and Contractor in writing, stating the reasons. Claims by either party in opposition to such determination must be made within twenty-one (21) days after the Architect has given notice of the decision. If the conditions encountered are materially different, the Contract Sum and Contract Time will be equitably adjusted, but if the Owner and Contractor cannot agree on an adjustment in the Contract Sum or Contract Time, the adjustment will be referred to the Architect for initial determination, subject to further proceedings pursuant to Paragraph 15.4.

15.3.5 CLAIMS FOR ADDITIONAL COST

If the Contractor wishes to make Claim for an increase in the Contract Sum, written notice as provided herein will be given before proceeding to execute the Work. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Paragraph 10.4.

15.3.6 The following reasons may give rise to a Contractor filing a Claim in accordance with Paragraph15.3, if the reasons result in additional cost to the Contractor:

(A) A written interpretation from the Architect;

(B) An order by the Owner to stop the Work where the Contractor was not at fault;

(C) A written order for a minor change in the Work issued by the Architect;

(D) Failure of payment by the Owner;

(E) Termination of the Contract by the Owner;

(F) Suspension of the Contract by Owner; or

(G) Other reasonable grounds,

15.3.7 CLAIMS FOR ADDITIONAL TIME

15.3.7.1 If the Contractor wishes to make Claim for an increase in the Contract Time, Contractor must provide written notice of the Claim to the Owner. The Contractor's Claim will include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay only one Claim is necessary.

15.3.7.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim will be documented by data substantiating that weather conditions were abnormal for the period of time, and had an adverse effect on the scheduled construction. Data substantiating normal weather conditions or actual weather conditions will be furnished by the National Weather Service or the National Oceanic & Atmospheric Administration (N.O.A.A.) only. Contractor will submit to Owner written request for delays due to adverse weather conditions within 10 days of the end of the month in which the delays occurred. Substantiating data from the National Weather Service or N.O.A.A. will be furnished by the Contractor upon request by the Owner at its earliest availability. Inclement weather that occurs between commencement of construction and substantial completion will constitute delay only to the extent that days lost during a particular month due to such inclement weather exceeds the average lost time (in work days) for the months indicated in paragraph 6.2.3 of the contract agreement.

15.3.7.3 Non-availability or shortages of labor, local strikes and lockouts will not constitute a claim for increase in the Contract Time or Contract Sum.

15.3.8 INJURY OR DAMAGE TO PERSON OR PROPERTY

If either party to the Contract suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, written notice of such injury or damage, whether or not insured, will be given to the other party within a reasonable time not exceeding 21 days after discovery. The notice will provide sufficient detail to enable the other party to investigate the matter.

15.3.9 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed in a proposed Change Order or Construction Change Directive so that application of such unit prices to quantities of Work proposed will cause substantial inequity to the Owner or Contractor, the applicable unit prices will be equitably adjusted.

15.3.10 CLAIMS FOR CONSEQUENTIAL DAMAGES

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes:

(A) damages incurred by the Owner for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and,

(B) damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Subparagraph 15.3.10 will be deemed to preclude an award of liquidated direct damages, when applicable, in accordance with the requirements of the Contract Documents.

15.4 RESOLUTION OF CLAIMS AND DISPUTES

15.4.1 Claims will be referred initially to the Architect for review and recommendation which the Architect will render in writing within 30 days after receipt from the Contractor or the claim will be deemed rejected by the Architect.

15.4.2 The Architect will approve or reject Claims by written decision, which will state the reasons therefore and which will notify the parties of any change in the Contract Sum or Contract Time or both. The approval or rejection of a Claim by the Architect will be final and binding on the parties unless either party pursues mediation as described in Paragraph 15.5.

15.4.3 In evaluating Claims, the Architect may, but will not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Architect in rendering a decision. The Architect may request the Owner to authorize retention of such persons at the Owner's expense. Upon receipt of a Claim against the Contractor or at any time thereafter, the Architect or the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Architect or the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

15.4.8 If a Claim relates to or is the subject of a mechanic's lien, or is a claim on a bond the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the Claim by the Architect, or by mediation.

15.5 MEDIATION

15.5.1 Any Claim arising out of or related to the Contract, except Claims relating to aesthetic effect and except those waived as provided for in Subparagraphs 15..3.10, 9.10.4 and 9.10.5 will, after initial decision by the Architect or 30 days after submission of the Claim to the Architect, be subject to mediation as a condition precedent to further proceedings, if any, other than injunctive relief.

15.5.2 The parties will endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, will be in accordance with Subchapter C of Chapter 154, Texas Civil Practice and Remedies Code. Request for mediation will be filed in writing with the other party to the Contract. Mediation will proceed in advance of further proceedings other than injunctive relief, which will be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order.

15.5.3 The parties will share the mediator's fee and any filing fees equally. The mediation will be held in the Fort Worth, Tarrant County, Texas. Agreements reached in mediation will be enforceable as settlement agreements in any court having jurisdiction thereof.

16 EQUAL OPPORTUNITY

16.1 The Contractor and its Subcontractors will not discriminate against any employee or applicant for employment because of race, religion, color, sex or national origin. Contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to race, religion, color, sex, or national origin. Contractor will post in conspicuous places, available to employees and applicants for employment, notices setting forth the policies of nondiscrimination.

16.2 The Contractor and all Subcontractors will, in all solicitations or advertisements for employees by them, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, sex or national origin.

TARRANT COUNTY 350 W. BELKNAP BUILDING
COOLING TOWER REPLACEMENT PROJECT

WEATHER TABLE

MONTH	AVERAGE DAYS RAIN (1)	INCHES RAINFALL (2)	SNOW/ICE PELLETS (3)
JANUARY	6.4	1.84	.01
FEBRUARY	6.3	2.81	1.5
MARCH	8.1	3.53	0.2
APRIL	6.4	3.09	0
MAY	7.6	4.49	0
JUNE	6.2	4.49	0
JULY	6.2	3.07	0
AUGUST	5.1	1.97	0
SEPTEMBER	6.1	2.36	0
OCTOBER	7.3	4.76	0
NOVEMBER	6.8	2.74	0.1
DECEMBER	5.9	2.65	0.3
ANNUALLY	**80.8**	**37.80**	**2.1**

(1) Normal number of days rainfall per month, .01" or more
(2) Normal monthly precipitation, in inches
(3) Mean number of days per month.

This table is provided by the National Oceanic and Atmospheric Administration, for the period of 1981-2010.

PREVAILING WAGE RATES

MINIMUM WAGE RATES:

A. Attention is called to the Texas Government Code, Title 10 General Government, Subtitle F, Chapter 2258. This Article requires the Contractor and any subcontractor under him to pay not less than the prevailing rates per diem wages in the locality of the work at the time of construction to all laborers, workmen and mechanics employed by them in the execution of the Contract. Respondents should familiarize themselves with the entire provisions of this law and the penalties provided for its violation before submitting their proposals.

B. For the work required of this project, the CONTRACTOR and all sub-contractors shall pay his/her employees the prevailing wage rates in accordance with the Texas Government Code, Chapter 2258. The prevailing wage rates determined applicable for projects are the current prevailing wage rate schedules of the United States Department of Labor adopted in accordance with the Davis-Bacon Act (40 U.S.C. Section 276a, et. seq.) and its subsequent amendments. These prevailing wage rates can be obtained from the following web page: **www.access.gpo.gov/davisbacon/tx.html** (Tarrant County).

C. Any Contractor and any subcontractor under him to pay not less than the prevailing rates per diem wages in the locality of the work at the time of construction to all laborers, workmen and mechanics employed by them in the execution of the Contract. Respondents should familiarize themselves with the entire provisions of this law and the penalties provided for its violation before submitting their proposals.

D. Any workers not included in the schedule shall be properly classified and paid not less than the rate of wages prevailing in the locality of the work at the time of construction.

E. For overtime work and legal holidays, the hourly rate shall be one and one-half times the Basic Hourly Rate.

F. The Contractor shall pay Tarrant County the amount of sixty dollars ($60.00) for each laborer, workman or mechanic employed, for each calendar day or portion thereof such laborer, workman or mechanic is paid less than the stipulated rates for any work done under this Contract, by him or by any subcontractor under him.

G. No portion of this provision shall be construed to prohibit the payment to any laborer, workman, or mechanic employed on the Work of more than the stated wage rate. It shall be the responsibility of the Contractor to maintain an adequate work force whether higher wages are required or not.

SAMPLE

STATUTORY PAYMENT BOND PURSUANT TO
CHAPTER 2253 OF THE TEXAS GOVERNMENT CODE

(Penalty of this bond must be 100% of Contract Amount)

KNOW ALL MEN BY THESE PRESENTS:

That, _____

(hereinafter call the "Principal"), as Principal, and _____

_____

a corporation organized and existing under the laws of the State of _____, with its principal office in the City of _____ (hereinafter called the "Surety"), as Surety, are held and firmly bound unto _____

_____ (hereinafter called the "Obligee), in the amount of _____ Dollars ($_____) for the payment whereof, the said Principal and Surety bind themselves, and their heirs, administrators, executors, successors and assigns, jointly, severally, and firmly by these presents.

WHEREAS, the Principal has entered into a certain written contract with the Obligee, dated the _____ day of _____, 20_____, to _____

_____

_____

_____

which contract is hereby referred to and made a part hereof as fully and to the same extent as if copies at length herein.

NOW THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if said Principal shall pay all claimants supplying labor and material to him or a subcontractor in the prosecution of the work provided for in said contract, then, this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, HOWEVER, that this bond is executed pursuant to the provisions of Chapter 2253 of the Texas Government Code, and all liabilities on this bond to all such claimants shall be determined in accordance with the provisions of said Chapter to the same extent as if it were copies at length herein.

IN WITNESS WHEREOF, the said Principal and Surety have signed and sealed this instrument this _____ day of _____, 20_____

WITNESS

_____ (Seal)

_____ (Seal)

_____
(If Individual or Firm)

ATTEST: _____ (Seal)

_____ (Seal)
(Principal)

_____
(If Corporation)

_____ (Seal)
(Surety)

_____ by _____ (Seal)

SAMPLE

STATUTORY PERFORMANCE BOND PURSUANT TO
CHAPTER 2253 OF THE TEXAS GOVERNMENT CODE

(Penalty of this bond must be 100% of Contract Amount)

KNOW ALL MEN BY THESE PRESENTS:

That, _____

(hereinafter call the "Principal"), as Principal, and _____

_____

a corporation organized and existing under the laws of the State of _____, with its principal office in the City of _____ (hereinafter called the "Surety"), as Surety, are held and firmly bound unto _____

_____ (hereinafter called the "Obligee), in the amount of _____ Dollars ($_____). For the payment whereof, the said Principal and Surety bond themselves, and their heirs, administrators, executors, successors and assigns, jointly, severally, and firmly by these presents.

WHEREAS, the Principal has entered into a certain written contract with the Obligee, dated the _____ day of _____, 20_____, to _____

_____

_____

_____

which contract is hereby referred to and made a part hereof as fully and to the same extent as if copies at length herein.

NOW THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if said Principal shall faithfully perform the work in accordance with the plans, specifications and contract documents, then this obligation shall be void; otherwise to remain in full force and effect.

PROVIDED, HOWEVER, that this bond is executed pursuant to the provisions of Chapter 2253 of the Texas Government Code, and all liabilities on this bond to all such claimants shall be determined in accordance with the provisions of said Chapter to the same extent as if it were copies at length herein.

IN WITNESS WHEREOF, the said Principal and Surety have signed and sealed this instrument this _____ day of _____, 20_____.

WITNESS

_____ (Seal)

_____ (Seal)

_____
(If Individual or Firm)

ATTEST: _____ (Seal)

_____ (Seal)
(Principal)

_____
(If Corporation)

_____ (Seal)
(Surety)

_____ by _____ (Seal)

SAMPLE CONTRACT

THE STATE OF TEXAS §
COUNTY OF TARRANT §

KNOW ALL MEN BY THESE PRESENTS:

That this agreement made and entered into this ____ day of _____, 2017, by and between the Owner, Tarrant County, and _____, hereinafter called the "Contractor."

WITNESSETH: That said parties have agreed as set forth below:

1. That the Contractor hereby contracts with the Owner in connection with the project to do the following work required by the Contract Documents' as per contract documents titled _____, Tarrant County Bid No. 2017-___. The Contractor shall complete the _____ _____ no later than _____ (__) calendar days after start date agreed upon by the Owner and Contractor.

2. That the work herein contemplated shall consist of the Contractor furnishing, as an independent contractor, all labor, tools, appliances and materials necessary for the completion of said project in accordance with the specifications heretofore prepared by the Facilities Department in response to Tarrant County Bid No. 2017-___, and are hereto attached and made a part of this contract the same as if written herein.

3. The Contractor hereby agrees and binds himself to commence work within ten (10) days after "Notice to Proceed" issued by Tarrant County.

4. The Owner shall pay the Contractor for the performance of the work, subject to additions and deductions by Change Order, the contract sum of _____ Dollars ($_____).

Materials	$_____
Services	$_____
Bonds	$_____
Total	$_____

5. Based upon applications for payment submitted to the Facilities Department, the Owner shall make progress payments on account of the contract sum to the contract as follows: There will be due and payable on Contract, approximately each thirty (30) days, an amount equal to 95% of the value of the work completed. The Owner reserves the right to withhold 5% of the contract price for thirty (30) days after final acceptance of the work.

6. The Contractor agrees to fully indemnify and save whole and harmless the County of Tarrant from all costs or damages arising out of any real or asserted claim or cause of action against it of whatsoever kind or character and in addition, from any and all costs or damages arising out of any wrongs, injuries, demands or suits for damages, either real or asserted, claimed against it that may be occasioned by any act, omission, neglect or misconduct of the said Contractor, his agents, servants, and employees.

7. The Contract Documents consist of this agreement and any exhibits attached hereto, conditions of the contract (special, supplementary and other conditions), specifications, all addenda issued prior to execution of this agreement and all modifications issued subsequent thereto. These form the contract, and all are as fully a part of the contract as if attached to this agreement or repeated herein.

This agreement executed the day and year first written above.

COUNTY OF TARRANT
OWNER

_____
(SIGNATURE)

BY: _____

TITLE:_____

_____
CONTRACTOR

_____
(SIGNATURE)

BY: _____

TITLE:_____

Funds Available, Certified By:

_____
S. Renee Tidwell, CPA
County Auditor

Approved as to form*:

_____
Assistant District Attorney

**** By law, the District Attorney's Office may only approve contracts for its clients. We reviewed this document from our client's legal perspective. Other parties may not rely on this approval. Instead those parties should seek contract review from independent counsel.***

SAMPLE
CONDITIONAL WAIVER AND RELEASE ON PROGRESS PAYMENT

Project: _____

Job No.: _____

On receipt by the signer of this document of a check from Tarrant County (maker of check) in the sum of $_____ payable to _____ (payee or payees of check) and when the check has been properly endorsed and has been paid by the bank on which it is drawn, this document becomes effective to release any mechanic's lien right, any right arising from a payment bond that complies with a state or federal statute, any common law payment bond right, any claim for payment, and any rights under any similar ordinance, rule, or statute related to claim or payment rights for persons in the signer's position that the signer has on the property of Tarrant County (owner) located at_____ (location) to the following extent: _____ (job description).

As of the date of my signature, I, _____, know of no pending modifications, no changes, nor other items furnished for which the owner or the contractor has not provided compensation.

This release covers a progress payment for all labor, services, equipment, or materials furnished to the property or to Tarrant County (person with whom signer contracted) as indicated in the attached statement(s) or progress payment request(s), except for unpaid retention, pending modifications and changes, or other items furnished.

Before any recipient of this document relies on this document, the recipient should verify evidence of payment to the signer.

The signer warrants that the signer has already paid or will use the funds received from this progress payment to promptly pay in full all of the signer's laborers, subcontractors, materialmen, and suppliers for all work, materials, equipment, or services provided for or to the above referenced project in regard to the attached statement(s) or progress payment request(s).

Date _____

_____ (Company name)

By _____ (Signature)

_____ (Title)

STATE OF _____§

COUNTY OF _____§

This instrument was acknowledged before me on the _____ day of _____, 20__, by _____.

_____
Notary Public in and for the
STATE OF TEXAS

SAMPLE
CONDITIONAL WAIVER AND RELEASE ON FINAL PAYMENT

Project: _____

Job No.: _____

On receipt by the signer of this document of a check from Tarrant County (maker of check) in the sum of $_____ payable to _____ (payee or payees of check) and when the check has been properly endorsed and has been paid by the bank on which it is drawn, this document becomes effective to release any mechanic's lien right, any right arising from a payment bond that complies with a state or federal statute, any common law payment bond right, any claim for payment, and any rights under any similar ordinance, rule, or statute related to claim or payment rights for persons in the signer's position that the signer has on the property of Tarrant County (owner) located at _____ (location) to the following extent: _____ (job description).

This release covers the final payment to the signer for all labor, services, equipment, or materials furnished to the property or to Tarrant County (person with whom signer contracted).

Before any recipient of this document relies on this document, the recipient should verify evidence of payment to the signer.

As of the date of my signature, I, _____, know of no pending modifications, no changes, nor other items furnished for which the owner or the contractor has not provided compensation.

The signer warrants that the signer has already paid or will use the funds received from this final payment to promptly pay in full all of the signer's laborers, subcontractors, materialmen, and suppliers for all work, materials, equipment, or services provided for or to the above referenced project in up to the date of this waiver and release.

Date _____

_____ (Company name)

By _____ (Signature)

_____ (Title)

STATE OF _____§

COUNTY OF _____§

This instrument was acknowledged before me on the _____ day of _____, 20__, by _____.

_____
Notary Public in and for the
STATE OF TEXAS

TARRANT COUNTY

HISTORICALLY UNDERUTILIZED BUSINESSES (HUB) POLICY

I. POLICY STATEMENT

The Tarrant County Commissioners Court, being the policy development and budgetary control unit of county government, will strive to ensure that all businesses, regardless of size, economic, social or ethnic status have an equal opportunity to participate in the County's procurement processes. The County is committed to promote full and equal business opportunity for all businesses to supply the goods and services needed to support the mission and operations of county government, and seeks to encourage the use of certified historically underutilized businesses (HUBs) through the use of race, ethnic and gender neutral means. It is the policy of Tarrant County to involve certified HUBs to the greatest extent feasible in the County's procurement of goods, equipment, services and construction projects while maintaining competition and quality of work standards. The County affirms the good faith efforts of firms who recognize and practice similar business standards.

II. DEFINITIONS

Historically underutilized businesses (HUBs), also know as a disadvantaged business enterprise (DBE), are generally business enterprises at least 51% of which is owned and the management and daily business operations are controlled by one or more persons who is/are socially and economically disadvantaged because of his or her identification as a member of certain groups, including women, Black Americans, Mexican Americans and other Americans of Hispanic origin, Asian Americans and American Indians.

Certified HUBs includes business enterprises that meet the definition of a HUB and who meet the certification requirements of certification agencies recognized by Tarrant County.

Businesses include firms, corporations, sole proprietorships, vendors, suppliers, contractors, subcontractors, professionals and other similar references when referring to a business that provides goods and/or services regardless of the commodity category.

Statutory bid limit refers to the Texas Local Government Code provision that requires competitive bidding for many items valued at greater than $50,000.

III. POLICY GUIDELINES

A. Tarrant County, its contractors, their subcontractors and suppliers, as well as all vendors of goods, equipment and services, shall not discriminate on the basis of race, color, creed, gender, age, religion, national origin, citizenship, mental or physical disability, veteran's status or political affiliation in the award and/or performance of contracts. All entities doing business or anticipating doing business with the County shall support, encourage and implement affirmative steps toward a common goal of establishing equal opportunity for all citizens and businesses of the county.

B. Tarrant County will use and recognize the State of Texas certification process in conjunction with the implementation of this policy. The County may recognize other agencies' certification processes recognized by the State of Texas. Tarrant County reserves the right to review the certification status of any vendor applying to do business with the County. This review will be accomplished to determine the validity and authenticity of the vendor's certification as a HUB.

C. The Commissioners Court may establish HUB target goals. Through a systematic approach of soliciting quotes, bids and proposals from certified HUBs and in compliance with applicable state and federal law this policy will strive to meet those goals.

1. Target goals should consider:
   - the availability of HUB firms within the specific category of goods or services to be procured; and
   - the diversity of the county's population.

2. The goals should be reviewed and amended periodically.

3. The program may apply to all County procurements including construction and professional services.

4. Particular attention will be given to HUB participation on purchases in excess of the statutory bid limit.

5. The Commissioners Court herein establishes a 20% good faith target goal for Tarrant County.

D. Tarrant County will actively seek and encourage HUBs to participate in all facets of the procurement process by:

1. Continuing to increase and monitor a database of certified HUB vendors, professionals and contractors. The database will be expanded to include products, areas of expertise and capabilities of each HUB firm.

2. Continuing to seek new communication links with HUB vendors, professionals and contactors to involve them in the procurement process.

3. Continuing to advertise bids on the County's website and in newspapers including newspapers that target socially and economically disadvantaged communities.

4. Continuing to provide copies of bid specifications to minority Chambers of Commerce.

E. As prescribed by law, the purchase of one or more items costing in excess of the statutory bid limit must comply with the competitive bid process. Where possible, those bids will be structured to include and encourage the participation of HUB firms in the procurement process by:

1. Division of proposed requisitions into reasonable lots in keeping with industry standards and competitive bid requirements.

2. Where feasible, assessment of bond and insurance requirements and the designing of such requirements to reasonably permit more than one business to perform the work.

3. Specification of reasonable, realistic delivery schedules consistent with the County's actual requirements.

4. Specifications, terms and conditions reflecting the County's actual requirements are clearly stated, and do not impose unreasonable or unnecessary contract requirements.

F. A HUB Policy statement shall be included in all specifications. The County will consider the bidder's responsiveness to the HUB Policy in the evaluation of bids and proposals. Failure to demonstrate a good faith effort to comply with the County's HUB policy may result in a bid or proposal being considered non-responsive to specifications.

G. The Purchasing Department will actively seek the participation of HUB firms in the quotation process for purchases under the statutory bid limit. HUB firms will be identified on the computerized database and linked to the commodities they represent. Buyers will be encouraged to use available internal and external databases of certified HUB firms.

H. Nothing in this policy shall be construed to require the County to award a contract other than to the lowest responsive bidder as required by law. This policy is narrowly tailored in accordance with applicable law.

IV. ADMINISTRATIVE GUIDELINES

A. The Purchasing Department shall serve as the County's HUB Office with responsibility for the implementation, monitoring and general operations of the HUB policy. The Purchasing Agent shall serve as the County HUB Officer.

1. The HUB Officer will establish procedures to implement this policy across the full spectrum of the procurement process. The County HUB Office will periodically review with department head and elected officials regarding procurement opportunities.

2. Managing the policy and training buyers and other County personnel in order to meet County goals will be the responsibility of the HUB Office.

3. The HUB Office will cooperate with other local government entities to increase HUB participation throughout the county and region. The HUB Office is encouraged to participate in educational and other outreach programs to assist HUB firms.

4. The HUB Officer will receive and review complaints and recommendations regarding the implementation of the HUB Policy and the good faith efforts of bidders. Further, the HUB Office will audit for compliance to the HUB Policy on eligible projects after award, during the performance of the contract and after completion, while also making any recommendations to Commissioners Court regarding any irregularities or misrepresentation of facts as they relate to compliance with the policy. The HUB Office will review documentation submitted by HUB firms in compliance with this policy.

5. An annual report along with recommendations shall be provided to the Commissioners Court and Purchasing Board. The annual report will provide statistical data and efforts reflected in the number of purchase orders, value of goods and services purchased, percentages to HUB firms, and outreach and marketing efforts. Other statistics may be required or requested by the Commissioners Court or Purchasing Board.

510 Historically Underutilized Businesses Policy
Adopted: Court Order 64788 (December 17, 1990)
Amended: Court Order 69958 (December 7, 1993)
Amended: Court Order 99651 (December 28, 2006)

TARRANT COUNTY 350 W. BELKNAP BUILDING
COOLING TOWER REPLACEMENT PROJECT

FOR DISADVANTAGED BUSINESS ENTERPRISES ONLY

Disadvantaged Business Enterprises (DBE) are encouraged to participate in Tarrant County's bid process. The Purchasing Department will provide additional clarification of specifications, assistance with Bid Proposal Forms, and further explanation of bidding procedures to those DBEs who request it.

Representatives from DBE companies should identify themselves as such and submit a copy of the Certification.

The County recognizes the certifications of both the State of Texas General Services Commission HUB Program and the North Central Texas Regional Certification Agency. All companies seeking information concerning DBE certification are urged to contact.

Texas Procurement and Support Services
Statewide HUB Program
1711 Jacinto Blvd.
PO Box 13047
Austin, TX 78711-3047
(512) 463-5872

OR

North Central Texas
Regional Certification Agency
624 Six Flags Drive, Suite 100
Arlington, TX 76011
(817) 640-0606

If your company is already certified, attach a copy of your certification to this form and return with bid.

COMPANY NAME: _____

REPRESENTATIVE: _____

ADDRESS: _____

CITY, STATE, ZIP: _____

TELEPHONE NO. _____ FAX NO . _____

Indicate all that apply:

_____Minority-Owned Business Enterprise
_____Women-Owned Business Enterprise
_____Disadvantaged Business Enterprise

TARRANT COUNTY 350 W. BELKNAP BUILDING
COOLING TOWER REPLACEMENT PROJECT

DISADVANTAGED ENTERPRISE PARTICIPATION

Prime Contractor shall make a commitment to utilize a minimum of 20% DBE firms as sub-contractors on this project. Usage will be documented and submitted to D. W. Roberson, Contracts Administrator, on the first day of each month. The total usage percent with summary data will be submitted with the request for final payment.

DBE documentation shall include:

Name of DBE Company(s)
Scope of Work Performed by each DBE
Total Dollars Awarded to each DBE
Total Dollars Paid to Date

In the chart on the following page, list all areas of this project which may be subcontracted. Indicate the estimated dollar value of each area, if any portion of it will be subcontracted to DBE firm(s), and if so, what percentage.

Contractors unable to locate local DBE firms may request assistance from the Purchasing Department. Request must be in writing and must state the specific trade or service (SIC code) for which assistance is requested. Requests may be faxed to (817) 884-2629, Attention: D. W. Roberson or delivered/mailed to:

D.W. Roberson
Senior Contracts Administrator
100 E. Weatherford St., Suite 303
Fort Worth, TX 76196

Brokers will not be considered in meeting the DBE participation under this contract.

TARRANT COUNTY 350 W. BELKNAP BUILDING
COOLING TOWER REPLACEMENT PROJECT

Sub-Contractors

Bidders shall list below **all** work that will be subcontracted under this contract. Provide the company name of all sub-contractors identified by the bid due date in the space provided. Bidders should also indicate which areas will be subcontracted to DBE firms and the percentage to be subcontracted to DBE firms.

AREA TO BE SUBCONTRACTED	COMPANY NAME OF SUB-CONTRACTOR	DOLLAR VALUE	DBE PARTICIPATION		
			CHECK ONE		DBE %
			YES	NO	
TOTAL					

THE ORIGINAL AND ONE (1) COPY OF THIS PAGE MUST BE RETURNED WITH BID!

TARRANT COUNTY 350 W. BELKNAP BUILDING
COOLING TOWER REPLACEMENT PROJECT

VENDOR REFERENCES

Please list five (5) references, **other than Tarrant County**, who can verify your performance as a vendor. Performance includes but shall not be limited to, sales and/or service, delivery, invoicing, and other items as may be required for Tarrant County to determine your firm's ability to provide the intended goods or service of this bid. The County **PREFERS** references to be from Government customers for whom your firm has provided the same items (sales and/or services) as those specified in this bid. Inaccurate, obsolete or negative responses from the listed references could result in rejection of your bid.

Failure to supply required references will deem your bid/response as non-responsive and it will not be considered for award.

Bidder involvement with reference checks is not permitted. Only Tarrant County or their designee will conduct reference checks. Any deviation to this will result in rejection of the bid/response.

*****DO NOT LIST TARRANT COUNTY AS A REFERENCE*****

REFERENCE ONE

GOVERNMENT/COMPANY NAME: _____

ADDRESS: _____

CONTACT PERSON AND TITLE: _____

TELEPHONE NUMBER: _____

E-MAIL ADDRESS: _____

SCOPE OF WORK: _____

CONTRACT PERIOD: _____

REFERENCE TWO

GOVERNMENT/COMPANY NAME: _____

ADDRESS: _____

CONTACT PERSON AND TITLE: _____

TELEPHONE NUMBER: _____

E-MAIL ADDRESS: _____

SCOPE OF WORK: _____

CONTRACT PERIOD: _____

THE ORIGINAL AND ONE (1) COPY OF THIS PAGE MUST BE RETURNED WITH BID!

REFERENCE THREE

GOVERNMENT/COMPANY NAME: _____

ADDRESS: _____

CONTACT PERSON AND TITLE: _____

TELEPHONE NUMBER: _____

E-MAIL ADDRESS: _____

SCOPE OF WORK: _____

CONTRACT PERIOD: _____

REFERENCE FOUR

GOVERNMENT/COMPANY NAME: _____

ADDRESS: _____

CONTACT PERSON AND TITLE: _____

TELEPHONE NUMBER: _____

E-MAIL ADDRESS: _____

SCOPE OF WORK: _____

CONTRACT PERIOD: _____

REFERENCE FIVE

GOVERNMENT/COMPANY NAME: _____

ADDRESS: _____

CONTACT PERSON AND TITLE: _____

TELEPHONE NUMBER: _____

E-MAIL ADDRESS: _____

SCOPE OF WORK: _____

CONTRACT PERIOD: _____

THE ORIGINAL AND ONE (1) COPY OF THIS PAGE MUST BE RETURNED WITH BID!

BID PROPOSAL SIGNATURE FORM

The undersigned agrees this bid becomes the property of Tarrant County after the official opening.

The undersigned affirms he has familiarized himself with the local conditions under which the work is to be performed; satisfied himself of the conditions of delivery, handling and storage of equipment and all other matters which may be incidental to the work, before submitting a bid.

The undersigned agrees, if this bid is accepted, to furnish any and all items/services upon which prices are offered, at the price(s) and upon the terms and conditions contained in the Specifications. The period for acceptance of this Bid Proposal will be ninety (90) calendar days.

The undersigned affirms that they are duly authorized to execute this contract, that this bid has not been prepared in collusion with any other Bidder, nor any employee of Tarrant County, and that the contents of this bid have not been communicated to any other bidder or to any employee of Tarrant County prior to the official opening of this bid.

Vendor hereby assigns to purchaser any and all claims for overcharges associated with this contract which arise under the antitrust laws of the United States, 15 USCA Section 1 et seq., and which arise under the antitrust laws of the State of Texas, Tex. Bus. & Com. Code, Section 15.01, et seq.

The undersigned affirms that they have read and do understand the specifications and any attachments contained in this bid package. ***Failure to sign and return this form will result in the rejection of the entire bid.***

Signature _____X

Authorized Representative

NAME AND ADDRESS OF COMPANY:

_____ Date _____

_____ Name _____

_____ Title _____

Tel. No. _____ FAX No. _____

E-Mail Address: _____

AFTER HOURS EMERGENCY CONTACT:

Name: _____ Tel. No. _____

THIS FORM MUST BE SIGNED.

THE ORIGINAL WITH ORIGINAL SIGNATURE AND ONE (1) COPY MUST BE RETURNED WITH BID!

Did you provide references, sign your bid and/or your addendum?

If not, your bid will be rejected.

COMPANY IS:

Business included in a Corporate Income Tax Return? _____YES _____NO

_____Corporation organized & existing under the laws of the State of _____

_____Partnership consisting of _____

_____Individual trading as _____

_____Principal offices are in the city of _____

DUNS Number: _____

CAGE Code: _____

THE ORIGINAL AND ONE (1) COPY OF THIS PAGE MUST BE RETURNED WITH BID!

The following information applies ONLY to an awarded Bidder/Respondent.

Certificate of Interested Parties (Form 1295)

In 2015, the Texas Legislature adopted House Bill 1295, which added Section 2252.908 of the Government Code. The law states that a governmental entity may not enter into certain contracts with a business entity unless the business entity submits a disclosure of interested parties to the governmental entity. The disclosure of interested parties will be submitted online via Form 1295 and must be submitted to the governmental entity prior to any signed contract and/or vote by the governing authority.

The Filing Process:

1. Prior to award by Commissioners Court, your firm will be required to log in to the Texas Ethics Commission, https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm and fill out the Electronic Filing Application.
2. Once submitted, the system will generate an electronic Form 1295 displaying a "Certificate Number." Your firm must print, sign and notarize Form 1295.
3. **Within ten (10) business days** from notification of pending award by the Tarrant County Purchasing Agent, the completed Form 1295 **must** be submitted to Tarrant County.
4. Your firm will need to repeat this process and obtain a separate Form 1295 each time you enter into a new contract, renew a contract or make modification and/or amendments to a Tarrant County contract.

Instruction and information are available at https://www/ethics.state.tx.us/tec/1295-Info.htm or you may call the Texas Ethics Commission at (512) 463-5800.

BY SIGNING ON THE "COMPLIANCE PAGE"
YOUR FIRM AGREES TO ADHERE TO HB 1295 REFERENCED ABOVE.

COMPLIANCE WITH FEDERAL AND STATE LAWS

CERTIFICATION OF ELIGIBILITY

By submitting a Proposal in response to this solicitation, the Respondent certifies that at the time of submission, they are not on the Federal Government's list of suspended, ineligible, or debarred entities.

In the event of placement on the list between the time of Proposal submission and time of award, the Respondent will notify the Tarrant County Purchasing Agent. Failure to do so may result in terminating this contract for default.

RELATING TO STATE CONTRACTS WITH AND INVESTMENTS IN COMPANIES THAT BOYCOTT ISRAEL AND INVESTMENTS IN COMPANIES THAT DO BUSINESS WITH Iran, Sudan, or any known foreign terrorist organizations

Effective September 1, 2017, Contractor/Vendor verifies that it/he/she does not boycott Israel and will not boycott Israel during the term of this contract. The term "boycott Israel" is defined by Texas Government Code Section 808.001, effective September 1, 2017. Contractor/Vendor further verifies that it/he/she is not engaged in business with Iran, Sudan, or any foreign terrorist organization. The term "foreign terrorist organization" means an organization designated as a foreign terrorist organization by the United States Secretary of State as authorized by 8 U.S.C. Section 1189.

DISCLOSURE OF INTERESTED PARTIES

By submitting a Proposal in response to this solicitation, the Respondent agrees to comply with HB 1295, Government Code 2252.908. Respondent agrees to provide Tarrant County Purchasing Agent, and/or requesting department, the "Certificate of Interested Parties," Form 1295 as required, within **ten (10)** business days from notification of pending award, renewal, amended or extended contract.

Visit https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm for more information.

Signature _____X

THIS FORM MUST BE SIGNED.

THE ORIGINAL WITH ORIGINAL SIGNATURE AND ONE (1) COPY MUST BE RETURNED WITH BID.

TARRANT COUNTY 350 W. BELKNAP BUILDING
COOLING TOWER REPLACEMENT PROJECT

BID FORMS/DOCUMENTS CHECKLIST

✓Indicates Compliance	**A check mark (✓) in the space provided indicates these forms/documents have been completed and are included in your bid package. The original and one (1) copy of all forms/documents should be submitted. Failure to check all items could result in rejection of the entire bid.**
	1. **Sub-Contractor List.** Bidder has included list of areas of work to be sub-contracted under this contract and indicated which areas will be sub-contracted to DBE firms.
	2. **Vendor References.** Bidder has provided five (5) references, **other than Tarrant County.** References must be able to verify the quality of service your company provides and that your company has completed a project of similar size and scope of work to this bid.
	3. **Signatures.** All forms requiring a signature must be signed. Bids not signed will not be considered for award.
	4. **Bid Proposal Forms.** All sections of Bid Proposal Forms have been completed.
	5. **Insurance Certificates.** Bidders must submit all Insurance Certificates and endorsement verification with bid.
	6. **Addenda.** When applicable, Bidder acknowledges receipt of all addenda and has included the signed Addenda cover pages in their bid package.
	7. **It is the Bidders' sole responsibility to print and review all pages of the bid document, attachments, questions and their responses, addenda and special notices. The Bid Proposal Signature Form must be signed and returned. Failure to provide signature on this form renders bid non-responsive.** Failure to complete and the submission of all required forms, including but not limited to the Bid Proposal Signature Form, Certification of Eligibility, Reference Page(s), Checklist, Questionnaires (when applicable), Addenda (including revised forms), and any other specified forms or documents will be grounds for rejection of entire Bid.
	8. Bidder has read, understands, and agrees to Tarrant County's Criminal Background Check requirements.

THE ORIGINAL AND ONE (1) COPY OF THIS PAGE MUST BE RETURNED WITH BID!

BID FORMS/DOCUMENTS CHECKLIST

✓Indicates Compliance	**A check mark (✓) in the space provided indicates these forms/documents have been completed and are included in your bid package. The original and one (1) copy of all forms/documents should be submitted. Failure to check all items could result in rejection of the entire bid.**
	9. **Accuracy for all mathematical and number entries is the sole responsibility of the bidder.** Tarrant County will not be responsible for errors made by the bidder.
	10. Bidder's company is registered on TVORS (Tarrant On-Line Vendor Registration System).
	11. Bidder has sealed and marked the envelope with the Bid Number, Bid Title, and due date.
	12. **Examination of Site and Bidding Documents (Specifications):** Bidders are responsible for reading the entire bid package and complying with all specifications, including those not specifically listed in this checklist. It is understood and agreed that the Contractor has by careful examination, satisfied himself as to the nature and location of the work, the character and quality of the materials to be encountered, the character of equipment and facilities needed preliminary to and during the prosecution of the work, the general and local conditions, and all other matters which can in any way affect the work under this contract. No verbal agreement or conversation with any officer, agent, or employee of the Owner, either before or after the execution of this contract, shall affect or modify any of the terms or obligations herein contained. The bid shall be based on the specifications, supplemented by the affecting conditions. Before submitting a bid proposal, the bidder is required to carefully examine the Bidding Documents (drawings and specifications), visit the site, note existing facilities, conditions and limitation affecting the work to be performed under this contract. By submitting a bid proposal, the bidder agrees that he will not make any claim for damages or additional compensation because of lack of information or because of any misunderstanding, or because of misinterpretation of the requirements of the contract.
	13. Failure to comply with the requirements set forth in this Request for Bid may result in rejection of bid and/or cancellation of contract after award.

TARRANT COUNTY 350 W. BELKNAP BUILDING
COOLING TOWER REPLACEMENT PROJECT

BID PROPOSAL

Having read and understood the Instructions to Bidders and Specification, we submit the following bid:

***LUMP SUM BID** _____DOLLARS

***($_____)**

EARLIEST POSSIBLE START DATE: _____

TOTAL CALENDAR DAYS TO COMPLETE PROJECT: _____

Said amount being hereinafter referred to as the Base Bid or Base Bid Proposal. This total represents an aggregate total where more than one (1) unit of work is being used.

Bidder must breakdown bid into the following categories:

Materials	$_____
Services	$_____
Contingency Allowance	$_____25,000.00_____
Total	*$_____

***** The sum of the amounts bid for Materials, Services and Required Bond(s) must equal the Total Lump Sum Bid requested above.

THE ORIGINAL AND ONE (1) COPY OF THIS PAGE MUST BE RETURNED WITH BID!