

**AGREEMENT FOR DESIGN BUILD SERVICES
BETWEEN
THE CITY OF BRYAN
AND
SPAWGLASS CONSTRUCTION CORPORATION, INC.**

This Agreement for Design Build Services (“Agreement”) is effective as of _____ (the “Effective Date”), by and between the City of Bryan (“City”), a Texas home-rule municipal corporation, and SpawGlass Construction Corporation, Inc. (“Contractor”), a Texas Corporation and wholly-owned subsidiary of SpawGlass Holding, L.P, for the construction of the Travis Bryan Midtown Park Sports & Event Center, Amphitheater and Grand Lawn (the “Project”) at 206 west Villa Maria, Bryan, Texas, as shown in Exhibit I, RFP# 20-020. For purposes of this Agreement, City and Contractor are collectively referred to as the “Parties”, and each individually as a “Party”.

NOW, THEREFORE, in consideration of the mutual covenants and obligations contained herein and for other good and valuable consideration, City and Contractor agree as follows:

**ARTICLE 1
SCOPE OF WORK**

1.1 Contractor has overall responsibility for and shall provide complete Pre-Construction Phase and Construction Phase Services and furnish all Design Services, materials, equipment, tools and labor as necessary or reasonably inferable to complete the Work, or any phase of the Work, in accordance with the terms of this Agreement

1.2 The total cumulative amount of this Agreement shall not exceed Thirty-Eight Million Two Hundred Two Thousand Four Hundred Sixteen and No/100 dollars (\$38,202,416.00) DOLLARS (the “Maximum Contract Amount.”).

**ARTICLE 2
DEFINITIONS**

The terms, words, and phrases used in this Agreement have the meanings given in the Uniform General Conditions (UGC), Exhibit “B”) and are as follows:

2.1 **“Applicable Law”** shall mean all local, state and federal laws, ordinances, codes, rules, regulations, and specifications, including without limitation environmental laws, regulations and standards, safety and building codes, that are (1) currently applicable to Contractor's performance of the Work and to all goods and services to be provided to City under this Agreement or (2) scheduled to become applicable with the passage of time.

- 2.2 **“Additional Design Services”** shall have the meaning set forth in Section 5.9.6.
- 2.3 **“Amount Available for the Construction Contract” or “AACC”** means the maximum monetary amount budgeted by City for all Construction Phase services, materials, labor, and other work required of Contractor for completion of the Work in accordance with this Agreement. The AACC includes, without limitation, the General Conditions Costs, the Cost of the Work, the Construction Phase Fee, and Contractor’s Contingency. The AACC may be adjusted by the City for changes in the scope of the Project before or after acceptance of the Guaranteed Maximum Price Proposal. The AACC does include Contractor’s Pre-Construction Phase Fee.
- 2.4 **“Architect/Engineer” or “A/E”** refers to the professional firm employed by Contractor as architect/engineer of record for the Project, and its consultants.
- 2.5 **“City’s Specifications”** means the construction and contract administration requirements and standards detailed in Exhibit “C” attached to this Agreement, consisting of Division 1 of the Specifications.
- 2.6 **“Contract Documents”** means this Agreement and all exhibits and attachments listed, contained or referenced in this Agreement specifically including the Uniform General Conditions, Supplementary General Conditions and Special Provisions, and City’s Specifications; the Drawings, Specifications, details and other documents developed by A/E or City’s consultants, if any, and accepted by City which describe the Project, all Addenda issued prior to the Effective Date of this Agreement, the Guaranteed Maximum Price Proposal when accepted by City and executed by the parties, all Change Orders issued after the Effective Date of this Agreement to be submitted by the Architect/Engineer employed by the Contractor in response to the Request for Qualifications issued by City for the Project. These Contract Documents form the entire and integrated contract between City and Contractor and supersede all prior negotiations, representations or agreements, written or oral.
- 2.7 **“Contractor’s Contingency”** has the meaning set forth in Paragraph 11.3.
- 2.8 **“Construction Documents”** means, collectively, the Uniform General Conditions, Supplementary General Conditions and Special Provisions, Specifications, details, Change Orders and other documents prepared by A/E, its consultants, and by City’s consultants, that describe the scope and quality of the Project and the materials, supplies, equipment, systems and other elements that are required for construction of the Project that are accepted by City.
- 2.9 **“Construction Phase Fee”** means the amount set forth in Paragraph 3 of Exhibit “A” attached to this Agreement.
- 2.10 **“Construction Phase Services”** means the coordination, implementation and execution of the Work required by this Agreement, which are further defined in Article 8.
- 2.11 **“Cost of the Work”** means those costs described in Paragraph 11.2.

- 2.12 **“Contractor’s Personnel”** shall have the meaning set forth in Section 3.10.
- 2.13 **“Design Services”** means any and all engineering, architectural, and other design services required to be provided by Contractor pursuant to this Agreement, which are further defined in Section 5.9.
- 2.14 **“Direct Construction Cost”** shall have the meaning set forth in Article 11.
- 2.15 **“Drawings”** means the product of A/E which graphically depicts the Work.
- 2.16 **“Estimated Construction Cost”** or **“ECC”** means the amount calculated by Contractor for the total cost of all elements of the Work based on this Agreement available at the time(s) that the ECC is prepared. The ECC shall be based on current market rates with reasonable allowance for overhead, profit and price escalation and shall include and consider, without limitation, all alternates and contingencies, designed and specified by A/E and the cost of labor and materials necessary for installation of City furnished equipment. The ECC shall include all the cost elements included in the AACC, as defined above, and shall represent Contractor’s best current estimate of the Guaranteed Maximum Price it will propose for the Project based on the information then available. The ECC shall not include Contractor’s Pre-Construction Phase Fee, A/E’s Fees, the cost of the land and rights-of-way, or any other costs that are the direct responsibility of City.
- 2.17 **“Guaranteed Maximum Price”** or **“GMP”** means the amount proposed by Contractor and accepted by City as the maximum cost to City for construction of the Project in accordance with this Agreement. The GMP includes Contractor’s Construction Phase Fee, the General Conditions Cost, the Cost of the Work, and Contractor’s Contingency amount.
- 2.18 **“General Conditions Cost”** means costs incurred and minor work performed by Contractor without the need for competitive bids/proposals. The allowable General Conditions items are limited in Paragraph 11.1 and are further described on Exhibit “D”. The maximum allowable General Conditions Cost payable to Contractor during the Construction Phase of the Project is set out in Exhibit “A” attached to this Agreement.
- 2.19 **“Monthly Salary Rate”** means the amount agreed to by City that can be used throughout the Construction Phase to account for the monthly salary costs of Contractor’s salaried personnel assigned to the Project. A Monthly Salary Rate must be established for each salaried person and must be approved in writing by City in advance of any Application for Payment for that person. The agreed upon Monthly Salary Rate is included in Exhibit “G” attached to this Agreement.
- 2.20 **“Pre-Construction Phase Fee”** means the amount set forth in Paragraph 2 of Exhibit “A” attached to this Agreement.
- 2.21 **“Pre-Construction Phase Services”** means the participation, documentation and execution of Contractor’s Pre-Construction Phase deliverables as required by this Agreement and further defined in Article 5.

2.22 **“Project Manager”** refers to the City staff or professional management firm selected by the City Manager as the City’s representative for the Project, and its employees and consultants.

2.23 **“Project Team”** means City, Project Manager, Contractor, A/E and consultants, any separate Contractors employed by City, and others employed for the purpose of programming, design, and construction of the Project. The members of the Project Team will be designated in writing by City and may be modified from time to time in writing by City.

2.24 **“Reimbursable Services”** are the services specifically identified in Paragraph 5.9.8 that are provided by the Contractor in conjunction with the delivery of Pre-Construction Services under this Agreement.

2.25 **“Specifications”** means the written product of A/E that establishes the quality and/or performance of products utilized in the Work and processes to be used, including testing and verification for producing the Work.

2.26 **“Subcontractor”** means a person or entity who has an agreement with Contractor to perform any portion of the Work. The term Subcontractor does not include any person or entity hired directly by City.

2.27 **“Work”** means the provision of all construction services, labor, materials, supplies, and equipment that are required of Contractor to complete the Project in strict accordance with the requirements of this Agreement. Work includes, but is not limited to, the Construction Phase Services, additional work required by Change Orders, and any other work reasonably inferable from this Agreement. The term “reasonably inferable” takes into consideration the understanding of the parties that some details necessary for completion of the Work may not be shown on the Drawings or included in the Specifications, but they are a requirement of the Work if they are a usual and customary component of the Work or otherwise necessary for complete installation and operation of the Work.

2.28 **“Work Progress Schedule”** or **“WPS”** shall have the meaning given in Paragraph 5.3.1.

ARTICLE 3 GENERAL CONTRACTOR’S RESPONSIBILITIES.

3.1 Contractor shall perform all services specifically allocated to it by the Contract Documents as well as those services reasonably inferable from the Contract Documents as necessary for completion of the Work and the Project. Contractor agrees to perform these services using its best efforts, skills, judgments and abilities.

3.2 Contractor shall collaborate and coordinate with A/E and endeavor to further the interests of City and the Project. Contractor shall furnish Pre-Construction Phase Services and Construction Phase Services and complete the Project in an expeditious and economical manner consistent with the interests of City and in accordance with the Work Project Schedule.

3.3 Contractor shall designate a representative authorized to act on Contractor’s behalf with

respect to the Project.

3.4 Contractor shall establish procedures for communication and coordination among the Project Team, Subcontractors, separate contractors, and others with respect to all aspects of the construction of the Project, and implement such procedures.

3.5 Contractor shall utilize CMiC project management software application as the primary system for all project documentation through all phases of the Project.

3.6 If City elects to “fast-track” or develop the Project in multiple stages, Contractor shall organize and perform its services as appropriate to each stage. Each stage of the Project may have a unique schedule for completion and a specific AACC, at City’s discretion.

3.7 Contractor shall identify to City the employees and other personnel that it will assign to the Project. Contractor shall also identify any consultants that will be performing services for the Project. After execution of this Agreement by City, Contractor shall not remove or replace the persons or entities assigned to the Project except with City’s written consent, which consent shall not be unreasonably withheld. Contractor shall not assign to the Project or contract with any person or entity to which City has a reasonable objection. Contractor shall promptly update the list of persons and consultants if they change during the course of the Project.

3.8 Contractor shall, at City’s request, promptly repair replace, or re-perform any defects in Service or Products without additional cost, expense or liability to City and to the reasonable satisfaction of City; or, at City’s sole discretion, City may repair, replace, or re-perform (either self-performed by City or performed by a third party of City’s choosing) any defects in Contractor’s Services or Products and invoice Contractor for any associated cost.

3.9 Contractor or its designated subcontractors shall perform background checks on all personnel performing Services under this Agreement prior to performing Services including a minimum county level criminal records searches seven years from date of hire, National Sex Offender searches, Social Security traces, employment history verifications, and, if applicable, professional or trade license verifications and any site specific requirements of City. Contractor shall comply with all Federal, State and local employment and immigration laws, terms, provisions, regulations and rulings (“Employment and Immigration Laws”) and any person assigned to perform Services hereunder shall meet employment eligibility requirements of Employment and Immigration Laws. Upon receipt of a written request from City, Contractor shall certify in writing as to Contractor's compliance with Employment and Immigration Laws. Contractor will be responsible for all employee-related tax, levy, benefits, health insurance, pension, withholding, accrual, payment, reporting and other obligations of employers for its employees under Applicable Law (“Employee Obligations”). Contractor will indemnify and hold harmless City from and against all Losses (defined below) which arise in any manner out of or in connection with any one or more aspects of Contractor’s respective Employee Obligations or violation of any Employment and Immigration Laws.

3.10 Contractor is an independent contractor with full and complete responsibility for all of its employees, agents, subcontractors or any person for whom Contractor is responsible (“Contractor Personnel”). Contractor shall:

- (a) Employ and direct Contractor Personnel, as is required to perform the Services;
- (b) Exercise full and complete authority over Contractor Personnel; and
- (c) Have the sole right to hire and discharge Contractor Personnel.

3.11 Nothing herein is intended or shall be deemed to constitute, create, give effect to or otherwise recognize a partnership, joint venture, or formal business entity of any kind or create a fiduciary, agency or similar relationship between the parties, and the rights and obligations of the parties shall be limited to those expressly set forth in this Agreement.

3.12 Contractor and Contractor Personnel are not the representatives of City for any purpose and Contractor does not have the right, power or authority (and Contractor shall not represent itself as having any right, power or authority) in any capacity to represent, act for, bind, or otherwise create or assume any obligation on behalf of City for any purpose whatsoever or otherwise to act as the representative of City.

3.13 Contractor shall supply an adequate number of trained and competent Contractor Personnel to perform the Services. Contractor shall be responsible for the good order and behavior of Contractor Personnel while on the Properties. The Contractor's supervisors shall have authority to represent the Contractor in fulfilling its obligations under this Agreement. If City, in the exercise of its reasonable discretion, deems any Contractor Personnel unacceptable or unsatisfactory, Contractor, at its expense, shall remove such Contractor Personnel from the Services being performed for City and shall supply replacements.

ARTICLE 4. CITY'S RESPONSIBILITIES.

4.1 Pursuant to Texas Gov't Code Sec. 2269.305, the City shall select or designate an architect or engineer independent of the Contractor to act as the City's representative for the duration of the project.

4.2 City will provide the AACC and general schedule for the Project. The AACC provided by City will be established with due consideration for separate contingencies for changes in the Project during construction, and for other Project costs that are the responsibility of City. The general schedule will set forth City's plan for milestone dates and completion of the Project.

4.3 City, at its sole cost, will procure the Furniture, Fixtures, and Equipment (FF&E) through a third party contractor for the City.

4.4 City, at its sole cost, will secure the services of existing facility surveys, testing and

balancing, environmental surveys, or other special consultants to develop such additional information as may be necessary for the design or construction of the Project.

4.5 City shall arrange and pay for materials, structural, mechanical, chemical and other laboratory tests as required by the Construction Documents.

4.6 City shall furnish all legal, accounting, auditing and insurance counseling services for itself as may be necessary for the Project.

4.7 City shall furnish required information and services and shall render approvals and decisions as expeditiously as is consistent with reasonable skill and care and the orderly progress of Contractor's services and of the Work.

4.8 City may designate one or more construction inspectors (or hire 3rd party inspectors) to ensure construction in compliance of drawings and specifications, who shall be given access to the Work as requested or needed. The provision of inspection services by City shall not reduce or lessen Contractor's responsibility for the Project. Contractor is fully and solely responsible for constructing the Project in strict accordance with this Agreement.

4.9 City shall have the right to reject any defective Work on the Project. Should Contractor refuse or neglect to correct any such Work within a reasonable time after notice, City may have the Work corrected and recover all expenses incurred from Contractor on demand.

ARTICLE 5 PRE-CONSTRUCTION SERVICES PHASE.

The Pre-Construction Phase shall be deemed to commence upon the date specified in a Notice to Proceed with Pre-Construction Phase Services issued by City and shall continue through completion of the Construction Documents and procurement of all major Subcontractor agreements. Contractor is not entitled to reimbursement for any costs incurred for Pre-Construction Phase Services performed before issuance of the Notice to Proceed. Pre-Construction Phase Services may overlap Construction Phase Services. Contractor shall perform the following Pre-Construction Phase Services:

5.1 General Coordination.

5.1.1 Contractor's Pre-Construction Phase Services team shall attend Project Team meetings with City representatives including consulting firms, and A/E at regularly scheduled intervals throughout the Pre-Construction Phase. Frequent Project Team meetings are anticipated prior to City acceptance of the GMP and during completion of the Construction Documents.

5.1.2 Review and understand the standards and requirements in City's Specifications and perform all services in accordance with those standards and requirements.

5.1.3 Visit the site and inspect the existing facilities, systems, and conditions to ensure an accurate understanding of the existing conditions as required.

5.1.4 Participate as a member of the Project Team in the development of the Program of Requirements, if such program has not been developed prior to the Effective Date of this Agreement.

5.1.5 Provide recommendations and information to the Project Team on: site usage and site improvements; building systems, equipment and construction feasibility; selection and availability of materials and labor; time requirements for installation and construction; assignment of responsibilities for safety precautions and programs; temporary Project facilities; equipment, materials and services for common use of Contractor and City's separate contractors, if any; cost factors, including costs of alternative materials or designs, preliminary budgets, and possible cost savings; recognizing and tracking the resolution of conflicts in the proposed Drawings and Specifications; methods of delivery of materials, systems, and equipment; and any other matters necessary to accomplish the Project in accordance with the Work Progress Schedule (as defined below) and the AACC.

5.1.6 Assist City in selecting and directing the services of existing facility surveys, testing and balancing, environmental surveys or other special consultants hired by City to develop additional information for the design or construction of the Project.

5.1.7 At City's request, attend public meetings and hearings concerning the development and schedule of the Project.

5.1.8 Contractor shall use all Construction Documents returned to A/E from the Subcontractor proposers.

5.2 **Constructability Program**

5.2.1 Implement and conduct a constructability program to identify and document Project cost and schedule savings opportunities. The constructability program shall follow accepted industry practices and be reviewed by City at design milestones. Whenever the term "value engineering" is used in conjunction with this Agreement or the Project, it has its commonly accepted meaning within the construction industry and does not imply the practice of professional engineering without a license. If any value engineering activities constitute the professional practice of engineering, then such

activities shall be performed by an engineer licensed in Texas.

5.2.2 Prepare a “Constructability Report” that identifies items that, in Contractor’s opinion, may negatively impact construction of the Project. The Constructability Report shall address the overall coordination of Project Drawings, Specifications, details, and schedules and identify discrepancies that may generate Change Orders or claims once Project construction commences. Contractor shall provide City with an update to the Constructability Report at every milestone meeting during the Pre-Construction Phase.

5.2.3 Provide and implement a system for tracking questions, resolutions, decisions, directions and other information matters that arise during the development of the Drawings and Specifications for the Project. The decision tracking system shall be in a format approved by City and updated by Contractor at least monthly during the Pre-Construction Phase.

5.3 **Scheduling**

5.3.1 Develop a Work Progress Schedule (WPS) for Project Team review and City’s approval that coordinates and integrates activities on the Project, including Contractor’s services, A/E’s design services, the work of other consultants and suppliers, and City’s activities with the anticipated construction schedules for other contractors. The WPS must identify all major milestones through Project Final Completion. The WPS shall be created and maintained in accordance with City’s Specifications.

5.3.2 Contractor shall update the WPS throughout the Pre-Construction and Construction Phases as described in City’s requirements and Specifications

5.3.3 The WPS shall include other detailed schedule activities as directed by City including, but not limited to, City -managed work under separate contracts such as equipment, furniture and furnishings, telephones, project security, property protection, life-safety systems, integration with central campus monitoring systems, information and instructional technology data-transmission systems, and computer technology systems.

5.4 **Budget and Cost Consultation**

5.4.1 Contractor is responsible for the construction budget and for preparing and updating all procurement and Estimated Construction Costs (ECC) and distributing them to the Project Team throughout the duration of the Project.

5.4.2 Contractor shall prepare and update an Estimated Construction Cost report at the completion of Schematic Design, Design Development, fifty percent (50%) and the hundred percent (100%) completion stages of the Construction Documents phase of the Project. [Project Manager to determine which milestones during construction documents to require ECC] The GMP Proposal, when submitted, will have as its basis a current ECC report. The

ECC report for Schematic Design shall be a detailed estimate organized in the most current Construction Specifications Institute, Master Format. The ECC reports for the Design Development and Construction Documents phases shall be detailed estimates derived from cost quantity surveys based on unit prices for labor, materials, overhead and profit, organized in the most current Construction Specifications Institute, Master Format for each portion of the Work.

5.4.3 Contractor shall provide continuous cost consultation services throughout the duration of the Project, including identification and tracking of decisions that affect the scope or quality of the Project and providing ongoing updates of their cost and budget impact. Advise the Project Team immediately if Contractor has reason to believe that the most current ECC will exceed the AACC or not meet WPS requirements and recommend reasonable strategies for bringing the Project in line with the AACC and the WPS.

5.4.4 Contractor shall promptly identify all variances between estimated costs and actual costs during the Construction Phase, and shall promptly report such variances to the Project Team, in a format acceptable to the City, along with recommendations for action, but in any event no more than two (2) business days after acquiring such information.

5.4.5 Should any ECC exceed or fall significantly below the approved AACC, City and Contractor shall negotiate changes to the Project scope, requirements, or the AACC as required.

5.5 Coordination of Design and Construction Contract Documents

5.5.1 Review all Drawings, Specifications, and other Construction Documents as they are developed by A/E during the Schematic Design, Design Development, and Construction Documents design phases of the Project.

5.5.2 Consult with City and A/E on the selection of materials, equipment, component systems, and types of construction used on the Project. Advise City on site use, construction feasibility, availability of labor and materials, procurement time requirements, and construction coordination.

5.5.3 Advise City of any error, inconsistency or omission discovered in the Drawings, Specifications, and other Construction Documents.

5.5.4 Advise City on reasonable adjustments in the Project scope, quality, or other options for keeping the Project cost within the AACC.

5.5.5 Review the Construction Documents for compliance with all applicable laws, rules and regulations, the Contract Documents, and City requirements.

5.6 Construction Planning and Subcontractor Buyout Strategy

5.6.1 Identify equipment or material requiring extended delivery times and advise City on expedited procurement of those items. Advise City and A/E on the preparation of performance specifications and requests for technical proposals for the procurement and installation of systems and components and for the procurement of long lead items. If requested by City, and subject to City's prior written approval, issue requests for technical proposals to qualified sources and receive proposals and assist in their evaluation.

5.6.2 Make recommendations to the Project Team regarding organization of the Construction Documents to facilitate the bidding and awarding of construction subcontracts in a manner that promotes the interests of the Project and City. These recommendations may include, but are not limited to, phased or staged construction or multiple separate contracts. The recommendations shall take into consideration such factors as time of performance, type and scope of work, availability of labor and materials, overlapping trade jurisdictions, provisions for temporary facilities, comparisons of factory and on-site production costs, shipping costs, code restrictions, and other constraints.

5.6.3 Review the Construction Documents with the Project Team to eliminate areas of conflict and overlap in the work to be performed by the various Subcontractors or City's separate contractors.

5.6.4 Develop a bid/proposal package strategy in coordination with A/E that addresses the entire scope of each phase and stage of the Project. In developing the bid/proposal package strategy, Contractor shall identify all bid/proposal packages on which Contractor intends to submit a self-performance bid/proposal. The bid/proposal package strategy shall be reviewed with City on a regular basis and revised throughout the buyout of the Project so as to best promote the interests of the Project and City.

5.6.5 Assist City, City's other consultants, and City's separate contractors in obtaining risk management, code, and regulatory agency reviews and approvals for the Project including, without limitation, the local fire department, and City's insurance provider.

5.6.6 Coordinate with the City's third party contractor, the procurement of Furniture, Fixtures and Equipment Packages (FF&E) and integrate the delivery and installation schedule of the FF&E within the completion date for the project and within the AACC outlined herein. Said coordination shall include, but not limited to the inclusion of project team members dedicated to the operations and maintenance of the facility in order to effectively prioritize the long term performance of the fixture and equipment packages.

5.6.7 Recommend to City and A/E any Quality Assurance tests to be performed, and assist City in selecting testing laboratories and consultants, without assuming direct responsibility for the performance of such laboratories and consultants.

5.6.8 Review the Construction Documents to ensure that they contain adequate provision for job site areas required for construction, all temporary facilities necessary for performance of the Work, and provisions for all of the job site facilities necessary to manage, inspect, and supervise construction of the Project.

5.6.9 Provide an analysis of the types and quantities of labor required for the Project and review the appropriate categories of labor required for critical phases or stages. Make recommendations that minimize the adverse effects of labor shortages.

5.6.10 Consult with and make recommendations to City on the acquisition schedule for fixtures, furniture and equipment, and coordinate with City as may be required to meet the WPS.

5.7 **Obtaining Bids/Proposals for the Project**

5.7.1 Contractor shall solicit competitive lump sum bids/proposals from trade contractors or subcontractors for the performance of all major elements of the Project other than the minor work that may be included in General Conditions. Criteria for determining the bid/proposal that provides the best value to City shall be established by the Project Team and included in the request for bids/proposals. Contractor shall notify City in advance in writing of the date it will receive the bids/proposals.

5.7.2 Contractor may seek to self-perform portions of the Project identified for self-performance in the bid/proposal strategy. Contractor must submit a bid/proposal for the self-performance work in the same manner as all other trade contractors or Subcontractors. City will, at its sole discretion, determine whether Contractor's bid/proposal provides the best value for City, and its determination shall be final.

For scope of work bid packages typically performed by subcontractors, Contractor may "self-perform" such work on a cost plus fee (Not-To-Exceed 7.5%) basis subject to an agreed upon guaranteed maximum price for the "self-performed work". The Contractor shall bid their proposed Guaranteed Maximum Price for the work to be "self-performed" against at least two other interested trade contractors. Any subcontract for "self-performed work" will provide for payment in an amount equal to the Cost of the Work (as defined in this Agreement) and will not exceed the agreed upon subcontract guaranteed maximum price. All terms and provisions of any subcontract for "self-performed work" will be consistent with the terms and conditions of this Agreement with the exception of the agreed upon Fee percentage. All savings under any such subcontract for "self-performed work" shall be applied to reduce the Cost of the Work under this Agreement and the Guaranteed Maximum Price of this Agreement. For purposes of defining "self-performed work" subject to this contract provision, any division of Contractor, or any separate Contractor or subcontractor that is partially owned or wholly owned by the Contractor or any of their employees or employee's relatives will be considered a related party entity and will be subject to this provision regarding "self-performed work". If the Contractor acquires competitive bids/proposals for the "self-performed work" the City at its sole determination may allow the "self-performed work" to be performed on a lump sum. Otherwise, no self-performed work will be allowed to be performed on a lump sum basis.

5.7.3 Contractor shall identify every Subcontractor it intends to use on the Project, self-performed work, to City in writing, in a format acceptable to City, and deliver to City at

least ten (10) days before entering into any subcontract. Contractor shall not use any Subcontractor to which City has a reasonable objection. Contractor shall not be required to subcontract with any Subcontractor to which it has reasonable objection. Following City's acceptance of a Subcontractor, that Subcontractor shall not be changed without City's written consent, which shall not be unreasonably withheld.

5.7.4 If a selected trade contractor or Subcontractor fails to execute a subcontract after being selected in accordance with this Paragraph or defaults in the performance of its work, Contractor may, in consultation with City and without further advertising, fulfill the subcontract requirements itself or select a replacement trade contractor or subcontractor to do so.

5.8 **Safety**

5.8.1 In accordance with the UGC (Article 6), Contractor is responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Project. The safety program shall comply with all applicable requirements of the Occupational Safety and Health Act of 1970 and all other applicable federal, state and local laws and regulations.

5.8.2 Contractor shall provide recommendations and information to City and A/E regarding the assignment of responsibilities for safety precautions and programs, temporary Project facilities, and equipment, materials, and services for common use of the Subcontractors. Contractor shall verify that appropriate safety provisions are included in the Construction Documents.

5.9 **Design Services**

5.9.1 **General Responsibilities**

5.9.1.1 Contractor recognizes and accepts a fiduciary relationship of trust and confidence hereby established between Contractor and City and agrees that it shall at all times in good faith use its best efforts to advance City's interests and agrees to perform the Design Services and the Construction Work in the highest professional manner.

5.9.1.2 Contractor shall designate in writing a representative who is responsible for the day-to-day management of the Design Services.

5.9.1.3 The designated representative shall be the City's primary contact during the design phase of the Project and shall be available as required for the benefit of the Project and the City. The designated representative shall be authorized to act on behalf of and to bind the Contractor in all matters related to Design Services. The designated representative shall not be changed without advance written approval from the City, which approval shall not be unreasonably withheld.

5.9.1.4 Contractor shall engage the services of an Architect/Engineer and other qualified professionals as required for performance of the Design Services. Contractor shall not perform any architectural or engineering services directly unless Contractor is licensed in Texas to perform such services. All drawings, specifications, change orders and other design documents shall bear the seal of the licensed professional who prepared them in accordance with the applicable laws and regulations of the State of Texas.

5.9.1.5 Contractor shall be solely responsible for all obligations to the Architect/Engineer and shall pay for the services of the Architect/Engineer and all other professional service providers out of the fees for this Agreement. Contractor agrees and acknowledges that City is entering into this Agreement in reliance on Architect/Engineer's represented professional abilities with respect to performing Architect/Engineer's services, duties, and obligations under this Agreement. Architect/Engineer agrees to use Architect/Engineer's professional efforts, skill, judgment, and abilities in performing Architect/Engineer's services. Architect/Engineer shall perform its services diligently and shall endeavor to further the interest of the City in accordance with City's requirements and procedures.

5.9.1.6 Contractor's contract with the Architect/Engineer shall include the following language: "The Architect/Engineer shall perform its services in accordance with the professional skill and care ordinarily provided by competent architects and engineers practicing in the same or similar locality and under the same or similar circumstances and professional license; and as expeditiously as is prudent considering the ordinary professional skill and care of a competent architect and engineer (the "Standard of Care"). Subject to this Standard of Care, Architect/Engineer shall interpret and apply applicable national, federal, state, municipal, and State of Texas building and accessibility laws, regulations, codes, ordinances, orders and with those of any other body having jurisdiction in effect at the time the services are provided. There are no obligations, commitments, or impediments of any kind known to the Architect/Engineer that will limit or prevent performance by Architect/Engineer of its services. Architect/Engineer hereby agrees to correct, at its own cost, any of its services, and the services of its consultants, that do not meet the standard of care."

5.9.1.7 Nothing in this Agreement shall create any contractual obligation between the City and the Architect/Engineer or other design professionals not hired directly by the City.

5.9.1.8 The Contractor shall be responsible for managing the Design Services so as to ensure that the Project, as designed, can be constructed for an amount that is within the Amount Available for the Construction Contract and will achieve the energy and operational savings required by the Contract. The obligation to design the Project so as to achieve the Program or Requirements objectives of scope and cost shall continue through completion and acceptance of Construction

Documents. Any adjustment to the scope or quality considered necessary to comply with the Amount Available for the Construction Contract or the Program of Requirements during the design phase shall be mutually agreed upon and shall be considered normal to that process.

5.9.1.9 The Contractor shall submit the names of all proposed consultants for Design Services, including the Architect/Engineer and any of its consultants, for approval by the City, which approval shall not be unreasonably withheld. The Contractor, if requested, shall provide City with a copy of the fully executed contract or agreement authorizing services by any such consultant.

5.9.1.10 The Design Services shall incorporate current technology as appropriate to the stated mission of the institution and the programmed functional activities that is compatible with any existing facility and acceptable to the City.

5.9.1.11 All Design Services for the Project shall be provided in accordance with the Program of Requirements, and the Park Master Plan Guidelines, which are incorporated herein by reference, and any other criteria applicable to the needs of the institution.

5.9.1.12 The Contractor warrants to City the sufficiency and completeness of all Design Services performed and that all drawings, specifications, and other information furnished or provided by Contractor shall be free from material errors and omissions. Approval or acceptance of any Design Services by City shall not in any way release Contractor from any duty, responsibility or liability for such services, it being understood that City is at all times relying upon Contractor's skill and knowledge in performing the Design Phase Services.

5.9.1.13 City shall have the right to reject any defective Design Services or other defective Work on the Project of which City becomes aware and Contractor shall promptly correct any such defect at Contractor's expense. Should any portion of the Project Work be damaged or defective due to an error or omission in the Design Services, including errors or omissions in any plans, drawings, specifications, and other construction document materials prepared or furnished by Contractor, Contractor shall promptly correct any such damage or defect at no additional cost to the City. Should the Contractor refuse or neglect to correct any such damage or defect within a reasonable time after notice, City may cause the damage or defect to be corrected and withhold payment or collect monetary damages equal to the cost of replacing or repairing the defective Work.

5.9.1.14 City may elect, at its option, to stage or to "fast-track" construction of the Project in different stages. Such stages may or may not overlap. Contractor shall perform Design Services in staged packages as appropriate to each stage of construction which may result in differing schedules and reviews for the completion of each design stage and for each stage of planned construction. The City may elect, at its option, to establish a different Amount Available for the Construction Contract

for each such stage.

5.9.1.15 At each stage of the Design Services, Contractor shall provide the following services as appropriate:

Architectural Services
Landscape Architectural
Services Civil Engineering
Services Structural Engineering
Services Mechanical
Engineering Services Electrical
Engineering Services
Construction Cost Estimating
Other Consultants as Required by Project

5.9.1.16 Basic Design Services include incorporations of the 2015 International Energy Conservation Code and City of Bryan amendments. Architect/Engineer shall provide the City with a copy of the COMcheck reports showing compliance (see: energycodes.gov) for the building envelope, lighting, and mechanical systems. City shall have the ability to direct A/E to exceed code for a more energy efficient building, if desired.

5.9.1.17 Contractor shall not proceed to any subsequent stage of Design Services until City has authorized Contractor to proceed in writing, except at the Contractor's sole financial risk.

5.9.1.18 The Architect/Engineer, as a part of Design Services, shall provide life cycle cost analysis of major systems and materials to optimize the operating, maintenance and initial costs.

5.9.1.19 The Architect/Engineer shall utilize Building Information Modeling (BIM) authoring software and BIM based design processes to produce model (s) for this project. The Architect/Engineer shall be knowledgeable of BIM use for all phases of the design and utilize data, graphics, and drawings derived from the model for decision making support and construction documentation as part of Basic Services. The BIM software shall be compliant with Industry Foundation Class.

5.9.1.20 Participation of Contractor or its subcontractors and suppliers in contributions to the BIM process or model (s) shall not constitute the performance of design services.

5.9.1.21 During the design process the model (s) shall, at a minimum be utilized for Design Anchoring, Design Reviews, Space Tracking, Cost

Estimation, 3D Coordination, Fabrication and Facilities Management Data.

5.9.1.22 During the construction process it is intended that the contractor utilize the model(s) for 3D Coordination, fabrication and Facilities Management Data.

5.9.1.23 The Contractor and Architect/Engineer shall develop a project BIM Execution Plan documenting BIM uses, analysis technologies and workflows. The BIM Execution Plan (Exhibit H) shall be submitted to the City within 30 days of the execution of this agreement.

5.9.1.24 The Architect/Engineer shall incorporate into the model(s), Drawings and Specifications such changes as are necessary to satisfy the City's written review comments or published meeting minutes, any of which may be appealed in writing for good cause.

5.9.1.25 The Contractor shall visit the site to become sufficiently familiar with the existing facilities, systems and conditions to ensure that the Project as designed will functionally interface with the existing conditions as required.

5.9.1.26 The Contractor shall review laws applicable to the design and construction of the Project and advise the City if any program requirement may cause a violation of such laws.

5.9.2 Schematic Design Stage

5.9.2.1 Based on the approved Program of Requirements and the Amount Available for the Construction Contract authorized by the City, the Contractor shall develop sufficient alternative approaches to design and construction of the Project and review them with the City. The Contractor shall prepare Schematic Design documents and a preliminary Estimated Construction Costs and submit them to the City for approval. The Estimated Construction Costs shall affirm adherence to the Amount Available for the Construction Contract.

5.9.2.2 Architect/Engineer shall provide all services necessary to perform the services of this phase (preparation of model(s), relevant data, decision support model views and Schematic Design Documents).

5.9.2.3 Before proceeding to the Design Development Stage, the Contractor shall obtain City's written authorization to proceed and the City's approval of the preliminary Estimated Construction Costs.

5.9.3 Design Development Stage

5.9.3.1 Based on the approved Schematic Design documents and any adjustments to the Program of Requirements, or Amount Available for the Construction Contract authorized by the City, the Contractor shall prepare Design Development documents derived from the model(s) in accordance with City's written requirements to further define and finalize the size and character of the Project and prepare a detailed Estimated Construction Costs and submit them to the City for approval. The Design Development Documents shall fix and describe the size and character of the entire Project, including site work, architectural, structural, mechanical and electrical systems, materials and such other elements as may be appropriate. The detailed Estimated Construction Costs shall confirm adherence to the Amount Available for the Construction Contract.

5.9.3.2 As a part of Design Development Stage Contractor shall accomplish model coordination, aggregation and "clash detection" to remove conflicts in design between systems, structures and components. Contractor shall demonstrate and provide written assurance to City that all conflicts/collisions between models have been resolved.

5.9.3.3 The Contractor shall prepare preliminary recommended furniture layouts for all spaces where necessary to substantiate the fulfillment of program space requirements, or to coordinate with specific architectural, mechanical and electrical elements.

5.9.3.4 Before proceeding into the Construction Document Stage, the Contractor shall obtain City's written approval of the Design Development documents and the Amount Available for the Construction Contract

5.9.4 Construction Documents Stage

5.9.4.1 Based on the approved Design Development Documents and any further adjustments to the Program of Requirements or the Amount Available for the Construction Contract as authorized by the City, the Contractor shall prepare, for approval by the City, Construction Documents consisting of Drawings, Schedules and Specifications derived from the model(s) in accordance

with City's written requirements setting forth in detail the requirements for construction of the Project. The Construction Documents shall provide for the construction of the Project within the approved Final Amount Available for the Construction Contract.

5.9.4.2 As a part of Construction Documents Stage Contractor shall accomplish model coordination, aggregation and "clash detection" to remove conflicts in design between systems, structures and components. Contractor shall demonstrate and provide written assurance to City that all conflicts/collisions between models have been resolved.

5.9.4.3 The Construction Documents shall be consistent in all material respects with Contractor's prior design proposals to City and with the approved Guaranteed Maximum Price proposal.

5.9.4.4 The Contractor shall advise the City regarding construction phasing and scheduling, the construction contract time period, and such other construction conditions considered appropriate for the Project.

5.9.4.5 The Contractor shall assist and advise the City in connection with the City's responsibility and procedures for obtaining approval of authorities having jurisdiction over the Project.

5.9.4.6 Following City's approval of the Construction Documents, Contractor shall not be entitled to any adjustment in the approved Amount Available for the Construction Contract except for changes in Project scope or quality which materially increase or decrease the cost to construct the Project that are ordered by City in writing in accordance with the Uniform General and Supplementary Conditions.

5.9.5 Review Drawings

5.9.5.1 The Contractor, shall provide City with the required number of design document review sets at each required stage of completion.

5.9.5.2 The Contractor shall incorporate into the documents such corrections and amendments as the City requests at each stage of review, unless the Contractor objects to such changes in writing and City agrees to the objections. Any additional cost incurred due to Contractor's failure to incorporate City's requested corrections and amendments shall be borne by the Contractor.

5.9.5.3 Contractor shall identify to City in writing anything in Contractor's drawings and specifications and any drawings, plans, sketches, instructions, information, requirements, procedures, requests for action, and other data supplied to Contractor (by City or any other party) that Contractor regards as

unsuitable, improper, or inaccurate in connection with the purposes for which such documents or data are furnished. Contractor shall be solely responsible for the use of such documents or data unless Contractor advises City in writing that in its opinion such documents or data are unsuitable, improper, or inaccurate and City instructs the Contractor in writing to proceed in accordance with the documents or data as originally given.

5.9.5.4 The Contractor shall pay all costs for plans, specifications and other design and construction documents used by the Contractor and its consultants and by the City, except for changes generated solely by City.

5.9.5.5 If any of the plans, specifications and other design and construction documents or other work materials produced or used by Contractor pursuant to this Agreement are damaged or destroyed by fire or other casualty, Contractor shall prepare and provide City with new copies of any such documents or materials, at no additional cost to City, unless Contractor or City has a complete and undamaged set thereof.

5.9.6 Additional Design Services

5.9.6.1 Additional Design Services shall be provided by the Contractor and paid for in accordance with this Agreement by the City if authorized in writing by the City. Prior to commencing any Additional Design Service, Contractor shall submit to the City an Additional Services Proposal in a form acceptable to the City. The Additional Services Proposal shall describe in detail the nature or scope of the Additional Design Services, the basis upon which Contractor believes that such services are Additional Services, the maximum amount of fees and reimbursable expenses for performance of the Additional Services, and a proposed schedule for the performance of the Additional Services. Contractor shall proceed with the Additional Design Service only after written acceptance by City of the Additional Services Proposal.

5.9.6.2 Upon acceptance by City, each Additional Services Proposal and the services performed by Contractor pursuant to such Additional Services Proposal shall become part of this Agreement and shall be subject to all the terms and conditions of this Agreement, as fully and completely as though the same had been included in this Agreement as a Pre-Construction Phase Fee at the original execution of this Agreement.

5.9.7 Reimbursable Services

5.9.7.1 Reimbursable Services shall be provided by the Contractor and paid for in accordance with this Agreement by the City. These include actual not-to-exceed expenditures made by the Contractor and the Contractor's consultants incurred solely and directly in connection with Contractor's performance of its services hereunder for the following expenses:

5.9.7.1.1 Fees paid for securing approval of authorities having jurisdiction over the Project.

5.9.7.1.2 Professional models and renderings produced for presentations when requested by the City.

5.9.7.1.3 Cost of site survey and geotechnical investigations.

5.9.7.1.4 Other items agreed to by the City in writing.

5.9.7.2 Expenses not allowed for reimbursement include, telephone charges, cell phone and PDA charges, FAX service, alcoholic beverages, laundry, car washes, valet service, entertainment and any non-project related items.

5.9.7.3 City shall pay a mark-up not to exceed five percent (5%) on those reimbursable identified in 5.9.7.1.1 through 5.9.7.1.4 above. A mark-up shall not be paid on lodging, meals or travel expenses. Contractor shall submit receipts for all reimbursable expenses along with any reimbursement request.

5.9.7.4 City must authorize all Reimbursable Services prior to the performance of the reimbursable item. Charges for Reimbursable Services must not exceed the established category amounts unless authorization, in writing, is obtained from the City.

ARTICLE 6 PRE-CONSTRUCTION PHASE FEE

6.1 The Pre-Construction Phase Fee is the total compensation payable to Contractor for the performance of Pre-Construction Phase Services, except for Additional Pre-Construction Phase Services approved in advance and in writing by City. The Pre-Construction Phase Fee shall be a lump sum amount based on the AACC established in this Agreement.

6.2 Except as specifically allowed by City, Contractor shall not be entitled to any increase in the Pre-Construction Phase Fee for any costs, expenses, liabilities or other obligations arising from the performance of Pre-Construction Phase Services.

6.3 Not Used

6.4 If the scope of the Pre-Construction Phase Services is changed materially, the Pre-Construction Phase Fee shall be equitably adjusted. If the AACC is changed materially before acceptance of the GMP Proposal, the Pre-Construction Phase Fee shall be adjusted in writing in proportion to the change in the AACC. There shall be no adjustments in the Pre-Construction Phase Fee following acceptance of the GMP Proposal.

6.5 For Additional Pre-Construction Phase Services that are approved in advance and in writing by City, Contractor shall be entitled to additional compensation computed as follows:

6.5.1 A pre-established lump sum amount; or

6.5.2 The hourly cost of Contractor's employees or consultants who actually perform the Additional Services based on the employee's Worker Wage Rate or prorated Monthly Rate plus the actual cost of allowable expenses incurred in the performance of the Additional Pre-Construction Phase Services, plus an overhead and profit markup as listed in section 10.8 of the Uniform General Conditions..

6.5.3 As otherwise agreed in advance and in writing.

ARTICLE 7 GUARANTEED MAXIMUM PRICE PROPOSAL

7.1 At the conclusion of the Design Development phase the Contractor shall prepare and submit a Guaranteed Maximum Price Proposal to City based on the Design Development phase documents and review comments. The GMP Proposal shall be delivered to the City within three (3) weeks of the Design Development review meeting or a date established by the City. The GMP Proposal must be prepared in accordance with the guidelines established by City and delivered in the format specified by City in Exhibit "E" attached to this Agreement. City, at its sole option and discretion, may specify different requirements for the GMP Proposal. Contractor shall not withdraw its Guaranteed Maximum Price Proposal for ninety (90) days following submission to City.

7.2 In developing the GMP Proposal, Contractor shall coordinate efforts with A/E to identify qualifications, clarifications, assumptions, exclusions, value engineering and any other factors relevant to establishment of a GMP. Contractor shall review development of the GMP Proposal with City on an ongoing basis to address clarifications of scope and pricing, distribution of contingencies, schedule, assumptions, exclusions, and other matters relevant to the establishment of a GMP.

7.3 The GMP Proposal must include a written description of how it was derived that specifically identifies the clarifications and assumptions made by Contractor in the GMP and the

monetary amounts attributable to them. The GMP Proposal shall include, without limitation, a breakdown of Contractor's estimated General Conditions Costs and estimated Cost of the Work organized by trade and MasterFormat 2004; contingency amounts; the Construction Phase Fee; and the proposed Contract Time, including dates for Notice to Proceed, Substantial Completion and Final Completion.

7.4 The Guaranteed Maximum Price Proposal shall allow for reasonably expected changes and refinements in the Drawings and Specifications through completion of the Construction Documents, except for material changes in scope.

7.5 The GMP Proposal shall include a Contractor's Contingency amount as defined in Section 11.3.

7.6 Included with its GMP Proposal, Contractor shall provide three complete, bound sets of the drawings, specifications, plans, sketches, instructions, requirements, materials, equipment specifications and other information or documents that fully describe the Project as developed at the time of the GMP Proposal and that are relevant to the establishment of the GMP. The bound supporting documents shall be referenced in and incorporated into the GMP Proposal.

7.7 The GMP Proposal and all supporting documents shall identify and describe all items, assumptions, costs, contingencies, schedules and other matters necessary and relevant for proper execution and completion of the Work and for establishment of the GMP. The GMP Proposal and the supporting documents are complementary and, in the event of an irreconcilable conflict between or among them, the interpretation that provides for the higher quality or quantity of material and/or workmanship shall prevail over all other interpretations.

7.8 In submitting the GMP Proposal, Contractor represents that it will provide every item, system or element of performance that is identified, shown or specified in the GMP Proposal or the supporting documents, along with all necessary or ancillary materials and equipment for their complete operating installation, unless specifically excepted by City. Upon City's written acceptance of the GMP Proposal, Contractor shall not be entitled to any increase in the GMP due to the continued refinement of the Construction Documents or the absence or addition of any detail or specification that may be required in order to complete the construction of the Project as described in and reasonably inferable from the GMP Proposal or the supporting documents used to establish the GMP. Any costs that exceed the GMP shall be borne solely by the Design/Build Contractor without reimbursement by the City. Design/Build Contractor is responsible for all design, including incidental designing/detailing as required by the Specifications for shop drawing purposes, except for design provided by City's independent Design Consultants, if any.

7.9 Prior to commencement of the Construction Phase Services and concurrently with submission of the Guaranteed Maximum Sum Proposal, the Design/Build Contractor shall submit for the City's acceptance a schedule for the performance of Construction Phase Services as specified. The Construction Phase Schedule shall include reasonable periods of time for the City's review and acceptance of design drawings and submissions and for approval of authorities having jurisdiction over the Project. Upon acceptance of a Guaranteed Maximum Sum Proposal by the City, the Construction Phase Schedule shall not be modified except for good cause as

approved by the City at the City's sole option and discretion.

7.10 The GMP Proposal shall adopt and incorporate all of the terms and conditions of this Agreement and all attachments to this Agreement. Any proposed deviation from the terms and conditions of this Agreement must be clearly and conspicuously identified to City in writing and specifically accepted in writing by City. In the event of a conflict between any term of the GMP Proposal that was not clearly and conspicuously identified and approved by City and the terms of this Agreement and its attachments, the terms of this Agreement and its attachments shall control.

7.11 City may accept or reject the Guaranteed Maximum Price Proposal or attempt to negotiate its terms with Contractor. Upon acceptance by City of the GMP Proposal in writing, both parties shall execute the GMP Proposal which shall become part of this Agreement. If City rejects the GMP Proposal or the parties are unable or unwilling to agree on a GMP, City may terminate this Agreement.

7.12 Following City's acceptance of the GMP Proposal, Contractor shall continue to monitor the development of the Construction Documents so that, when complete, the Construction Documents adequately incorporate and resolve all qualifications, assumptions, clarifications, exclusions and value engineering issues identified in the GMP Proposal. During the Construction Documents stage, Contractor and A/E shall jointly deliver a monthly written status report to City describing the progress on the incorporation of all qualifications, assumptions, clarifications, exclusions, value engineering issues and all other matters relevant to the establishment of the GMP into the Construction Documents.

7.13 Contractor shall be entitled to an equitable adjustment of the GMP if it is required to pay or bear the burden of any new federal, state, or local tax, or any rate increase of an existing tax, except taxes on income, adopted through statute, court decision, written ruling, or regulation taking effect after acceptance of the GMP Proposal. This equitable adjustment does not apply to tax increases borne solely by Subcontractors.

7.14 The parties may agree to convert the GMP to a lump sum contract amount at any time after Contractor has received bids or proposals from trade contractors or Subcontractors for the performance of all major elements of the Project. In proposing a lump sum amount, Contractor shall consider the buyout savings, any unused contingency amounts and the trade package contracts that have not been finalized. In preparing a lump sum conversion proposal, Contractor must provide the following information:

7.14.1 The stage of completion of the Project;

7.14.2 The trade packages that have been completely bought out;

7.14.3 The trade packages remaining that have not been bought out;

7.14.4 A complete line item breakdown of the calculations used to establish a lump sum amount based on the GMP Schedule of Values;

7.14.5 An accounting of all savings amounts that are to be returned to City as part of the lump sum calculation; and

7.14.6 Any other Project information requested by City.

7.15 Contractor shall document the actual Cost of the Project at buyout as compared to the Guaranteed Maximum Price Proposal and shall report this information to City monthly and with Contractor's recommendation for selection of a bid/proposal for each subcontracting package.

ARTICLE 8 CONSTRUCTION PHASE SERVICES

The Construction Phase shall be deemed to commence upon the date specified in a written Notice to Proceed issued by City after approval of the Guaranteed Maximum Price Proposal and shall continue until Final Completion of all Work. Pre-Construction Phase Services may overlap Construction Phase Services. Contractor shall not incur any Subcontractor costs for construction of the Project prior to issuance by City of written authorization to commence such Work. Contractor shall perform the following Construction Phase Services:

8.1 Construct the Work in strict accordance with this Agreement and as required by the UGC, Special Conditions and Provisions, City's Specifications within the time required by the Work Progress Schedule approved by City.

8.2 Organize and maintain a competent, full-time staff at the Project site with clearly defined lines of authority and communication as necessary to coordinate construction activities, monitor and direct progress of the Work, and further the goals of the Project Team.

8.3 Designate in writing a representative who is responsible for the day-to-day management of the Construction Phase Services. The designated representative shall be City's primary contact during the Construction Phase and shall be available as required for the benefit of the Project and City. The designated representative shall be authorized to act on behalf of and bind Contractor in all matters related to Construction Phase Services including, but not limited to, execution of Change Orders and Applications for Payment.

8.4 Attend regularly scheduled Project progress meetings and fully advise the Project Team of the Project status including schedule, costs, quality and changes.

8.5 In addition to attending regularly scheduled Project progress meetings, Contractor shall schedule, direct and attend interim progress meetings (i.e., commissioning meetings, coordination meetings, pre-installation meetings) with other members of the Project Team as required to maintain Project progress. Contractor shall record and distribute the minutes of each meeting to each Project Team member. The minutes shall identify critical activities that require action and the dates by which each activity must be completed.

8.6 Coordinate delivery and installation of City and City procured material and equipment.

8.7 In accordance with City's UGC, provide and pay for all labor, materials, equipment,

tools, construction equipment and machinery, transportation, and all other facilities and services necessary for the proper execution and completion of the Work in strict accordance with the requirements of the Construction Documents.

8.8 Obtain building permits and special permits for permanent improvements as required by law or the Construction Documents. Assist City or A/E in obtaining all approvals required from authorities having jurisdiction over the Project.

8.9 Coordinate, monitor and inspect the work of Subcontractors to ensure conformance with the Construction Documents.

8.10 Be responsible for all construction means, methods, techniques, sequences and procedures, and for coordinating all portions of the Work. Contractor shall keep City informed of the progress and quality of the Work.

8.11 Contractor shall promptly correct any defective Work at Contractor's sole expense, unless City specifically agrees to accept the Work in writing.

8.12 Warrant that the materials and equipment provided for the Project will be of good quality and new unless otherwise required or permitted by the Construction Documents; that the construction will be free from faults and defects; and that the construction will conform to the requirements of the Construction Documents. Contractor shall be responsible for correcting all items that do not comply with the Construction Documents at its sole expense without cost to City.

8.13 In accordance with the UGC's provisions regarding record documents and City's Specifications, Contractor shall maintain and deliver the required documents that describe changes or deviations from the Construction Documents that occurred during construction and that reflect the actual "Record Drawings" of the completed Work.

8.14 The Architect/Engineer, and his related consultants, shall inspect the Project site at intervals appropriate to the type and stage of construction progress and as otherwise required by this Agreement to observe the progress and quality of the Work and to determine in general if the Work is proceeding in accordance with the Contract Documents. On the basis of such onsite observations, the Architect/Engineer shall observe the progress and quality of the Work, and shall endeavor to guard the City against defects and deficiencies in the Work.

8.15 In addition to site visits for general observation, the Architect/Engineer shall visit the site for specific purposes related to certification of progress payments, start-up or mock-up reviews for significant work activities and for formal inspections of the Work. The Architect/Engineer shall provide written reports of all site visits to the City and the Contractor within three business days following the visit.

8.16 The Architect/Engineer's certification of Contractor's Estimate for Partial Payment for Construction Phase Services shall constitute a representation by the Architect/Engineer to the City, based on the Architect/Engineer's observations at the site as provided in this Agreement and on the data comprising the Contractor's Estimate for Partial Payment that the Work has progressed

to the point indicated; that, to the best of the Architect/Engineer's knowledge, information and belief, the quality of the work is in accordance with the Contract Documents. However, the certification of a Contractor's Estimate for Partial Payment shall not be a representation that the Architect/Engineer has made any examination to ascertain how and for what purpose the Contractor has used the moneys paid on account of the Contract Sum.

8.17 The Architect/Engineer, with the approval of the City, shall interpret the technical requirements of the Contract Documents. The Project Architect shall render interpretations necessary for the proper execution or progress of the Work with reasonable promptness on written request of either the City or the Contractor, and shall render written recommendations to the City within a reasonable time on matters relating to the execution or progress of the Work or the interpretation of the Contract Documents.

8.18 The Architect/Engineer shall provide consultation for the purpose of clarification and interpretation of the intent and scope of the Construction Documents. Architect/Engineer's interpretations and recommendations shall be consistent with the intent of and reasonably inferable from the Contract Documents. Architect/Engineer's interpretations shall be made in written and/or graphic form including, if necessary or appropriate, supplemental documents to amplify or clarify portions of the Construction Documents.

8.19 The Architect/Engineer shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for conformance with the design concept of the Work set forth in the Contract Documents, and shall respond to Contractor's inquiries and questions and provide such supplemental information as appropriate. One copy of each submittal, Shop Drawing, Product Data, etc., shall be provided to the City.

8.20 Architect/Engineer shall provide assistance in the review of the Contractor's requests for change orders or claims for additional time or costs, and make recommendations to City as to such requests or claims. The Architect/Engineer shall prepare revised Contract Drawings, where appropriate, to illustrate and document the work required by the change.

8.21 All proposed changes to drawings, plans and specifications, regardless of how initiated, shall be fully described in the document depicting them as to scope of work added, removed, or changed. The revised Construction Documents shall be derived from revised model(s). Such revisions shall be clearly indicated and a current revision date shall be included. Changes to the specifications shall be made by consecutively numbered and dated revision addenda. All changes to design documents or specifications will be identified by date of change, revision number and other customary identification references. Areas changed on drawings will be "clouded" to show each change. Clouds designating previous changes will be removed so that only the most recent changes will be clouded.

8.22 The Architect/Engineer shall participate in concealed space inspections (in-wall and above ceiling), systems start-up inspections, Substantial Completion and Pre-Final Inspections to determine the Dates of Substantial Completion, and Final Completion. The Architect/Engineer shall also participate in the City's final walk thru inspection one year after Final Completion. In association with each observation, Architect/Engineer and its consultants shall prepare a list of

items that Architect/Engineer, its consultants and City have observed as deficiencies in the Work, requiring remedial work or replacement. The Architect/Engineer shall assemble, transcribe and distribute the official punch list(s) to all affected parties, and thereafter review the corrected and/or replaced work and assist in verification of correction of all items.

8.23 The Architect/Engineer shall review, for conformance with the Contract Documents, Contractor's submission of guarantees and warranties.

8.24 The Architect/Engineer shall assist the City in checking record prints during the course of the Work in association with certifying progress payments and shall review final as-built documents for completeness and compliance with Contract requirements.

8.25 Architect/Engineer throughout construction shall maintain and keep current the model(s) and construction documents by incorporating all Addenda, RFIs, ASIs, Change Orders and any modifications recorded by the Contractor on the Record Drawings and Specifications maintained at the job site. The Architect/Engineer shall label the revised drawings and specifications as "Record Drawings" and "Record Specifications" and shall deliver copies to the City for record purposes, as follows:

- Specifications: Provide two (2) electronic sets of fully conformed Record Specifications incorporating all changes on disc type media or portable drive in PDF and MS Word format.
- Drawings: Provide two (2) electronic sets of Record Drawings incorporating all changes on disc type media or portable drive in DWG (references attached) and PDF format.
- Model(s): Provide two (2) electronic sets of all models incorporating all changes on disc type media or portable drive in native and IFC file format.
- Label all media indicating the project name and project number as well as an index file listing the contents on the media.
- All electronic documents shall be named in a manner that is acceptable to the City.

8.26 The Contractor shall prepare and administer the construction punch list until all punch list items have been resolved to the City's satisfaction.

8.27 The Architect/Engineer shall review Contractor's submission of operating and maintenance instructions, and all manuals, brochures, drawings, and other close-out documentation including warranty information furnished by the Contractor for conformance with the requirements of the Construction Documents.

ARTICLE 9 CONSTRUCTION PHASE FEE

Contractor's Construction Phase Fee is the maximum amount payable to Contractor for any cost or profit expectation incurred in the performance of the Work that is not specifically identified

as being eligible for reimbursement by City elsewhere in this Agreement. References in the Uniform General and Supplementary Conditions (UGC) to Contractor's "overhead" and "profit" mean Contractor's Construction Phase Fee. The Construction Phase Fee includes, but is not limited to, the following items:

9.1 All profit, profit expectations and costs associated with profit sharing plans such as personnel bonuses, incentives, and rewards; company stock options; or any other like expenses of Contractor.

9.2 Salaries of Contractor's officers, project manager(s), estimators, schedulers and all other employees not stationed at the Project site and performing services directly related to the Project.

9.3 Any and all overhead, labor or general expenses of any kind unless specifically allowed under General Conditions. These costs include, but are limited to: costs for the purchase, lease, rental of or allowance for vehicles and their maintenance, radios/communication equipment, jobsite computers, software and other costs associated with the use of software programs, and specialized telephone systems, including cellular/digital phones, smartphones and PDA's; trade or professional association dues; cost for hiring and/or relocation of any of Contractor's personnel; and travel, per diem and subsistence expense of Contractor, its officers or employees except as specifically allowed under the General Conditions.

9.4 Any financial costs incurred by Contractor including the cost of capital or interest on capital, regardless of whether it is related to the Project, and costs associated with construction warranty reserves.

9.5 Any legal, accounting, professional or other similar costs incurred by Contractor, including costs incurred in connection with the prosecution or defense of any dispute, mediation, arbitration, litigation or other such proceeding related to or arising from the Project.

9.6 Any Federal and/or State income and franchise taxes paid by Contractor. Any fines, penalties, sanctions or other levies assessed by any governmental body against Contractor.

9.7 Any cost arising out of a breach of this Agreement or the fault, failure or negligence of Contractor, its Subcontractors, or any person or entity for whom they may be liable. These costs include, without limitation: costs to remedy defective, rejected, or nonconforming work, materials or equipment; costs due to failure to coordinate the Work or meet WPS milestones; costs arising from Contractor's contractual indemnification obligations; liquidated or actual damages imposed by City or City for failure to complete the Work within the Contract Time; costs due to the bankruptcy or insolvency of any Subcontractor; and damage or losses to persons or property.

9.8 The cost of any and all insurance deductibles payable by Contractor, but only in such cases where the contractor's actions or negligence gave rise to the claim, and costs due to the failure of Contractor or any Subcontractor to procure and maintain insurance as and to the extent required by this Agreement. In circumstances where the contractor or its subcontractor's actions or negligence were not the causes of the claim, then the deductible becomes a part of the allowable cost of work.

- 9.9 Any and all costs that would cause the Guaranteed Maximum Price to be exceeded.
- 9.10 Any and all costs not specifically identified as an element of the Direct Construction Cost.

ARTICLE 10 PAYMENTS

10.1 **General Requirements** Contractor acknowledges and agrees that a condition precedent to City's payment of compensation to Contractor is authorization from City to remit payment to Contractor.

10.1.1 Each Schedule of Values submitted with an Application for Payment shall include the originally established value for each work classification line item or subcontract and shall identify any revisions to the costs or cost estimates for each work classification or subcontract. The format and tracking method of the original Schedule of Values and of all updates shall be subject to approval by City. At all times, the estimated cost of performing the uncompleted and unpaid portion of the Work, including Contractor's overhead and profit, shall not exceed the unpaid balance of the GMP less the retainage held by City on Work previously completed.

10.1.2 Expenses of transportation and overnight living expenses in connection with City approved out-of-state travel shall be identified separately in each Application for Payment. All travel must be approved in writing and in advance by City to be eligible for payment.

10.1.3 Expenses specifically excluded from reimbursement include telephone charges, FAX services, alcoholic beverages, laundry service, valet service, entertainment expenses and any non-Project related items. Tips are included in the per diem rates.

10.1.4 Retainage, as specified in the UGC Paragraph 9.3.2 will be withheld from the entire amount approved in an Application for Payment including the Cost of the Work, General Conditions, and Contractor's Construction Phase Fee. Retainage will not be withheld from payments for Pre-Construction Phase Services.

10.1.5 City is a political sub-division of the State of Texas and materials and services utilized in the construction of the Project may be exempted from state and local taxes. Contractor is responsible for taking full advantage of all tax exemptions applicable to the Project. City will deduct from the Applications for Payment and from the Request for Final Payment any taxes paid for materials or services that were entitled to tax exemption.

10.1.6 This Agreement is subject to the assessment of liquidated damages against Contractor as set forth in Exhibit "A" attached to this Agreement. Amounts assessed as liquidated damages, and other amounts to which City or City is entitled by way of setoff or recovery, may be deducted from any moneys due Contractor.

10.1.7 City shall have the right to withhold from payments due Contractor such sums

as are necessary to protect City or City against any loss or damage which may result from negligence by Contractor or any Subcontractor or failure of Contractor or any Subcontractor to perform their obligations under this Agreement.

10.1.8 Notwithstanding any other contractual provision to the contrary, City shall not be obligated to make any payment to Contractor under any of the following circumstances:

10.1.8.1 Contractor persistently fails to perform the Work in accordance with the Contract Documents or is otherwise in material breach or default under this Agreement;

10.1.8.2 The payment request includes services that are not performed in accordance with the Construction Documents; provided, however, City shall pay for those services performed in accordance with the Construction Documents;

10.1.8.3 The payment request has insufficient documentation to support the amount of payment requested for Project costs; provided, however, City shall pay for allowable Project costs for which there is sufficient documentation;

10.1.8.4 Contractor is in violation of the Prevailing Wage requirements or has failed to make payments promptly to Subcontractors or other third parties used in connection with any services or materials for which City has made payment to Contractor;

10.1.8.5 If City, in its good faith judgment, determines that the unpaid balance of the GMP, less retainage, is not sufficient to complete the Work in accordance with the Construction Documents;

10.1.8.6 Contractor has failed to complete the Work in accordance with the Work Progress Schedule requirements or if City, in its good faith judgment, determines that the remaining Work will not be completed within the agreed timeframe;

10.1.8.7 Contractor is insolvent, makes a general assignment for the benefit of its creditors or otherwise seeks protection under the laws and regulations of the bankruptcy courts; or

10.1.8.8 Contractor fails to obtain, maintain or renew insurance coverage as required by this Agreement.

10.1.9 No partial payment made by City shall constitute, or be construed to constitute, final acceptance or approval of the work to which the partial payment relates or of the documentation provided in support of the partial payment. No partial payment made by City shall constitute, or be construed to constitute, a release of Contractor from any of its obligations or liabilities with respect to the Project.

10.1.9.1 City shall have the right to verify and audit the details of Contractor's billings, certificates, accountings, cost data, and statements, either before or after payment, by (1) inspecting the books and records of Contractor during normal business hours; (2) examining any reports with respect to the Project; (3) interviewing Contractor's employees; (4) visiting the Project site; and (5) any other reasonable action. Contractor's records shall be kept on a basis generally accepted accounting principles.

10.2 Pre-Construction Phase Payments

10.2.1 Payments for Pre-Construction Phase Services shall be made monthly based on the percentage completion of the Contractor's required services for each stage of development of the Construction Documents and the procurement of Subcontractor bids/proposals in accordance with Exhibit "A," Fees, Costs and Other Contract Variables.

10.2.3 Refer to Article 5.9.7 "Reimbursable Services".

10.2.2 All payment requests for Pre-Construction Phase Services shall be sent to City's Project Manager.

10.3 Construction Phase Payments

10.3.1 Payments for Construction Phase Services shall be made as provided for in the UGC and City's Specifications. Payment for approved Change Orders shall be made as part of Contractor's Application for Payment.

10.3.1.1 Contractor's Construction Phase Fee shall be shown as a separate line item on the Schedule of Values. Payment of Contractor's Construction Phase Fee shall be made with each Application for Payment in the same proportion as the percentage completion of the Cost of the Work of the Project.

10.3.1.2 For General Conditions Costs, Contractor's Application for Payment shall be submitted on a Schedule of Values approved by the City and include complete copies of all receipts, invoices with check vouchers or other evidence of payment, payrolls, and any and all other evidence which City or its designated representatives shall deem necessary to support the amount requested. This information is subject to audit, and payment for these costs is dependent on City's receipt of accurate and complete records of all transactions. City may reduce the amount requested for General Conditions Costs in any Application for Payment if City, in its good faith judgment, determines that the unpaid balance of the General Conditions line item in the Schedule of Values is not sufficient to fund necessary General Conditions Costs for the remainder of the Project.

10.3.1.3 Pay requests for Subcontractor work included in an Application for Payment shall not exceed the percentage of Work allocated to that Subcontractor for each respective Schedule of Values work classification which has been

actually completed and shall not exceed the total value of the subcontract amount.

10.3.1.4 Contractor's Request for Final Payment shall not be made until all Work is completed and all requirements of the Contract Documents have been satisfied including, without limitation: delivery to City and City of a complete release of all liens and claims arising out of the Work; written consent of the surety to release of final payment; and an affidavit that, to the best of Contractor's information, knowledge and belief, the release includes and covers all materials and services over which Contractor has control and for which a lien could be filed and that all known debts and claims arising from the Project have been satisfied. Alternatively, Contractor may, at its sole expense, furnish a bond satisfactory to City to indemnify City against any lien arising out of the Work. If any lien is asserted against City after all payments are made, Contractor shall reimburse City for all damages and costs City or City may incur in discharging such lien, including all court costs and reasonable attorneys' fees, and City or City shall retain all other remedies available to it at law and in equity.

10.3.1.5 City shall have no obligation to make Final Payment until a complete and final accounting of all the Direct Construction Cost has been submitted by Contractor and has been audited and verified by City or City's.

10.3.1.6 Nothing contained herein shall require City to pay Contractor an aggregate amount for Construction Phase Services that exceeds the Guaranteed Maximum Price or to make any payment if, in City's belief, the cost to complete the Work would exceed the Guaranteed Maximum Price less previous payments to Contractor. The total amount of all Construction Phase payments to Contractor shall not exceed the actual verified Direct Construction Cost for the Project plus Contractor's Construction Phase Fee.

10.3.1.7 The acceptance by Contractor or Contractor's successors of Final Payment under this Agreement, shall constitute a full and complete release of City and City from any and all claims, demands, and causes of action whatsoever that Contractor, its Subcontractors, suppliers and consultants or any of their successors or assigns have or may have against City and City arising from the Project or any provision(s) of this Agreement except for those previously made in writing and identified by Contractor as unsettled at the time of the Request for Final Payment.

ARTICLE 11 DIRECT CONSTRUCTION COST

Direct Construction Cost means the sum of the amounts that Contractor actually and necessarily incurs constructing the Project in strict compliance with the Construction Documents. Direct Construction Cost includes only the cost categories set forth in this Article and does not include the Pre-Construction Phase Fees or the Construction Phase Fees unless specifically noted.

References in the UGC to adjustments in “cost” or “costs” mean the Direct Construction Cost.

11.1 General Conditions Costs

Contractor is entitled to receive payment for the actual cost of the allowable General Conditions items incurred after receipt of a Notice to Proceed with Construction from City through Substantial Completion of the Project, plus 30 calendar days. Contractor is not entitled to reimbursement for General Conditions Costs incurred before receipt of the Notice to Proceed. General Conditions Costs incurred after Substantial Completion, plus 30 calendar days, must be approved in advance by City.

Allowable General Conditions items are identified below and in Exhibit “D” attached to this Agreement. These items shall be included in the General Conditions Cost amount shown as a line item in the Guaranteed Maximum Price Proposal and as detailed on the Schedule of Values. Items not specifically included below or in Exhibit “D” will not be allowed as General Condition Costs.

11.1.1 Personnel Costs. The actual Worker Wage Rate for Contractor’s hourly employees and the agreed upon Monthly Salary Rate listed in Exhibit G of Contractor’s salaried personnel who are identified to City in advance and in writing but only for the time they are working on the Project with City’s prior consent.

11.1.2 Costs of long-distance telephone calls, telegrams, postage, package delivery and courier service, internet and telephone service located on the job site, and reasonable expenses of Contractor’s jobsite office if incurred at the Project site and directly and solely in support of the Work.

11.1.3 Costs of materials, supplies, temporary facilities, equipment, and hand tools (except those customarily owned by construction workers), supplied to the Project site by Contractor, if such items are fully consumed in the construction of the Work and are included in the list of allowable General Condition line items. Cost for used items shall be based on fair market value and may include transportation, installation, and minor maintenance costs, and removal costs. If an item is not fully consumed in the construction of the Work, its cost shall be based on actual cost of the item less its fair market salvage value.

11.1.4 Rental charges for temporary facilities, equipment, and hand tools (except those customarily owned by construction workers), supplied to the Project site by Contractor, provided they are included in the list of allowable General Condition line items Rental rates may include transportation, installation, and minor maintenance costs, and removal costs. For tools, machinery or construction equipment rented directly from Contractor, the rental rate, including freight and delivery costs and all operating expenses except labor, shall be approved in advance by City.

11.1.5 The aggregate rental cost of any item charged to City shall not exceed ninety percent (90%) of the purchase price and maintenance cost of the item. If the anticipated aggregate rental cost for an item of equipment exceeds ninety percent (90%) of the

purchase and maintenance price, Contractor shall purchase the equipment and turn it over to City or City upon Final Completion of the Work.

11.1.6 Permit and inspection fees that are not subject to exemption.

11.1.7 Premiums and deductibles for insurance and bonds to the extent directly attributable to this Project.

11.1.8 Governmental sales and use taxes directly attributable to the General Conditions Items that are not subject to exemption. Taxes paid on materials or services that were entitled to tax exemption will not be reimbursed by City as Direct Construction Costs.

11.2 Cost of the Work

Contractor is entitled to receive payment for the actual cost of the allowable Cost of the Work items incurred after receipt of City's written authorization to commence the Construction Phase Work through Final Completion of the Project. Contractor is not entitled to reimbursement for Cost of the Work costs incurred before receipt of City's written authorization. Cost of the Work includes the following:

11.2.1 Costs of materials and equipment purchased directly by Contractor and incorporated into or consumed in the performance of the Work, including transportation charges, and a reasonable and customary allowance for waste and spoilage. Payment for stored materials is subject to the UGC.

11.2.2 Costs of site debris removal and disposal in accordance with all applicable laws and regulations if not otherwise specifically provided for under the General Conditions Costs.

11.2.3 Payments made to Subcontractors and their vendors or suppliers by Contractor for the subcontract work in accordance with the Construction Documents and the requirements of the subcontracts with the Subcontractors, vendors or suppliers.

11.2.4 Payments earned by Contractor for self-performed subcontract work, other than General Conditions work, in accordance with the Construction Documents and the terms of this Agreement and approved by City.

11.2.5 Testing fees borne by Contractor pursuant to the UGC.

11.2.6 Intellectual property royalties and licenses for items specifically required by the Construction Documents which are, or will be, incorporated into the Work.

11.3 Contractor's Contingency

11.3.1 The Guaranteed Maximum Price Proposal shall include a Contractor's Contingency amount to be used to fund increases in the Direct Construction Cost of the

Project identified through the refinement, development and completion of the Construction Documents or procurement of the Work.

11.3.2 Any re-allocation of funds from Contractor's Contingency to cover increases in the Direct Construction Cost must be approved by City in advance and in writing, such approval not to be unreasonably withheld. In written requests to use Contractor's Contingency, Contractor shall provide detailed documentation of the scope of work affected and the bases for any increases in costs.

11.3.3 Contractor's Contingency is specifically not to be used for Contractor rework, cost increases caused by lack of coordination or communication with A/E or trade Subcontractors.

11.3.4 As the Construction Documents are finalized and the buyout of the Work progresses, Contractor's Contingency amount shall be reduced by mutual agreement of City and Contractor. Any balance in Contractor's Contingency fund remaining at the end of the Project shall be returned to City as savings.

ARTICLE 12 CONTRACT SAVINGS, REBATES & REFUNDS

12.1 If the allowable amount of the General Conditions Costs, Cost of the Work, and Contractor's Contingency is less than the amount established for each of those categories in the originally approved Guaranteed Maximum Price Proposal, the entire difference shall be credited to City as savings, and the final Contract Sum shall be adjusted accordingly. When buyout of the Project is at least 85% complete, City may recognize any savings achieved to that point by issuing a deductive change order for the saved amount.

12.2 City shall be entitled to deduct amounts for the following items from any Application for Payment or from the Request for Final Payment submitted by Contractor:

12.2.1 The fair market value of all tools, surplus materials, construction equipment, and temporary structures that were charged to the Work (other than rental items) but were not consumed during construction or retained by City. Upon completion of the Work or when no longer required, Contractor shall either credit City for the fair market value (as approved by City) for all surplus tools, construction equipment and materials retained by Contractor or, at City's option, use commercially reasonable efforts to sell the surplus tools, construction equipment and materials for the highest available price and credit the proceeds to City's account.

12.2.2 Discounts earned by Contractor through advance or prompt payments funded by City. Contractor shall obtain all possible trade and time discounts on bills for material furnished, and shall pay bills within the highest discount periods. Likewise, late payment fees on any vendor invoice shall not be charged to the City. Contractor shall purchase materials for the Project in quantities that provide the most advantageous prices to City.

12.2.3 Rebates, discounts, or commissions obtained by Contractor from material suppliers or Subcontractors, together with all other refunds, returns, or credits received for materials, and sales taxes.

12.2.4 Deposits made by City and forfeited due to the fault of Contractor.

12.2.5 Balances remaining on Contractor's Contingency or any other identified contract savings. City shall be entitled to recover any net savings realized between the GMP and the buyout price for subcontracting work once the buyout is complete. During the buyout Contractor may use savings from one procurement effort to offset overages in other procurement efforts, so long as the total Cost of the Work proposed in the GMP does not increase.

12.3 City shall be entitled to recognize and recover 100% of any savings identified by cost review or audit at any time, before or after Final Payment, including profit and overhead.

ARTICLE 13 OWNERSHIP AND USE OF DOCUMENTS

13.1 Drawings, Specifications and other documents, including those in electronic form, prepared by Architect/Engineer, its Consultants or other Consultants retained by City for the Project, which describe the Work to be executed by Contractor (collectively referred to as the "Construction Documents") are and shall remain the property of City, whether the Project for which they are made is executed or not.

13.2 Contractor shall be permitted to retain one record set. Neither Contractor nor any Subcontractor, sub-Subcontractor or material or equipment supplier shall own or claim a copyright in the Drawings, Specifications and other documents prepared by Architect/Engineer or its Consultants. All copies of Construction Documents, except Contractor's record set, shall be returned or suitably accounted for to Architect/Engineer on request and upon completion of the Work. The Drawings, Specifications and other documents prepared by Architect/Engineer and its Consultants, along with copies thereof furnished to Contractor, are for use solely with respect to this Project. The drawings, Specifications or other documents are not to be used by Contractor or any 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 City. Any such use without written authorization shall be at the sole risk and liability of Contractor. Contractor, 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/Engineer and its Consultants appropriate to and for use in the execution of their Work under the Contract Documents. All copies made under this authorization shall bear the statutory copyright notice, if any, shown on the Drawings, Specifications and other documents prepared by Architect/Engineer and its 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.

ARTICLE 14 TIME

14.1 TIME LIMITS STATED ARE OF THE ESSENCE OF THIS AGREEMENT AND THE OTHER CONTRACT DOCUMENTS.

14.2 Unless otherwise approved, City and Contractor shall perform their respective obligations under this Agreement as expeditiously as is consistent with reasonable skill and care and the orderly progress of the Work.

14.3 Prior to commencement of the Construction Phase Services and concurrently with submission of the Guaranteed Maximum Price Proposal, Contractor shall submit an up-to-date WPS for the performance of Construction Phase Services as specified. The WPS shall include reasonable periods of time for City's and A/E's review and approval of shop drawings and submissions and for the approval of other authorities having jurisdiction over the Project.

14.4 Contractor shall achieve Substantial Completion of the Work on or before the date agreed to in the GMP Proposal, subject to time extensions granted by Change Order.

14.5 THE TIMES SET FORTH FOR COMPLETION OF THE WORK IN THE NOTICE TO PROCEED AND THE GMP PROPOSAL ARE ESSENTIAL ELEMENTS OF THIS AGREEMENT.

14.6 The Construction Phase shall be deemed to commence on the date specified in a written Notice to Proceed issued by City after approval of the Guaranteed Maximum Price Proposal.

14.7 Fast Track/Multiple Completion Times. City may elect, at its option, to stage or "fast-track" portions of the Work. In such event, City, in its sole discretion, may issue a separate written Notice to Proceed or written Change Order for each such stage. Each such stage, at City's sole option, may have a separate substantial completion date and a separate liquidated damages amount. If City elects to "fast-track" or develop the Project in multiple stages, Contractor shall organize and perform its services as appropriate to each stage. Each stage of the Project may have a unique schedule for completion and a specific AACC, at City's discretion.

14.8 **Force Majeure.** Time is of the essence in the performance of this Agreement. However, neither Party is liable for reasonable delays in performing its obligations under this Agreement to the extent the delay is caused by Force Majeure, defined as acts of God, wars, acts of terrorism, floods, fires, natural catastrophes, acts of government, epidemics, pandemics, or public health crisis (whether arising from existing or unknown pathogens or contagions), that directly impacts the City or Contractor. An event of Force Majeure shall extend the period of performance until after the causes of delay or failure have been removed, provided the non-performing party does the following: (a) Informs the other party in writing within three (3) business days of the existence of such event of Force Majeure; its anticipated effect, and estimated time of suspension of performance; and (b) Uses due diligence to remove the effects of the Force Majeure as quickly as possible, and exercises all reasonable due diligence to continue performance notwithstanding the Force Majeure. The term Force Majeure does not include any changes in general economic conditions such as inflation; interest rates; economic downturn or other factors of general

application; or an event that merely makes performance more difficult, expensive, or impractical. Contractor is not relieved from performing its obligations under this Agreement due to a strike or work slowdown of its employees. Contractor shall employ only fully trained and qualified personnel during a strike.

ARTICLE 15 PROJECT TERMINATION AND SUSPENSION

15.1 City may terminate, in whole or in part, this Agreement (i) immediately upon written notice if Contractor does not cure any material breach within the cure period identified in the written notice thereof from City or (ii) immediately upon written notice for any non-curable material breach. City may cancel this Agreement for any reason by providing Contractor thirty (30) days prior written notice of its intent to terminate the Agreement. In the event of termination by either party, written notice of termination will be sent to the other party by certified mail with return receipt to the address in Exhibit "A" below. Notice of termination must include date of notice, termination effective date, and cure period (if applicable).

15.2 This Agreement may be terminated by City during the Pre-Construction Phase upon at least three (3) business days written notice to Contractor in the event that the Project is to be temporarily or permanently abandoned.

15.3 This Agreement may be terminated by City at the GMP Proposal stage upon at least three (3) business days written notice to Contractor in the event that the parties are unable or unwilling to agree on a GMP Proposal.

15.4 In the event of termination that is not the fault of Contractor, Contractor shall be entitled to compensation for all services performed to the termination date provided Contractor has delivered to City such statements, accounts, all reports, documents and other materials as required by City together with all reports, documents and other materials prepared by Contractor prior to termination. Upon such payment, City and City shall have no further obligation to Contractor.

15.5 Termination of this Agreement shall not relieve Contractor or any of its employees, Subcontractors, or consultants of liability for violations of this Agreement or for any act or omission, or negligence, of Contractor related to the Project. In the event of a termination, Contractor expressly acknowledges the right of City and City to employ a substitute contractor to complete the services under this Agreement.

15.6 In the event of termination, City shall have the right to use any documents or other materials prepared for the Project and the ideas and designs they contain for the completion of the services described by this Agreement, for completion of the Project, or for any other purpose.

15.7 If the Project is suspended or abandoned in whole or in part for more than ninety (90) consecutive days during the Pre-Construction Phase, Contractor shall be compensated for all services performed prior to receipt of written notice from City of such suspension or abandonment. If the

Project is resumed after being suspended for more than ninety (90) consecutive days, Contractor's compensation for Pre-Construction Services shall be equitably adjusted if, in City's reasonable opinion, such adjustment is warranted.

ARTICLE 16
PRE-EXISTING CONDITIONS & DESIGN ERRORS AND OMISSIONS

16.1 Contractor acknowledges (see Acknowledgement Form in Exhibit "C", Supplementary General Conditions and Special Provisions SP- 2) that it has been provided unrestricted access to the existing improvements and conditions on the Project site and that it has thoroughly investigated those conditions. Contractor's investigation will be instrumental in preparing its Guaranteed Maximum Price Proposal for the Work. Contractor shall not make or be entitled to any claim for any adjustment to the Contract Time or the Contract Sum for Pre-Construction Phase Services or for Construction Phase Services arising from Project conditions that Contractor discovered or, in the exercise of reasonable care, should have discovered in Contractor's investigation.

16.2 Contractor acknowledges that as part of its Pre-Construction Phase Services it shall participate in the development and review of the Construction Documents. Contractor's participation in the design development process will be instrumental in preparing its Guaranteed Maximum Price Proposal for the Work. Before submitting its Guaranteed Maximum Price Proposal, the Contractor shall review the drawings, specifications and other Construction Documents and notify City of any errors, omissions or discrepancies in the documents of which it is aware. Contractor shall not make or be entitled to any claim for any adjustment to the Contract Time or the Contract Sum for errors or omissions in the Construction Documents that Contractor discovered or, in the exercise of reasonable care, should have discovered in Contractor's Pre-Construction Phase design review process that Contractor did not bring to the attention of City and A/E in a timely manner.

ARTICLE 17
BONDS AND INSURANCE

17.1 Upon execution of this Agreement, Contractor shall provide a security bond on the form attached as Exhibit "F" in the amount of 5% of the AACC. The surety for a security bond shall meet the same requirements as set forth for payment and performance bonds.

17.2 The Contractor may require Subcontractors to provide a Performance Bond and Labor & Materials Payment Bond (or use of an alternate insurance in lieu of bonding such as Subcontractor Default Insurance, SDI), each in the amount payable under the Subcontract, from a surety company authorized to do business in the State of Texas. The Contractor may utilize SDI as an alternative surety program. SDI is considered cost of the work reimbursed at a fixed rate of 1.50% of the subcontract value for enrolled subcontractors. If a Subcontractor doesn't qualify for a Bond or SDI, contractor reserves the right to go to the next responsible qualified bidder.

17.3 Any premium adjustments on any of the Contractor provided insurance shall be the sole liability or benefit of the Contractor. City shall have no obligation for payment of deductibles,

self-insurance retentions, retrospective rating adjustments of any of the general liability insurance provided by the Contractor.

17.4 Upon acceptance by City of a Guaranteed Maximum Price Proposal, Contractor shall provide performance and payment bonds on forms prescribed by City and in accordance with the requirements set forth in the UGC. The penal sum of the payment and performance bonds shall be equal to the GMP. If construction is phased or staged with different Guaranteed Maximum Prices established at different times, the penal sum of the bonds shall be increased at the start of each stage or phase based on the cumulative total value of all Guaranteed Maximum Prices in effect.

17.5 Contractor shall not commence work under this Agreement until it has obtained all required insurance and until evidence of the required insurance has been reviewed and approved by City. The required insurance shall include coverage for City's property in the care, custody and control of Contractor prior to construction, during construction and during the warranty period. The insurance shall be evidenced by delivery to City of certificates of insurance executed by the insurer or its authorized agent stating coverages, limits, expiration dates and compliance with all applicable required provisions prior to the start of the Project Work. Upon request, City, and/or its agents, shall be entitled to receive without expense, copies of the policies and all endorsements. The Contractor shall update all expired policies prior to submission for monthly payment and during the contract warranty period. Failure to update policies shall be reason for withholding of payment until renewal is provided to City. City's review of the insurance shall not relieve nor decrease the liability of the Contractor. Failure to maintain insurance coverage, as required, is grounds for Suspension of Work for Cause pursuant to Article 13 of the UGC. The Contractor will be notified of the date on which the Builder's Risk insurance policy may be terminated through Substantial Completion (defined in the UGC) notices, acceptance notices and/or other means as deemed appropriate by City. Prior to commencing any work under this Agreement, Contractor shall provide evidence of the following insurance coverages written on an occurrence basis by companies authorized and admitted to do business in the State of Texas and rated A- or better by A.M. Best Company or otherwise acceptable to City:

17.3.1 Worker's Compensation. Workers' Compensation Insurance with limits as required by the Texas Workers' Compensation Act, with the policy endorsed to provide a waiver of subrogation as to the City and Employer's Liability insurance of not less than:

\$2,000,000 each accident
\$2,000,000 disease each employee
\$2,000,000 disease policy limit

Workers' Compensation Insurance Coverage must meet the statutory requirements of Tex. Lab. Code, §401.011(44), and those specific to construction projects for public entities as required by Tex. Lab. Code, §406.096.

17.3.2 General Liability Coverage. Commercial General Liability Insurance, including Independent Contractor's liability, Products and Completed Operations and Contractual Liability, covering, but not limited to, the liability assumed under the indemnification provisions of the Contract Documents, fully insuring Contractor's (or

subcontractors) liability for bodily injury and property damage with a combined bodily injury (including death) and property damage minimum limit of:

- \$1,000,000 per occurrence
- \$10,000,000 general aggregate
- \$1,000,000 products and completed operations
- \$1,000,000 personal and advertising injury
- \$1,000,000 damage to premises

\$50,000 Damage to Premises Rented to You; and

Coverage shall be on an "occurrence" basis.

The policy shall include coverage extended to apply to completed operations and explosion, collapse, and underground hazards. The policy shall include endorsement CG2503 Amendment-Aggregate Limits of Insurance (Per Project) or its equivalent.

If the Work involves any activates within fifty (50) feet of any railroad, railroad protective insurance as may be required by the affected railroad, written for not less than the limits required by such railroad.

17.3.3 Asbestos Coverage. Asbestos Abatement Liability Insurance, including coverage for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos containing materials. *This requirement applies if the Project Work includes asbestos containing materials.

The combined single limit for bodily injury and property damage will be a minimum of \$1,000,000 per occurrence or each claim if on a claims-made basis. Coverage may be evidenced through either professional liability or pollution liability.

*Specific Requirement for Claims-Made Form: Required period of coverage will be determined by the following formula: Continuous coverage for life of the JOW, plus years (to provide coverage for the warranty period), and an extended discovery period for a minimum of five (5) years which shall begin at the end of the warranty period.

Employer's liability limits for asbestos abatement will be:

- \$500,000 each accident;
- \$500,000 disease each employee; and
- \$500,000 disease policy limit.

If this Agreement is for asbestos abatement only, the All-Risk Builder's Risk or All- Risk Installation Floater (17.3.3) is not required.

17.3.4 Automobile Coverage. Comprehensive Automobile Liability Insurance, covering owned, hired, and non-owned vehicles, with a combined bodily injury (including death) and property damage minimum limit of \$5,000,000 each claim. No

aggregate shall be permitted for this type of coverage. Such insurance is to include coverage for loading and unloading hazards.

17.3.5 **Builder's Risk Coverage.** All Risk Builder's Risk Insurance (or All Risk Installation Floater for instances in which the work involves solely the installation of equipment). Coverage shall be All-Risk, including, but not limited to, Fire, Extended Coverage, Vandalism and Malicious Mischief, Flood, Earthquake, Theft and damage resulting from faulty workmanship, design or materials. If Builder's Risk, limit shall be equal to the greater of (x) 100 percent of this Agreement Project Work or (y) ten million dollars (\$10,000,000.00). If applicable, installation floater, limit shall be equal to 100 percent of the Project Work contract sum. The policy shall be written jointly in the names of the City, City, the Contractor, and subcontractors shall be named as additional insured. The policy shall have endorsements as follows:

17.3.5.1 This insurance shall be primary as to coverage and not contributing insurance with any permanent insurance maintained on the property.

17.3.5.2 This insurance shall not contain an occupancy clause suspending or reducing coverage should the City occupy, or begin beneficial occupancy before the City has accepted final completion.

17.3.5.3 Loss, if any, shall be adjusted with and made payable to the City as Trustee for the insureds as their interests may appear; the right of subrogation under the Builder's Risk policy shall be waived as to the City. The City shall be named as Loss Payee. For renovation projects or projects that involve portions of work contained within an existing structure, refer elsewhere in the SC for possible additional Builder's Risk insurance requirements.

17.3.5.4 For City furnished equipment or materials that will be in the care, custody or control of Contractor, Contractor will be responsible for damage and loss.

17.3.6 **Umbrella Coverage.** "Umbrella" Liability Insurance. The Contractor shall obtain, pay for and maintain umbrella liability insurance, during the contract term, insuring the Contractor (or subcontractor) for an amount specified in this Agreement, but not less than \$10,000,000 per occurrence aggregate, that provides coverage at least as broad as and applies in excess and follows form of the primary liability coverages required hereinabove. The policy shall provide "drop down" coverage where underlying primary insurance coverage limits are insufficient or exhausted.

17.3.7 **Crime Coverage.** Commercial Crime Insurance with minimum limit of \$500,000 per occurrence with third party coverage.

17.3.8 **Professional Liability** to include coverage for Architects and Engineers, if applicable, Architects and Engineers Professional Insurance with minimum limits of

\$2,000,000 in the aggregate and \$1,000,000 each claim.

17.3.9 Policies must include the following clauses, as applicable:

17.3.9.1 This insurance shall not be canceled, materially changed, or non-renewed until after thirty (30) days prior written notice has been given to City.

17.3.9.2 It is agreed that the Contractor's insurance shall be deemed primary with respect to any insurance or self-insurance carried by the City for liability arising out of operations under the Contract Documents with the City.

17.3.9.3 The Comprehensive Automobile Liability, Commercial General Liability, professional, and pollution coverage insurance shall list the City, their respective officials, directors, employees, representatives, and volunteers as additional insureds as respects operations and activities of, or on behalf of the named insured performed under contract with the City. The additional insured status must cover completed operations as well.

17.3.9.4 The Workers' Compensation, Employers' Liability policy, Comprehensive Automobile Liability and Commercial General Liability insurance will provide a waiver of subrogation in favor of City.

17.3.10 Without limiting any of the other obligations or liabilities of the Contractor, the Contractor shall require each subcontractor performing Project Work under this Agreement, at the subcontractor's own expense, to maintain during the term of this Agreement, insurance as noted in Attachment H. Contractor may include its Subcontractors as additional insureds on its own coverage as prescribed under these requirements. Contractor's certificate of insurance shall note in such event that Subcontractors are included as additional insureds and that Contractor agrees to provide workers' compensation for Subcontractors and their employees. The Contractor shall obtain and monitor the certificates of insurance from each subcontractor in order to assure compliance with the insurance requirements. The Contractor must retain the certificates of insurance for the duration of this Agreement plus five (5) years and shall have the responsibility of enforcing these insurance requirements among its subcontractors. The City shall be entitled, upon request and without expense, to receive copies of these certificates.

By requiring such minimum insurance, City shall not be deemed or construed to have assessed the risk that may be applicable to Contractor under this Agreement. Contractor shall assess its own risks and if it deems appropriate and/or prudent, maintain higher limits and/or broader coverage. Contractor is not relieved of any liability or other obligations assumed pursuant to the Contract Documents by reason of its failure to obtain or maintain insurance in sufficient amounts, duration, or types.

The Construction Manager reserves the right to implement a Contractor's Controlled Insurance Program ("CCIP") covering Construction Manager's General Liability,

Worker's Compensation and Umbrella insurance obligations that meet the City's insurance requirements.

17.4 Contractor shall not cause or allow any of its required insurance to be canceled nor permit any insurance to lapse during the term of this Agreement. No policy will be canceled without unconditional written notice to City at least ten days before the effective date of the cancellation. If Contractor fails to obtain, maintain or renew any insurance required by this Agreement, City may obtain insurance coverage directly and recover the cost of that insurance from Contractor or deduct such cost of insurance from Contractor's fee.

17.5 City reserves the right to review the insurance requirements set forth in this Article during the effective period of this Agreement and to make reasonable adjustments to the insurance coverages and their limits when deemed necessary and prudent by City based upon changes in statutory law, court decisions, or the claims history of the industry in general and the claims history of Contractor.

City shall be entitled, upon request, and without expense, to receive complete copies of the policies with all endorsements and may make any reasonable requests for deletion, or revision or modification of particular policy terms, conditions, limitations, or exclusions, except where policy provisions are established by law or regulation binding upon the parties or the underwriter of any of such policies. Damages caused by Contractor and not covered by insurance shall be paid by Contractor upon demand, or, to the extent of unpaid fees, shall be deducted by City from Contractor's fee.

17.6 The cost of premiums for any additional insurance coverage desired by Contractor in excess of that required by this Agreement, the UGC or the other Contract Documents shall be borne solely by Contractor out of its fees and not included in the GMP Proposal as a Direct Construction Cost.

17.7 If the Guaranteed Maximum Price is increased by Change Orders by more than 5% the Contractor shall provide revised bonds and insurance that reflect the new project amount.

ARTICLE 18 DISPUTE RESOLUTION

18.1 **DISPUTES.** All Contractor claims for damages or additional compensation for alleged extra work, changed conditions or any other grounds, regardless of their nature, when they occur, or whether they occur during the design or construction phase shall be made in writing and in the same manner as provided in the Contract Documents. City will not be liable to the Contractor on account of any claim not timely or properly presented. Notwithstanding anything to the contrary contained herein, no interruption, cessation, postponement or delay in the cause whatsoever, including disputes, shall relieve the Contractor of its duty to timely perform, or give rise to any right to damages or additional compensation from City except to the extent resolution of the claim shall be reflected by a Change Order and/or a Supplemental Agreement in writing executed by City and Contractor in which a reimbursement is confirmed

by City with respect to the work performed by Contractor hereunder and the Contractor hereby expressly waives and releases any other or further right to damages or additional compensation.

18.1.1 In the event of any dispute under this Contract, the parties agree to work in good faith to resolve such disputes; provided, however, in the event a dispute remains unresolved after both parties engage in the resolution process, City's determination in regard to any dispute shall be final.

18.1.2 Nothing in the Contract Documents shall prevent or be construed as a waiver of a Party's right to seek redress on any disputed matter in a court of competent jurisdiction.

18.1.3 If applicable, nothing in the Contract Documents shall waive or be construed to waive the state's sovereign immunity.

18.1.4 Neither the occurrence of an event giving rise to a breach of contract claim nor the pendency of a claim constitute grounds for the suspension of performance by Contractor, in whole or in part. City and Contractor agree that any periods set forth in this Agreement for notice and cure of defaults are not waived, delayed, or suspended by this Paragraph 18.1.

ARTICLE 19 INDEMNITY

19.1 To the fullest extent permitted under state law, Contractor shall indemnify and save harmless City for any and all Losses (as defined below), of whatever nature and however caused, which results from or arises out of Contractor's or its officers, directors, shareholders, employees, agents, subcontractors, vendors, suppliers, representatives, affiliates, successors, assigns, or any person for whom Contractor is responsible for, (x) acts or omissions or (y) breach of Applicable Laws. "Loss(es)" includes any claim, including third party claims, liability, loss, demand, suit, cause of action, settlement payment, cost and expense (including reasonable attorney's fees and investigation expenses), interest, award, judgment, damages (including punitive damages), diminution in value, liens, fines, fees and penalties. In the event of any such Losses arising out of the Contract Documents, City shall have the right to withhold from any payments due or to become due to the Contractor an amount sufficient, in its sole discretion, to protect and indemnify it from any and all such Losses.

19.1.1 LIMITATION OF LIABILITY. CITY WILL NOT BE LIABLE TO CONTRACTOR, FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY, PUNITIVE OR SPECIAL DAMAGES, INCLUDING LOST PROFITS, REGARDLESS OF THE FORM OF THE ACTION OR THEORY OF RECOVERY, EVEN IF CITY HAS BEEN ADVISED OF THE POSSIBILITY OF THOSE DAMAGES.

19.2 Contractor shall protect and indemnify City from and against all claims, damages, judgments and losses arising from infringement or alleged infringement of any United States patent, or copyright that arise out of any of the work performed by Contractor or the use by Contractor, City

at the direction of Contractor, of any article or material. Upon becoming aware of a suit or threat of suit for patent or copyright infringement, City or City shall promptly notify Contractor and Contractor shall be given full opportunity to negotiate a settlement. Contractor does not warrant against infringement by reason of City's or A/E's design of articles or their use in combination with other materials or in the operation of any process. In the event of litigation, City agree to cooperate reasonably with Contractor and the parties shall be entitled, in connection with any such litigation, to be represented by counsel at their own expense.

19.3 The indemnities contained in this Agreement shall survive the termination of this Agreement for any reason whatsoever.

ARTICLE 20 SPECIAL WARRANTIES

20.1 Notwithstanding anything to the contrary contained in this Agreement, City and Contractor agree and acknowledge City is entering into this Agreement in reliance on Contractor's represented expertise and ability to provide construction management services. Contractor agrees to use its best efforts, skill, judgment, and abilities to perform its obligations and to further the interests of City in accordance with City's requirements and procedures.

20.2 Contractor represents and agrees that it will perform its services in accordance with the usual and customary standards of Contractor's profession or business and in compliance with all applicable, federal, state, and municipal, laws, regulations, codes, ordinances, or orders and with those of any other body having jurisdiction over the Project. Contractor agrees to bear the full cost of correcting Contractor's negligent or improper work and services, those of its consultants and Subcontractors, and any harm caused by the negligent or improper work or services.

20.3 Contractor's duties shall not be diminished by any approval by City nor shall Contractor be released from any liability by any approval by City, it being understood that City are ultimately relying upon Contractor's skill and knowledge in performing the services required hereunder.

20.4 Contractor represents and agrees that all persons connected with Contractor directly in charge of its services are duly registered and/or licensed under the laws, rules and regulations of any authority having jurisdiction over the Project if such registration and/or license is required.

20.5 Contractor represents and agrees to advise City of anything of any nature in any drawings, specifications, plans, sketches, instructions, information, requirements, procedures, and other data supplied to Contractor (by City or any other party) that is, in its opinion, unsuitable, improper, or inaccurate for the purposes for which the document or data is furnished.

20.6 Contractor represents and agrees to perform its services under this Agreement in an

expeditious and economical manner consistent with good business practices and the interests of City.

20.7 Contractor represents and agrees that there are no obligations, commitments, or impediments of any kind that will limit or prevent performance of its obligations under this Agreement.

20.8 Contractor represents and agrees that the individual executing this Agreement on behalf of Contractor has been duly authorized to act for and to bind Contractor to its terms.

20.9 Except for the obligation of City to pay Contractor certain fees, costs, and expenses pursuant to the terms of this Agreement, City shall have no liability to Contractor or to anyone claiming through or under Contractor by reason of the execution or performance of this Agreement. Notwithstanding any obligation or liability of City to Contractor, no present or future affiliate of City or any agent, officer, director, employee, of City, or under City has or shall have any personal liability to Contractor or to anyone claiming through or under Contractor by reason of the execution or performance of this Agreement.

20.10 Contractor represents and warrants the following: (i) Contractor has complied and will comply with all Applicable Laws in performing the Services described herein; (ii) Contractor's Services and deliverables do not currently and shall not infringe upon or violate any trademarks, copyrights, trade secrets, patents, contractual rights or other proprietary rights of any other party; (iii) Contractor has the capability, experience, certifications, financial stability and means required to perform the Services; and (iv) Contractor has procured any and all necessary permits, licenses and insurance coverage required to perform the Services under this Agreement.

ARTICLE 21

CERTIFICATION OF NO ASBESTOS CONTAINING MATERIALS OR WORK

21.1 Contractor shall provide a certification statement, included with each materials submittal, stating that no asbestos containing materials or work is included within the scope of the proposed submittal.

21.2 Contractor shall ensure that Texas Department of State Health Services licensed individuals, consultants or companies are used for any required asbestos work including asbestos inspection, asbestos abatement plans/specifications, asbestos abatement, asbestos project management and third-party asbestos monitoring.

21.3 Contractor shall provide at Substantial Completion, a certificate, or at City's election, a notarized affidavit to City and A/E stating that no asbestos containing materials or work was provided, installed, furnished or added to the Project.

21.4 Contractor shall take whatever measures it deems necessary to insure that all employees, suppliers, fabricators, materialmen, subcontractors, or their assigns, comply with this requirement.

21.5 A person is prohibited by law from installing Asbestos Containing Building Materials (ACBM) or ACBM replacement parts in a public building unless it is demonstrated that there is no alternative material or part (25 TAC §295.34(i)). All materials used on this Project shall be certified as non- ACBM. Contractor shall ensure compliance with the following acts from all of its Subcontractors and assigns:

21.5.1 Asbestos Hazard Emergency Response Act and the Regulations promulgated under the Act (AHERA—40 CFR 763, Subpart E);

21.5.2 National Emission Standards for Hazardous Air Pollutants (NESHAP—EPA 40 CFR 61, Subpart M, National Emission Standard for Asbestos);

21.5.3 Texas Asbestos Health Protection Rules (TAHPR—Tex. Admin. Code Title 25, Part 1, Ch. 295, Subchapter C, Asbestos Health Protection)

21.6 Every Subcontractor shall provide a notarized statement that no ACBM has been used, provided, or left on this Project.

21.7 Contractor shall obtain and review material data safety sheets (MSDS) for all building materials or replacement parts listed in *but not limited to* 25 TAC §295.34(j) to ensure that no ACBM is used in the Project. Contractor shall provide, in hard copy and electronic form, all necessary MSDS of all products used in the construction of the Project to the City, along with the certification or affidavit required in Section 21.3 above.

21.8 At Final Completion Contractor shall provide a certification statement (notarized if required by City) that no ACBM was used during construction of the Project.

ARTICLE 22 BUSINESS ETHICS EXPECTATION

22.1 During the course of pursuing contracts with City and while performing contract work in accordance with this Agreement, Contractor agrees to maintain business ethics standards aimed at avoiding any impropriety or conflict of interest which could be construed to have an adverse impact on the City's best interests.

22.2 Contractor shall take reasonable actions to prevent any actions or conditions which could result in a conflict with City's best interests. These obligations shall apply to the activities of

Contractor's employees, agents, subcontractors, subcontractors' employees and other persons under their control.

22.3 Contractor's employees, agents, subcontractors (and their representatives) shall not make or offer, or cause to be made or offered, any cash payments, commissions, employment, gifts valued at \$50 dollars or more, entertainment, free travel, loans, free work, substantially discounted work, or any other considerations to City's representatives, employees or their relatives.

22.4 Contractor's employees, agents and subcontractors (and their relatives) shall not receive or accept any cash payments, commissions, employment, gifts valued at \$50 dollars or more, entertainment, free travel, loans, free work, or substantially discounted work or any other considerations from representatives of contractors, subcontractors, or material suppliers or any other individuals, organizations, or businesses receiving funds in connection with the Project.

22.5 Contractor agrees to notify City within 48 hours of any instance where the Contractor becomes aware of a failure to comply with the provisions of this Article.

22.6 Upon request by City, Contractor agrees to provide a certified Management Representation Letter executed by a Contractor representative selected by City in a form agreeable to City stating that the representative is not aware of any situations violating the business ethics expectations outlined in this Agreement or any similar potential conflict of interest situations.

22.7 Contractor agrees to include provisions similar to this Article in all contracts with subcontractors receiving more than \$25,000 in funds in connection with the Project.

ARTICLE 23 MISCELLANEOUS PROVISIONS

23.1 Assignment. This Agreement is a personal service contract for the services of Contractor, and Contractor's interest in this Agreement, its duties and/or the fees due to Contractor may not be assigned or delegated to a third party.

23.2 Records Requirements. Records of expenses pertaining to Additional Services shall be kept on the basis of generally accepted accounting principles and in accordance with cost accounting standards promulgated by the Federal Office of Management and Budget Cost Accounting Standards Board and shall be available for audit by City or City's authorized representative on reasonable notice.

23.3 HB 1295 Compliance. Section 2252.908 of the Texas Government Code requires that for that for certain types of contracts, you must fill out a conflict of interest form ("Disclosure of

Interested Parties”) at the time you submit your signed contract. For further information please go to the Texas Ethics Commission website via the following link: https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm.

23.4 Franchise Tax Certification. If Contractor is a taxable entity subject to the Texas Franchise Tax (Chapter 171, *Texas Tax Code*), then Contractor certifies that it is not currently delinquent in the payment of any franchise taxes or that Contractor is exempt from the payment of franchise taxes.

23.5 Undocumented Workers. The contractor agrees not to knowingly employ any undocumented workers as defined in Tex. Govt. Code Sec. 2264.001.

23.6 Business with Foreign Terrorist Organizations. Pursuant to Texas Government Code 2252.152, contracts with companies engaged in business with Iran, Sudan, or foreign terrorist organizations are prohibited; a governmental entity may not enter into a governmental contract with a company that is identified on a list prepared and maintained under Government Code Sections 806.051, 807.051, or 2252.153.

23.7 Boycott of Israel. Pursuant to Government Code 2270.002, a governmental entity may not enter into a contract with a company for goods or services unless the contract contains written verification the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the Contract.

23.8 Entire Agreement; Modifications. This Agreement supersedes all prior agreements, written or oral, between Contractor and City and shall constitute the entire agreement and understanding between the parties with respect to the Project. This Agreement and each of its provisions shall be binding upon the parties and may not be waived, modified, amended or altered except by a writing signed by Contractor and City.

23.9 Captions. The captions of paragraphs in this Agreement are for convenience only and shall not be considered or referred to in resolving questions of interpretation or construction.

23.10 Governing Law and Venue. This Agreement is construed under and in accordance with the laws of the State of Texas, and all obligations of the parties created hereunder are performable in Brazos County, Texas. Venue for any action arising under this Agreement shall lie in the state district courts of Brazos County, Texas.

23.11 Waivers. No delay or omission by either party in exercising any right or power arising from non-compliance or failure of performance by the other party with any of the provisions of this Agreement shall impair or constitute a waiver of any such right or power. A waiver by either

party of any covenant or condition of this Agreement shall not be construed as a waiver of any subsequent breach of that or of any other covenant or condition of this Agreement.

23.12 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties and their respective permitted assigns and successors.

23.13 Severability. Should any term or provision of this Agreement be held invalid or unenforceable in any respect, the remaining terms and provisions shall not be affected and this Agreement shall be construed as if the invalid or unenforceable term or provision had never been included.

23.14 Illegal Dumping. Contractor shall ensure that it and all of its Subcontractors and assigns prevent illegal dumping of litter in accordance with Title 5, *Texas Health and Safety Code*, Chapter 365.

23.15 Notices. All notices, consents, approvals, demands, requests or other communications relied on by the parties shall be in writing. Written notice shall be deemed to have been given when delivered in person to the designated representative of Contractor or City for whom it is intended; or sent by U.S. Mail to the last known business address of the designated representative; or transmitted by fax machine to the last known business fax number of the designated representative. Mail notices are deemed effective upon receipt or on the third business day after the date of mailing, whichever is sooner. Fax notices are deemed effective the next business day after faxing. Such notices of claims or disputes or other legal notices required by this Agreement shall be sent to the persons and at the locations set forth in Exhibit "A" attached to this Agreement.

23.16 No Liens. In accordance with Applicable Laws, Contractor will not and will not permit its personnel or approved subcontractors to file any laborers', mechanic's or material men's liens or any security interests on or against property or realty of City to secure payment under this Agreement. If any liens or interests arise as a result of Contractor's action or inaction, Contractor will remove the liens at its sole cost and expense within ten (10) business days. Contractor shall defend, indemnify, hold harmless and protect City against any and all liens of any kind as relating to the Services provided hereunder.

23.17 Discrimination. Neither party will discriminate in any unlawful manner. The parties shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sexual orientation, gender identity, sex, or national origin. Moreover, these regulations require that the parties take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sexual orientation, gender identity, sex, national origin, protected veteran status or disability.

23.18 Public Information. Contractor acknowledges that City is obligated to strictly comply with the Public Information Act, Chapter 552, *Texas Government Code*, in responding to any request for public information pertaining to this Agreement, as well as any other disclosure of information required by applicable Texas law. Upon City's written request, Contractor will provide specified public information exchanged or created under this Agreement that is not otherwise excepted from disclosure under chapter 552, *Texas Government Code*, to City in a non-proprietary format acceptable to City. As used in this provision, "public information" has the meaning assigned Section 552.002, *Texas Government Code*, but only includes information to which City has a right of access.

23.19 The Contractor shall apply basic safeguarding requirements and procedures to protect the Contractor's information systems whenever the information systems store, process or transmit any information, not intended for public release, which is provided by or generated for the City. This requirement does not include information provided by the City to the public or simple transactional information, such as that necessary to process payments. These requirements and procedures shall include, at a minimum, the security control requirements "reflective of actions a prudent business person would employ" which are outlined in the Federal Acquisition Regulations FAR 52.204-21(b) and codified in the Code of Federal Regulations at 48 C.F.R. § 52.204-21(b) (2016).

23.19.1 Contactor shall include the substance of this clause in subcontracts under City contract information residing in or transiting through its information system this contract (including subcontracts for the acquisition of commercial items other than commercially available off-the-shelf items) in which the subcontractor may have.

23.20 Execution. This Agreement may be executed in one or more counterparts. Each counterpart shall be deemed an original, but all counterparts together constitute one and the same instrument.

23.21 List of Exhibits

The following exhibits are fully incorporated into this Agreement by reference:

Ex. A. Fees, Costs and other Contract Variables

Ex. B. Uniform General Conditions

Ex. C. Supplementary General Conditions and Special Provisions

Ex. D. Allowable General Conditions Line Items

Ex. E. Guaranteed Maximum Price Proposal Form

Ex. F. Security Bond

Ex. G. Personnel Titles and Monthly Rates

Ex. H. Subcontractor Insurance Requirements

Ex. I. City of Bryan Request for Qualifications No. 20-020

Ex. J. SpawGlass Design-Build Qualifications Response

[SIGNATURES PROVIDED ON FOLLOWING PAGE]

Executed to be effective as of the date executed by all parties, as above written.

CITY OF BRYAN

SpawGlass

Andrew Nelson, Mayor

Printed Name

ATTEST

Mary Lynne Stratta, City Secretary

APPROVED AS TO FORM

Janis K. Hampton, City Attorney

EXHIBIT
“A”
FEES, COSTS AND OTHER CONTRACT VARIABLES

1. Guaranteed Maximum Price

The anticipated Guaranteed Maximum Price for the Project at the time this Agreement is executed is:

Thirty-eight million two hundred two thousand four hundred sixteen Dollars (\$38,202,416).

2. Pre-Construction Phase Fee

A. For Pre-Construction Phase Services, City shall pay Contractor a Pre-Construction Phase Fee in accordance with the following schedule

Schematic Design Stage	\$ <u>483,710</u>
Design Development Stage	\$ <u>556,266</u>
Construction Documents Stage	\$ <u>967,420</u>
Bid Proposal Stage	\$ <u>48,371</u>
Total	\$ <u>2,055,767</u>

3. Construction Phase Fee

A. For Construction Phase Services, based on the anticipated GMP established at the time of this Agreement, City shall pay Contractor a stipulated Construction Phase Fee amount of:

One million five hundred eighty-five thousand two hundred sixty Dollars (\$1,585,260)

The above Construction Phase Fee includes a fee for Construction Contract Administration Services in the amount of:

Three thousand sixty-two two hundred seven hundred eighty-two Dollars (\$362,782)

B. If the City agrees to an increase or decrease in the Guaranteed Maximum Price, the Construction Phase Fee shall be equitably adjusted.

4. Reimbursable Services

A. Site Survey:	Not to Exceed \$ <u>16,500</u>
B. Geotechnical Investigation:	Not to Exceed \$ <u>40,000</u>

C.	Registered Accessibility Specialist	Not to Exceed <u>\$7,500</u>
D.	Hazardous Material Abatement Services	Not to Exceed N/A
E.	Commissioning Services	Not to Exceed <u>\$86,750.00</u>
F.	Rendering(s) and/or Scale Model:	Not to Exceed N/A
G.	Drawing Reproduction	Not to Exceed <u>\$10,500.00</u>

Maximum Reimbursable Expense Amount: \$161,250

5. Time of Completion

The anticipated date for achieving Substantial Completion of the Project at the time this Agreement was executed is April, 2022. (and is based on a Construction NTP provided in Jan of 2021.)

6. Liquidated Damages

For each consecutive calendar day after the date of Substantial Completion, plus any extensions of time granted by Change Order, that the Work is not substantially completed, Contractor shall pay to City, within ten (10) days following written demand, the amount of:

Two Thousand and no XX/100 Dollars (\$ 2,000/day);

not as a penalty but as liquidated damages representing the parties' estimate at the time of contract execution of the damages that City or City will sustain for late completion and once paid shall represent City's sole and exclusive remedy for late completion. City and City may also recover the liquidated damages from any money due or that becomes due Contractor.

The parties stipulate and agree that the actual damages sustained by City and City for late completion of the Project will be uncertain and difficult to ascertain, that calculating City's and City's actual damages would be impractical, unduly burdensome, and cause unnecessary delay, and that the amount of daily liquidated damages set forth above is a reasonable estimate.

Payment of the liquidated damages does not preclude recovery by City or City of other damages or losses under other provisions of the Contract, except for claims related to delays in Substantial Completion. City's right to receive liquidated damages shall not affect City's right to terminate the Agreement as provided in the General Conditions or elsewhere in the Contract Documents, nor shall termination of the Agreement release Contractor from the obligation to pay the liquidated damages.

Liquidated damages are to be based upon the substantial completion date agreed to and included in Exhibit E provided with the GMP proposal.

7. Names and Addresses for Notices:

If to City: City of Bryan
Attn: Frank Clark
P.O. Box 1000
Bryan, TX 77805

If to Contractor: Garrett Wheaton SpawGlass
Construction Corp. 4030
State Hwy 6 S. Suite 300
College Station, TX 77845

The parties may make reasonable changes in the person or place designated for receipt of notices upon advance written notice to the other party.

8. Representatives of the Parties.

A. City's Designated Representatives.

1. City designates the individual listed below or his designee as its Engineer Representative to act in the City's behalf with respect to the Project is:

[Name]
[Company Name]
[Address]
[City, State, Zip
Code]
[Telephone No.]

2. City designate the individual listed below or his designee as the City's Designated Project Management Representative, said individual having the authority and responsibility for day-to-day Project management activities as set forth in this Contract.

Frank Clark
City of Bryan
P.O. Box 1000
Bryan, Texas 77805
(979) 209-5130

- B. The Contractor's designated representative authorized to act on the Contractor's behalf and bind the Contractor with respect to the Project is:

Garrett Wheaton

SpawGlass Construction Corp.
4030 State Hwy 6 S. Suite 300
College Station TX 77845
(979) 401-3270

C. The parties may make reasonable changes in their designated representatives upon advance written notice to the other party and in accordance with Paragraph 22.15.

**EXHIBIT
“B”
UNIFORM GENERAL CONDITIONS**

UNIFORM GENERAL CONDITIONS OF CONSTRUCTION CONTRACTS



CITY OF BRYAN
The Good Life, Texas Style.™

PREPARED BY:

CITY OF BRYAN

May 2020

Uniform General Conditions
for
Construction Contracts

Table of Contents

Article 1. Definitions	4
Article 2. Regulations and Other Laws Governing Construction	8
Article 3. General Responsibilities of City and Contractor	9
Article 4. Bonds and Insurance.....	17
Article 5. Construction Documents, Coordination Documents, and Record Documents	23
Article 6. Construction Safety	25
Article 7. Quality Control.....	27
Article 8. Construction Schedules.	32
Article 9. Payments.....	38
Article 10. Changes	42
Article 11. Project Completion and Acceptance	46
Article 12. Warranty and Guarantee.....	50
Article 13. Suspension and Termination	52
Article 14. Dispute Resolution	55
Article 15. Miscellaneous.....	56

Article 1. Definitions

Unless the context clearly requires another meaning, the following terms have the meaning assigned herein.

- 1.1 *Addendum/Addenda* means formally issued written or graphic modifications and/or interpretations of the Construction Documents that may add to, delete from, clarify or correct the description and/or scope of the Work. Addenda are issued during the bidding phase of the project.
- 1.2 *Application for Payment* means Contractor's monthly partial invoice for payment that includes any portion of the Work that has been completed for which an invoice has not been submitted and performed in accordance with the requirements of the Contract Documents. The Application for Payment accurately reflects the progress of the Work, is itemized based on the Schedule of Values, bears the notarized signature of Contractor, and shall not include subcontracted items for which Contractor does not intend to pay.
- 1.3 *Application for Final Payment* means Contractor's final invoice for payment that includes any portion of the Work that has been completed for which an invoice has not been submitted, amounts owing to adjustments to the final Contract Sum resulting from approved change orders, and release of remaining Contractor's retainage.
- 1.4 *Architect/Engineer (A/E)* means a person registered as an architect pursuant to Tex. Occ. Code Ann., Ch. 1051, as a landscape architect pursuant to Tex. Occ. Code Ann., Ch. 1052, a person licensed as a professional engineer pursuant Tex. Occ. Code Ann., Ch. 1001, and/or a firm employed by City or Design-Build Contractor to provide professional architectural or engineering services and to exercise overall responsibility for the design of a Project or a significant portion thereof, and to perform the contract administration responsibilities set forth in the Contract.
- 1.5 *Authority Having Jurisdiction* means a federal, state, local, or other regional department, or an individual such as a fire marshal, building official, electrical inspector, utility provider or other individual having statutory authority.
- 1.6 *Baseline Schedule* means the initial time schedule prepared by Contractor for City's information and acceptance that conveys Contractor's and Subcontractors' activities (including coordination and review activities required in the Contract Documents to be performed by A/E and City), durations, and sequence of work related to the entire Project to the extent required by the Contract Documents. The schedule clearly demonstrates the critical path of activities, durations and necessary predecessor conditions that drive the end date of the schedule. The Baseline Schedule shall not exceed the time limit current under the Contract Documents.
- 1.7 *Certificate of Final Completion* means the certificate issued by A/E that documents, to the best of A/E's knowledge and understanding, Contractor's completion of all

- Contractor's Punchlist items and pre-final Punchlist items, final cleanup and Contractor's provision of Record Documents, operations and maintenance manuals, and all other closeout documents required by the Contract Documents.
- 1.8 *Certificate of Substantial Completion* means the certificate executed by the A/E, City and Contractor that documents to the best of A/E's and City's knowledge and understanding, Contractor's sufficient completion of the work in accordance with the Contract, so as to be operational and fit for the use intended.
- 1.9 *Change Order* means a written modification of the Contract between City and Contractor, signed by City, Contractor, and A/E.
- 1.10 *City* means a Texas home-rule municipal corporation identified in the Contract as City.
- 1.11 *Close-out Documents* mean the product brochures, submittals, product/equipment maintenance and operations instructions, manuals, and other documents/warranties, record documents, affidavit of payment, release of lien and claim, and as may be further defined, identified, and required by the Contract Documents.
- 1.12 *Contract* means the entire agreement between City and Contractor, including all of the Contract Documents.
- 1.13 *Contract Date* is the date when the agreement between City and Contractor becomes effective.
- 1.14 *Contract Documents* mean those documents identified as a component of the agreement (Contract) between City and Contractor. These may include, but are not limited to, Drawings; Specifications; General, Supplementary General, and Special Conditions; and all pre-bid and/or pre-proposal addenda.
- 1.15 *Contract Sum* means the total compensation payable to Contractor for completion of the Work in accordance with the terms of the Contract.
- 1.16 *Contract Time* means the period between the start date identified in the Notice to Proceed with construction and the Substantial Completion date identified in the Notice to Proceed or as subsequently amended by a Change Order.
- 1.17 *Contractor* means the individual, corporation, limited liability company, partnership, firm, or other entity contracted to perform the Work, regardless of the type of construction contract used, so that the term as used herein includes a Construction Manager-at-Risk or a Design-Build firm as well as a general or prime Contractor. The Contract Documents refer to Contractor as if singular in number.
- 1.18 *Construction Documents* mean the Drawings, Specifications, and other documents issued to build the Project. Construction Documents become part of the Contract Documents when listed in the Contract or any Change Order.
- 1.19 *Construction Manager-at-Risk*, in accordance with Tex. Gov't Code, Ch. 2166, means a sole proprietorship, partnership, corporation, or other legal entity that assumes the

- risk for construction, rehabilitation, alteration, or repair of a facility at the contracted price as a general contractor and provides consultation to City regarding construction during and after the design of the facility.
- 1.20 *Date of Commencement* means the date designated in the Notice to Proceed for Contractor to commence the Work.
- 1.21 *Day* means a calendar day unless otherwise specifically stipulated.
- 1.22 *Design-Build* means a project delivery method in which the detailed design and subsequent construction is provided through a single contract with a Design-Build firm; a team, partnership, or legal entity that includes design professionals and a builder. The Design-Build Project delivery shall be implemented in accordance with Tex. Gov't Code Chapter 2269, subchapters G and H, accordingly.
- 1.23 *Drawings* mean that product of A/E which graphically depicts the Work.
- 1.24 *Final Completion* means the date determined and certified by A/E and City on which the Work is fully and satisfactorily complete in accordance with the Contract.
- 1.25 *Final Payment* means the last and final monetary compensation made to Contractor for any portion of the Work that has been completed and accepted for which payment has not been made, amounts owing to adjustments to the final Contract Sum resulting from approved change orders, and release of Contractor's retainage.
- 1.26 *Liquidated Damages* reflect the daily monetary compensation, as designated in the Contract, to be paid to City by Contractor for losses/damages incurred by City as a result of Contractor's failure to achieve the contractual dates for Substantial Completion and/or Final Completion of the Project.
- 1.27 *Notice to Proceed* means written document informing Contractor of the dates beginning Work and the dates anticipated for Substantial Completion.
- 1.28 *Open Item List* means a list of work activities, Punchlist items, changes or other issues that are not expected by City and Contractor to be complete prior to Substantial Completion.
- 1.29 *City* means a Texas home-rule municipal corporation identified in the Contract as City.
- 1.30 *Project* means all activities necessary for realization of the Work. This includes design, contract award(s), execution of the Work itself, and fulfillment of all Contract and warranty obligations.
- 1.31 *Project Manager (PM)* refers to the City staff or professional management firms selected by the City manager as the City's representative for the Project, and its employees and consultants. The PM will act on the City's behalf and to undertake certain activities as specifically outlined in the Contract. PM is the only party authorized to direct changes to the scope, cost, or time of the Contract.

- 1.32 *Proposed Change Order (PCO)* means a document that informs Contractor of a proposed change in the Work and appropriately describes or otherwise documents such change including Contractor's response of pricing for the proposed change.
- 1.33 *Punchlist* means a list of items of Work to be completed or corrected by Contractor after Substantial Completion. Punchlists indicate items to be finished, remaining Work to be performed, or Work that does not meet quality or quantity requirements as required in the Contract Documents.
- 1.34 *Record Documents* mean the drawing set, Specifications, and other materials maintained by Contractor that documents all addenda, Architect's Supplemental Instructions, Change Orders and postings and markings that record the as-constructed conditions of the Work and all changes made during construction.
- 1.35 *Request for Information (RFI)* means a written request by Contractor directed to A/E or City for a clarification of the information provided in the Contract Documents or for direction concerning information necessary to perform the Work that may be omitted from the Contract Documents.
- 1.36 *Samples* mean representative physical examples of materials, equipment, or workmanship used to confirm compliance with requirements and/or to establish standards for use in execution of the Work.
- 1.37 *Schedule of Values* means the detailed breakdown of the cost of the materials, labor, and equipment necessary to accomplish the Work as described in the Contract Documents, submitted by Contractor for approval by City and A/E.
- 1.38 *Shop Drawings* mean the drawings, diagrams, illustrations, schedules, performance charts, brochures, and other data prepared by Contractor or its agents which detail a portion of the Work.
- 1.39 *Site* means the geographical area of the location of the Work.
- 1.40 *Special Conditions* mean the documents containing terms and conditions which may be unique to the Project. Special Conditions are a part of the Contract Documents and have precedence over the Uniform General Conditions and Supplementary General Conditions.
- 1.41 *Specifications* mean the written product of A/E that establishes the quality and/or performance of products utilized in the Work and processes to be used, including testing and verification for producing the Work.
- 1.42 *Subcontractor* means a business entity that enters into an agreement with Contractor to perform part of the Work or to provide services, materials, or equipment for use in the Work.
- 1.43 *Submittal Register* means a list provided by Contractor of all items to be furnished for review and approval by A/E and City and as identified in the Contract Documents including anticipated sequence and submittal dates.

- 1.44 *Substantial Completion* means the date determined and certified by Contractor, A/E, and City when the Work, or a designated portion thereof, is sufficiently complete, in accordance with the Contract, so as to be operational and fit for the use intended.
- 1.45 *Supplementary General Conditions* mean procedures and requirements that modify the Uniform General Conditions. Supplementary General Conditions, when used, have precedence over the Uniform General Conditions.
- 1.46 *Unit Price Work* means the Work, or a portion of the Work, paid for based on incremental units of measurement.
- 1.47 *Unilateral Change Order (ULCO)* means a Change Order issued by City without the complete agreement of Contractor, as to cost and/or time.
- 1.48 *Work* means the administration, procurement, materials, equipment, construction and all services necessary for Contractor, and/or its agents, to fulfill Contractor's obligations under the Contract.
- 1.49 *Work Progress Schedule* means the continually updated time schedule prepared and monitored by Contractor that accurately indicates all necessary appropriate revisions as required by the conditions of the Work and the Project while maintaining a concise comparison to the Baseline Schedule.

Article 2. Regulations and Other Laws Governing Construction

- 2.1 Environmental Regulations. Contractor shall conduct activities in compliance with applicable laws and regulations and other requirements of the Contract relating to the environment and its protection at all times. Unless otherwise specifically determined, City is responsible for obtaining and maintaining permits related to stormwater run-off. Contractor shall conduct operations consistent with stormwater run-off permit conditions. Contractor is responsible for all items it brings to the Site, including hazardous materials, and all such items brought to the Site by its Subcontractors and suppliers, or by other entities subject to direction of Contractor. Contractor shall not incorporate hazardous materials into the Work without prior approval of City, and shall provide an affidavit attesting to such in association with request for Substantial Completion inspection.
- 2.2 Venue for Suits. The venue for any suit arising from the Contract will be in a court of competent jurisdiction in Brazos County, Texas, or as may otherwise be designated in the Supplementary General Conditions.
- 2.3 Licensing of Trades. Contractor shall comply with all applicable provisions of State law related to license requirements for skilled tradesmen, contractors, suppliers and or laborers, as necessary to accomplish the Work. In the event Contractor, or one of its Subcontractors, loses its license during the term of performance of the Contract, Contractor shall promptly hire or contract with a licensed provider of the service at no additional cost to City.
- 2.4 Royalties, Patents, and Copyrights. Contractor shall pay all royalties and license fees,

defend suits or claims for infringement of copyrights and patent rights, and shall hold City harmless from loss on account thereof, but shall 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 City or A/E. However, if Contractor has reason to believe that the required design, process, or product is an infringement of a copyright or a patent, Contractor shall be responsible for such loss unless such information is promptly furnished to A/E.

- 2.5 State Sales and Use Taxes. City qualifies for exemption from certain State and local sales and use taxes pursuant to the provisions of Tex. Tax Code, Ch. 151. Upon request from Contractor, City shall furnish evidence of tax exempt status. Contractor may claim exemption from payment of certain applicable State taxes by complying with such procedures as prescribed by the State Comptroller of Public Accounts. City acknowledges not all items qualify for exemption. City is not obligated to reimburse Contractor for taxes paid on items that qualify for tax exemption.

Article 3. General Responsibilities of City and Contractor

- 3.1 City's General Responsibilities. City is the entity identified as such in the Contract and referred to throughout the Contract Documents as if singular in number.
- 3.1.1 Preconstruction Conference. Prior to, or concurrent with, the issuance of Notice to Proceed with construction, a conference will be convened for attendance by City, Contractor, A/E and appropriate Subcontractors. The purpose of the conference is to establish a working understanding among the parties as to the Work, the operational conditions at the Project Site, and general administration of the Project. Topics include communications, schedules, procedures for handling Shop Drawings and other submittals, processing Applications for Payment, maintaining required records and all other matters of importance to the administration of the Project and effective communications between the Project team members.
- 3.1.2 City's Project Manager. Prior to the start of construction, City will identify City's Project Manager, (PM) if named, who has the express authority to act and bind City to the extent and for the purposes described in the various Articles of the Contract, including responsibilities for general administration of the Contract.
- 3.1.2.1 Unless otherwise specifically defined elsewhere in the Contract Documents, PM is the single point of contact between City and Contractor. Notice to PM, unless otherwise noted, constitutes notice to City under the Contract.
- 3.1.2.2 All directives on behalf of City will be conveyed to Contractor and A/E by PM in writing.
- 3.1.2.3 PM will furnish or cause to be furnished, free of charge, the number of complete sets of the Drawings, Specifications, and addenda as

provided in the Supplementary General Conditions or Special Conditions.

3.1.2.4 The PM will establish the protocol for planning, scheduling and documenting progress meetings with provisions for absence of various project team members that have a key role in these duties.

3.1.3 City Supplied Materials and Information.

3.1.3.1 City will furnish to Contractor those surveys describing the physical characteristics, legal description, limitations of the Site, Site utility locations, and other information used in the preparation of the Contract Documents.

3.1.3.2 City will provide information, equipment, or services under City's control to Contractor with reasonable promptness.

3.1.4 Availability of Lands. City will furnish, as indicated in the Contract, all required rights to use the lands upon which the Work occurs. This includes rights-of-way and easements for access and such other lands that are designated for use by Contractor. Contractor shall comply with all City identified encumbrances or restrictions specifically related to use of lands so furnished. City will obtain and pay for easements for permanent structures or permanent changes in existing facilities,

3.1.5 Limitation on City's Duties.

3.1.5.1 City will not supervise, direct, control or have authority over or be responsible for Contractor's means, methods, technologies, sequences or procedures of construction or the safety precautions and programs incident thereto. City is not responsible for any failure of Contractor to comply with laws and regulations applicable to the Work. City is not responsible for the failure of Contractor to perform or furnish the Work in accordance with the Contract Documents. Except as provided in Section 2.5, City is not responsible for the acts or omissions of Contractor, or any of its Subcontractors, suppliers or of any other person or organization performing or furnishing any of the Work on behalf of Contractor.

3.1.5.2 City will not take any action in contravention of a design decision made by A/E in preparation of the Contract Documents, when such actions are in conflict with statutes under which A/E is licensed for the protection of the public health and safety.

3.2 Role of Architect/Engineer. Unless specified otherwise in the Contract between City and Contractor, A/E shall provide general administration services for City during the construction phase of the project. Written correspondence, requests for information, and Shop Drawings/submittals shall be directed to A/E for action. A/E has the authority to act on behalf of City to the extent provided in the Contract Documents, unless

otherwise modified by written instrument, which will be furnished to Contractor by City, upon request.

3.2.1 Site Visits.

3.2.1.1 A/E will make visits to the Site at intervals as provided in the A/E's Contract with City, to observe the progress and the quality of the various aspects of Contractor's executed Work and report findings to City.

3.2.1.2 A/E has the authority to interpret Contract Documents and inspect the Work for compliance and conformance with the Contract. Except as referenced in Paragraph 3.1.5.2, City retains the sole authority to accept or reject Work and issue direction for correction, removal, or replacement of Work.

3.2.2 Clarifications and Interpretations. It may be determined that clarifications or interpretations of the Contract Documents are necessary. Upon direction by City, such clarifications or interpretations will be provided by A/E consistent with the intent of the Contract Documents. A/E will issue these clarifications with reasonable promptness to Contractor as A/E's supplemental instruction ("ASI") or similar instrument. If Contractor believes that such clarification or interpretation justifies an adjustment in the Contract Sum or the Contract Time, Contractor shall so notify City in accordance with the provisions of Article 11.

3.2.3 Limitations on Architect/Engineer Authority. A/E is not responsible for:

3.2.3.1 Contractor's means, methods, techniques, sequences, procedures, safety, or programs incident to the Project, nor will A/E supervise, direct, control or have authority over the same;

3.2.3.2 The failure of Contractor to comply with laws and regulations applicable to the furnishing or performing the Work;

3.2.3.3 Contractor's failure to perform or furnish the Work in accordance with the Contract Documents; or

3.2.3.4 Acts or omissions of Contractor, or of any other person or organization performing or furnishing any of the Work.

3.3 Contractor's General Responsibilities. Contractor is solely responsible for implementing the Work in full compliance with all applicable laws and the Contract Documents and shall supervise and direct the Work using the best skill and attention to assure that each element of the Work conforms to the Contract requirements. Contractor is solely responsible for all construction means, methods, techniques, safety, sequences, coordination, procedures and protection of the installed work as part of the contract until substantial completion of the project. Contractor remains responsible for the care and protection of materials and Work in the areas where punch list items are completed until Final Completion.

- 3.3.1 Project Administration. Contractor shall provide Project administration for all Subcontractors, vendors, suppliers, and others involved in implementing the Work and shall coordinate administration efforts with those of A/E and City in accordance with these general conditions and other provisions of the Contract, and as outlined in the preconstruction conference. Contractor's Project Administration includes periodic daily reporting on weather, work progress, labor, materials, equipment, obstructions to prosecution of the work, accidents and injuries in accordance with the Contract and transmitted no less frequently than on a weekly basis.
- 3.3.2 Contractor's Management Personnel. Contractor shall employ a competent person or persons who will be present at the Project Site during the progress of the Work to supervise or oversee the work. The competent persons are subject to the approval of City. Contractor shall not change approved staff during the course of the project without the written approval of City unless the staff member leaves the employment of Contractor. Contractor shall provide additional quality control, safety and other staff as stated in the Supplementary General Conditions.
- 3.3.3 Labor. Contractor shall provide competent, suitably qualified personnel to survey, lay-out, and construct the Work as required by the Contract Documents and maintain good discipline and order at the Site at all times.
- 3.3.4 Services, Materials, and Equipment. Unless otherwise specified, Contractor shall provide and assume full responsibility for all services, materials, equipment, labor, transportation, construction equipment and machinery, tools, appliances, fuel, power, light, heat, telephone, water, sanitary facilities, temporary facilities, and all other facilities, incidentals, and services necessary for the construction, performance, testing, start-up, inspection and completion of the Work.
- 3.3.5 Contractor General Responsibility. For City furnished equipment or material that will be in the care, custody, and control of Contractor, Contractor is responsible for damage or loss. City shall deliver to Contractor a complete list and respective values of such materials or equipment and make an equitable adjustment to the contract amount for any increase in cost of Builder's Risk insurance.
- 3.3.6 Non-Compliant Work. Should A/E and/or City identify Work as non-compliant with the Contract Documents, A/E and/or City shall communicate the finding to Contractor, and Contractor shall correct such Work at no additional cost to the City. The approval of Work by either A/E or City does not relieve Contractor from the obligation to comply with all requirements of the Contract Documents.
- 3.3.7 Subcontractors. Contractor shall not employ any Subcontractor, supplier or other person or organization, whether initially or as a substitute, against whom City shall have reasonable objection. City will communicate such objections in writing within ten (10) days of receipt of Contractor's intent to use such

Subcontractor, supplier, or other person or organization. Contractor is not required to employ any Subcontractor, supplier or other person or organization to furnish any of the work to whom Contractor has reasonable objection. Contractor shall not substitute Subcontractors without the acceptance of City. Pursuant to Tex. Gov't Code § 2269.256(b), if the Contractor reviews, evaluates and recommends that the City accept a bid or proposal from a Subcontractor but the City requires another bid or proposal to be accepted, City shall compensate the Contractor by a change in price, time or guaranteed maximum cost for any additional cost or risk the Contractor will incur because of City's requirement to select another bid or proposal rather than the one recommended.

3.3.7.1 All Subcontracts and supply contracts shall be consistent with and bind the Subcontractors and suppliers to the terms and conditions of the Contract Documents including provisions of the Contract between Contractor and City.

3.3.7.2 Contractor shall be solely responsible for scheduling and coordinating the Work of Subcontractors, suppliers and other persons and organizations performing or furnishing any of the Work under a direct or indirect contract with Contractor. Require all Subcontractors, suppliers and such other persons and organizations performing or furnishing any of the Work to communicate with City only through Contractor. Contractor shall furnish to City a copy, at City's request, of each first-tier subcontract promptly after its execution. Contractor agrees that City has no obligation to review or approve the content of such contracts and that providing City such copies in no way relieves Contractor of any of the terms and conditions of the Contract, including, without limitation, any provisions of the Contract which require the Subcontractor to be bound to Contractor in the same manner in which Contractor is bound to City.

3.3.8 Continuing the Work. Contractor shall carry on the Work and adhere to the progress schedule during all disputes, disagreements, or alternative resolution processes with City. Contractor shall not delay or postpone any Work because of pending unresolved disputes, disagreements or alternative resolution processes, except as City and Contractor may agree in writing.

3.3.9 Cleaning. Contractor shall at all times, keep the Site and the Work clean and free from accumulation of waste materials or rubbish caused by the construction activities under the Contract. Contractor shall ensure that the entire Project is thoroughly cleaned prior to requesting Substantial Completion inspection and, again, upon completion of the Project prior to the final inspection.

3.3.10 Acts and Omissions of Contractor, its Subcontractors, and Employees. Contractor shall be responsible for acts and omissions of his employees and all its Subcontractors, their agents and employees. City may, in writing, require Contractor to remove from the Project any of Contractor's or its Subcontractor's employees whom City finds to be careless, incompetent, unsafe, uncooperative, disruptive, or otherwise objectionable.

3.3.11 Acts or Omissions. Contractor shall indemnify and hold harmless the State of Texas and Customers, AND/OR THEIR OFFICERS, AGENTS, EMPLOYEES, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEY FEES, AND EXPENSES arising out of, or resulting from any acts or omissions of Contractor or its agents, employees, subcontractors, Order Fulfillers, or suppliers of subcontractors in the execution or performance of the Contract and any Purchase Orders issued under the Contract. THE DEFENSE SHALL BE COORDINATED BY CONTRACTOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND CONTRACTOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. CONTRACTOR AND CITY AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

3.3.12 Infringements.

3.3.12.1 Contractor shall indemnify and hold harmless the State of Texas and Customers, AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, ASSIGNEES, AND/OR DESIGNEES from any and all third party claims involving infringement of United States patents, copyrights, trade and service marks, and any other intellectual or intangible property rights in connection with the PERFORMANCES OR ACTIONS OF CONTRACTOR PURSUANT TO THIS CONTRACT. CONTRACTOR AND THE CUSTOMER AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM. CONTRACTOR SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY CONTRACTOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND CONTRACTOR MAY NOT AGREE TO ANY SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL.

3.3.12.2 Contractor shall have no liability under this section if the alleged infringement is caused in whole or in part by: (i) use of the product or service for a purpose or in a manner for which the product or service was not designed, (ii) any modification made to the product without Contractor's written approval, (iii) any modifications made to the product by Contractor pursuant to Customer's specific instructions, (iv) any intellectual property right owned by or licensed to Customer, or (v) any use of the product or service by Customer that is not in conformity with the terms of any applicable license agreement.

3.3.12.3 If Contractor becomes aware of an actual or potential claim, or Customer provides Contractor with notice of an actual or potential claim, Contractor may (or in the case of an injunction against Customer, shall), at Contractor's sole option and expense; (i) procure for the Customer the right to continue to use the affected portion of the product or service, or (ii) modify or replace the affected portion of the product or service with functionally equivalent or superior product or service so that Customer's use is non-infringing.

3.3.12.4 Taxes/Workers' Compensation/Unemployment Insurance-Including Indemnity.

3.3.12.4.1 CONTRACTOR AGREES AND ACKNOWLEDGES THAT DURING THE EXISTENCE OF THIS CONTRACT, CONTRACTOR SHALL BE ENTIRELY RESPONSIBLE FOR THE LIABILITY AND PAYMENT OF CONTRACTOR'S AND CONTRACTOR'S EMPLOYEES' TAXES OF WHATEVER KIND, ARISING OUT OF THE PERFORMANCES IN THIS CONTRACT. CONTRACTOR AGREES TO COMPLY WITH ALL STATE AND FEDERAL LAWS APPLICABLE TO ANY SUCH PERSONS, INCLUDING LAWS REGARDING WAGES, TAXES, INSURANCE, AND WORKERS' COMPENSATION. THE CUSTOMER AND/OR THE STATE SHALL NOT BE LIABLE TO CONTRACTOR, ITS EMPLOYEES, AGENTS, OR OTHERS FOR THE PAYMENT OF TAXES OR THE PROVISION OF UNEMPLOYMENT INSURANCE AND/OR WORKERS' COMPENSATION OR ANY BENEFIT AVAILABLE TO A STATE EMPLOYEE OR EMPLOYEE OF ANOTHER GOVERNMENTAL ENTITY CUSTOMER.

3.3.12.4.2 CONTRACTOR AGREES TO INDEMNIFY AND HOLD HARMLESS CITY, THE STATE OF TEXAS AND/OR THEIR EMPLOYEES, AGENTS, REPRESENTATIVES, CONTRACTORS, AND/OR ASSIGNEES FROM ANY AND ALL LIABILITY, ACTIONS, CLAIMS, DEMANDS, OR SUITS, AND ALL RELATED COSTS, ATTORNEYS' FEES, AND EXPENSES, RELATING TO TAX LIABILITY, UNEMPLOYMENT INSURANCE AND/OR WORKERS' COMPENSATION IN ITS PERFORMANCE UNDER THIS CONTRACT. CONTRACTOR SHALL BE LIABLE TO PAY ALL COSTS OF DEFENSE INCLUDING ATTORNEYS' FEES. THE DEFENSE SHALL BE COORDINATED BY CONTRACTOR WITH THE OFFICE OF THE ATTORNEY GENERAL WHEN TEXAS STATE AGENCIES ARE NAMED DEFENDANTS IN ANY LAWSUIT AND VENDOR MAY NOT AGREE TO ANY

SETTLEMENT WITHOUT FIRST OBTAINING THE CONCURRENCE FROM THE OFFICE OF THE ATTORNEY GENERAL. CONTRACTOR AND CITY AGREE TO FURNISH TIMELY WRITTEN NOTICE TO EACH OTHER OF ANY SUCH CLAIM.

- 3.3.12.5 The provisions of this indemnification are solely for the benefit of the parties hereto and not intended to create or grant any rights, contractual or otherwise, to any other person or entity.
- 3.3.12.6 Contractor shall promptly advise City in writing of any claim or demand against City or against Contractor which involves City and known to Contractor and related to or arising out of Contractor's activities under this Contract.
- 3.3.13 Ancillary Areas. Operate and maintain operations and associated storage areas at the site of the Work in accordance with the following:
 - 3.3.13.1 Confine all Contractor operations, including storage of materials and employee parking upon the Site of Work, to areas designated by City.
 - 3.3.13.2 Contractor may erect, at its own expense, temporary buildings that will remain its property. Remove such buildings and associated utility service lines upon completion of the Work, unless Contractor requests and City provides written consent that it may abandon such buildings and utilities in place.
 - 3.3.13.3 Use only established roadways or construct and use such temporary roadways as may be authorized by City. Do not allow load limits of vehicles to exceed the limits prescribed by appropriate regulations or law. Provide protection to road surfaces, curbs, sidewalks, trees, shrubbery, sprinkler systems, drainage structures and other like existing improvements to prevent damage and repair any damage thereto at the expense of Contractor.
 - 3.3.13.4 City may restrict Contractor's entry to the Site to specifically assigned entrances and routes.
- 3.3.14 Separate Contracts. City reserves the right to award other contracts in connection with other portions of the Project under these same or substantially similar contract conditions, including those portions related to insurance and waiver of subrogation. City reserves the right to perform operations related to the Project with City's own forces.
- 3.3.15 Under a system of separate contracts, the conditions described herein continue to apply except as may be amended by change order.
- 3.3.16 Contractor shall cooperate with other contractors or forces employed on the Project by City, including providing access to Site and Project information as requested.

3.3.17 City shall be reimbursed by Contractor for costs incurred by City which are payable to a separate contractor because of delays, improperly timed activities, or defective construction by Contractor. City will equitably adjust the Contract by Change Order for costs incurred by Contractor because of delays, improperly timed activities, and damage to the Work or defective construction by a separate contractor.

Article 4. Bonds and Insurance

4.1 Construction Bonds. Contractor is required to tender to City, prior to commencing the Work, performance and payment bonds, as required by Tex. Gov't Code, Ch. 2253. On Construction Manager-at-Risk and Design-Build Projects the City shall require a security bond, as described in Subsection 4.1.2 below.

4.1.1 Bond Requirements. Each bond shall be executed by a corporate surety or sureties authorized to do business in the State of Texas and acceptable to City, on City's form, and in compliance with the relevant provisions of the Texas Insurance Code. If any bond is for more than ten (10) percent of the surety's capital and surplus, City may require certification that the company has reinsured the excess portion with one or more reinsurers authorized to do business in the State. A reinsurer may not reinsure for more than ten (10) percent of its capital and surplus. If a surety upon a bond loses its authority to do business in the State, Contractor shall, within thirty (30) days after such loss, furnish a replacement bond at no added cost to City.

4.1.1.1 A Performance bond is required if the Contract Sum is in excess of \$100,000. The performance bond is solely for the protection of City. The performance bond is to be for the Contract Sum to guarantee the faithful performance of the Work in accordance with the Contract Documents. The form of the bond shall be approved by the Office of the Attorney General of Texas. The performance bond shall be effective through Contractor's warranty period. See Exhibit "A" for standard bond form.

4.1.1.2 A Payment bond is required if the Contract price is in excess of \$25,000. The payment bond is to be for the Contract Sum and is payable to City solely for the protection and use of payment bond beneficiaries. The form of the bond shall be approved by the Office of the Attorney General of Texas. See Exhibit "B" for standard bond form.

4.1.2 Security Bond. The security bond provides protection to City if Contractor presents an acceptable guaranteed maximum price ("GMP") to City and 1) fails to execute the GMP; or 2) fails to deliver the required payment and performance bonds within the time period stated below.

4.1.3 When Bonds Are Due.

- 4.1.3.1 Security bonds are due within ten (10) days of signing a Construction Manager-at-Risk or Design-Build Contract.
- 4.1.3.2 Payment and performance bonds are due within ten (10) days of Contractor's receipt of a fully executed GMP on a Construction Manager-at-Risk project or the Contract Sum for a Design-Build project, or within ten (10) days of Contractor's receipt of a fully executed Contract on competitively bid or competitive sealed proposal projects.
- 4.1.4 Power of Attorney. Each bond shall be accompanied by a valid power of attorney (issued by the surety company and attached, signed and sealed with the corporate embossed seal, to the bond) authorizing the attorney-in-fact who signs the bond to commit the company to the terms of the bond, and stating any limit in the amount for which the attorney can issue a single bond.
- 4.1.5 Bond Indemnification. The process of requiring and accepting bonds and making claims there under shall be conducted in compliance with Tex. Gov't Code, Ch. 2253. IF FOR ANY REASON A STATUTORY PAYMENT OR PERFORMANCE BOND IS NOT HONORED BY THE SURETY, CONTRACTOR SHALL FULLY INDEMNIFY AND HOLD CITY HARMLESS OF AND FROM ANY COSTS, LOSSES, OBLIGATIONS OR LIABILITIES IT INCURS AS A RESULT.
- 4.1.6 Furnishing Bond Information. City shall furnish certified copies of the payment bond and the related Contract to any qualified person seeking copies who complies with Tex. Gov't Code §2253.026.
- 4.1.7 Claims on Payment Bonds. Claims on payment bonds must be sent directly to Contractor and his surety in accordance with Tex. Gov't Code § 2253.041. All payment bond claimants are cautioned that no lien exists on the funds unpaid to Contractor on such Contract, and that reliance on notices sent to City may result in loss of their rights against Contractor and/or his surety. City is not responsible in any manner to a claimant for collection of unpaid bills, and accepts no such responsibility because of any representation by any agent or employee.
- 4.1.8 Payment Claims when Payment Bond not Required. The rights of Subcontractors regarding payment are governed by Tex. Prop. Code §§ 53.231 – 53.239 when the value of the Contract between City and Contractor is less than \$25,000.00. These provisions set out the requirements for filing a valid lien on funds unpaid to Contractor as of the time of filing the claim, actions necessary to release the lien and satisfaction of such claim.
- 4.1.9 Sureties. A surety shall be listed on the US Department of the Treasury's Listing of Approved Sureties maintained by the Bureau of Financial Management Service (FMS), www.fms.treas.gov/c570, stating companies holding Certificates of Authority as acceptable sureties on Federal bonds and acceptable reinsuring companies (FMS Circular 570).
- 4.2 Insurance Requirements. Contractor shall carry insurance in the types and amounts

indicated in this Article for the duration of the Contract. The insurance shall be evidenced by delivery to City of certificates of insurance executed by the insurer or its authorized agent stating coverages, limits, expiration dates and compliance with all applicable required provisions. Upon request, City, and/or its agents, shall be entitled to receive without expense, copies of the policies and all endorsements. Contractor shall update all expired policies prior to submission for monthly payment. Failure to update policies shall be reason for withholding of payment until renewal is provided to City.

- 4.2.1 Contractor shall provide and maintain all insurance coverage with the minimum amounts described below until the end of the warranty period unless otherwise stated in Supplementary General Conditions or Special Conditions. Failure to maintain insurance coverage, as required, is grounds for suspension of Work for cause pursuant to Article 13.
- 4.2.2 Contractor shall deliver to City true and complete copies of certificates and corresponding policy endorsements prior to the issuance of any Notice to Proceed.
- 4.2.3 Failure of City to demand such certificates or other evidence of Contractor's full compliance with these insurance requirements or failure of City to identify a deficiency in compliance from the evidence provided shall not be construed as a waiver of Contractor's obligation to maintain such insurance.
- 4.2.4 The insurance and insurance limits required herein shall not be deemed as a limitation on Contractor's liability under the indemnities granted to City in the Contract Documents.
- 4.2.5 The insurance coverage and limits established herein shall not be interpreted as any representation or warranty that the insurance coverage and limits necessarily will be adequate to protect Contractor.
- 4.2.6 Coverage shall be written on an occurrence basis by companies authorized and admitted to do business in the State of Texas and rated A-VII or better by A.M. Best Company or similar rating company or otherwise acceptable to City.

4.2.6.1 Insurance Coverage Required.

- 4.2.6.1.1 Workers' Compensation. Insurance with limits as required by the Texas Workers' Compensation Act, with the policy endorsed to provide a waiver of subrogation in favor of City, employer's liability insurance of not less than:

\$2,000,000 each accident;

\$2,000,000 disease each employee; and

\$2,000,000 disease policy limit.

- 4.2.6.1.2 General Liability Coverage. Commercial General Liability

Insurance, including Independent Contractor's liability, Products and Completed Operations and Contractual Liability, covering, but not limited to, the liability assumed under the indemnification provisions of the Contract Documents, fully insuring Contractor's (or subcontractors) liability for bodily injury and property damage with a combined bodily injury (including death) and property damage minimum limit of:

\$1,000,000 per occurrence
\$10,000,000 general aggregate
\$1,000,000 products and completed operations
\$1,000,000 personal and advertising injury
\$1,000,000 damage to premises

\$50,000 Damage to Premises Rented to You; and

Coverage shall be on an "occurrence" basis.

The policy shall include coverage extended to apply to completed operations and explosion, collapse, and underground hazards. The policy shall include endorsement CG2503 Amendment of Aggregate Limits of Insurance (per Project) or its equivalent.

If the Work involves any activities within fifty (50) feet of any railroad, railroad protective insurance as may be required by the affected railroad, written for not less than the limits required by such railroad.

- 4.2.6.1.3 Asbestos Abatement Liability Insurance, including coverage for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos containing materials. *This requirement applies if the Work or the Project includes asbestos containing materials.

The combined single limit for bodily injury and property damage will be a minimum of \$1,000,000 per occurrence. *Specific requirement for claims-made form: Required period of coverage will be determined by the following formula: continuous coverage for life of the Contract, plus one (1) year (to provide coverage for the warranty period), and an extended discovery period for a minimum of five (5) years which shall begin at the end of the warranty period.

Employer's liability limits for asbestos abatement will be:

\$500,000 each accident;
\$500,000 disease each employee; and
\$500,000 disease policy limit.

If this Contract is for asbestos abatement only, the All Risk (Special Form) builder's risk or All Risk (Special Form) installation floater (e) is not required.

4.2.6.1.4 Comprehensive Automobile Liability Insurance, covering owned, hired, and non-owned vehicles, with a minimum combined single limit for bodily injury (including death) and property damage of \$5,000,000 per accident. No aggregate shall be permitted for this type of coverage.

Such insurance is to include coverage for loading and unloading hazards.

4.2.6.1.5 All Risk (Special Form) Builder's Risk Insurance, if applicable (or All Risk (Special Form) installation floater for instances in which the project involves solely the installation of material and/or equipment). Coverage shall be All Risk (Special Form), including, but not limited to, fire, extended coverage, vandalism and malicious mischief, theft and, if applicable, flood, earth movement and named storm. Builder's risk and installation floater limits shall be equal to 100 percent of the Contract Sum plus, if any, existing property and City-furnished equipment specified by City. The policy shall be written jointly in the names of City and Contractor. Subcontractors shall be named as additional insureds. The policy shall have endorsements as follows:

4.2.6.1.5.1 This insurance shall be specific as to coverage and not contributing insurance with any permanent insurance maintained on the property.

4.2.6.1.5.2 This insurance shall not contain an occupancy clause suspending or reducing coverage should City partially occupy the Site and before the parties have determined Substantial Completion.

4.2.6.1.5.3 Loss, if any, shall be adjusted with and made payable to City as trustee for the insureds as their interests may appear. City shall be named as loss payee.

4.2.6.1.5.4 For renovation projects or projects that involve portions of Work contained within an existing

structure, refer to Supplementary General and Special Conditions for possible additional builder's risk insurance requirements.

4.2.6.1.5.5 For City furnished equipment or materials that will be in care, custody or control of Contractor, Contractor will be responsible for damage and loss.

4.2.6.1.5.6 For those properties located within a Tier 1 or 2 windstorm area, named storm coverage must be provided with limits specified by City.

4.2.6.1.5.7 For those properties located in flood prone areas, flood insurance coverage must be provided with limits specified by City.

4.2.6.1.5.8 Builder's risk insurance policy shall remain in effect until Substantial Completion.

4.2.6.1.6 "Umbrella" Liability Insurance. Contractor shall obtain, pay for and maintain umbrella liability insurance during the Contract term, insuring Contractor for an amount of not less than amount specified in the Supplementary General Conditions or Special Conditions that provides coverage at least as broad as and applies in excess and follows form of the primary liability coverages required hereinabove. The policy shall provide "drop down" coverage where underlying primary insurance coverage limits are insufficient or exhausted.

4.2.7 Policies must include the following clauses, as applicable:

4.2.7.1 This insurance shall not be canceled, materially changed, or non-renewed except after thirty (30) days written notice has been given to City.

4.2.7.2 It is agreed that Contractor's insurance shall be deemed primary with respect to any insurance or self-insurance carried by City for liability arising out of operations under the Contract with City.

4.2.7.3 City, its officials, directors, employees, representatives, and volunteers are added as additional insureds as respects operations and activities of, or on behalf of the named insured performed under Contract with City. The additional insured status must cover completed operations as well. This is not applicable to workers' compensation policies.

- 4.2.7.4 A waiver of subrogation in favor of City shall be provided in all policies.
- 4.2.8 Without limiting any of the other obligations or liabilities of Contractor, Contractor shall require each Subcontractor performing work under the Contract, at Subcontractor's own expense, to maintain during the term of the Contract, the same stipulated minimum insurance including the required provisions and additional policy conditions as shown above. As an alternative, Contractor may include its Subcontractors as additional insureds on its own coverage as prescribed under these requirements. Contractor's certificate of insurance shall note in such event that Subcontractors are included as additional insureds and that Contractor agrees to provide workers' compensation for Subcontractors and their employees. Contractor shall obtain and monitor the certificates of insurance from each Subcontractor in order to assure compliance with the insurance requirements. Contractor must retain the certificates of insurance for the duration of the Contract plus five (5) years and shall have the responsibility of enforcing these insurance requirements among its Subcontractors. City shall be entitled, upon request and without expense, to receive copies of these certificates.
- 4.2.9 Workers' compensation insurance coverage must be provided for all workers at all tier I levels and meet the statutory requirements of Tex. Lab. Code § 401.011(44) and specific to construction projects for public entities as required by Tex. Lab. Code § 406.096.

Article 5. Construction Documents, Coordination Documents, and Record Documents

5.1 Drawings and Specifications.

- 5.1.1 Copies Furnished. Contractor will be furnished, free of charge, the number of complete sets of the Drawings, Specifications, and Addenda as provided in the Supplementary General Conditions or Special Conditions. Additional complete sets of Drawings and Specifications, if requested, will be furnished at reproduction cost to the entity requesting such additional sets. Electronic copies of such documents will be provided to Contractor without charge.
- 5.1.2 Ownership of Drawings and Specifications. All Drawings, Specifications and copies thereof furnished by A/E are to remain A/E's property. These documents are not to be used on any other project, and with the exception of the Contract record set and electronic versions needed for warranty operations, are to be returned to the A/E, upon request, following completion of the Work.
- 5.1.3 Interrelation of Documents. The Contract Documents as referenced in the Contract between City and Contractor are complimentary, and what is required by one shall be as binding as if required by all.
- 5.1.4 Resolution of Conflicts in Documents. Where conflicts may exist within the Contract Documents, the documents shall govern in the following order: (a)

Change Orders, addenda, and written amendments to the Contract; (b) the Contract; (c) Drawings; (d) Specifications (but Specifications shall control over Drawings as to quality of materials and workmanship); and (e) other Contract Documents. Among categories of documents having the same order of precedence, the term or provision that includes the latest date shall control and more specific requirements shall govern over general requirements. Contractor shall notify A/E and City for resolution of the issue prior to executing the Work in question.

5.1.5 Contractor's Duty to Review Contract Documents. In order to facilitate its responsibilities for completion of the Work in accordance with and as reasonably inferable from the Contract Documents, prior to commencing the Work, Contractor shall examine and compare the Contract Documents, information furnished by City, relevant field measurements made by Contractor and any visible or reasonably anticipated conditions at the Site affecting the Work. This duty extends throughout the construction phase prior to commencing each particular work activity and/or system installation.

5.1.6 Discrepancies and Omissions in Drawings and Specifications.

5.1.6.1 Promptly report to City and to A/E the discovery of any apparent error, omission or inconsistency in the Contract Documents prior to execution of the Work.

5.1.6.2 It is recognized that Contractor is not acting in the capacity of a licensed design professional, unless it is performing as a Design- Build firm.

5.1.6.3 It is further recognized that Contractor's examination of Contract Documents is to facilitate construction and does not create an affirmative responsibility to detect errors, omissions or inconsistencies or to ascertain compliance with applicable laws, building codes or regulations, unless it is performing as a Design- Build firm or a Construction Manager-at-Risk.

5.1.6.4 When performing as a Design-Build firm, Contractor has sole responsibility for discrepancies, errors, and omissions in the Drawings and Specifications.

5.1.6.5 When performing as a Construction Manager-at-Risk, Contractor has a shared responsibility with A/E for discovery and resolution of discrepancies, errors, and omissions in the Contract Documents. In such case, Contractor's responsibility pertains to review, coordination, and recommendation of resolution strategies within budget constraints.

5.1.6.6 Contractor has no liability for errors, omissions, or inconsistencies unless Contractor knowingly failed to report a recognized problem to City or the Work is executed under a Design-Build or Construction Manager-at-Risk Contract as outlined above. Should Contractor fail to

perform the examination and reporting obligations of these provisions, Contractor is responsible for avoidable costs and direct and/or consequential damages.

5.2 Requirements for Record Documents. Contractor shall:

- 5.2.1 Maintain at the Site one copy of all Drawings, Specifications, addenda, approved submittals, Contract modifications, and all Project correspondence. Keep current and maintain Drawings and Specifications in good order with postings and markings to record actual conditions of Work and show and reference all changes made during construction. Provide City and A/E access to these documents.
- 5.2.2 Maintain the Record Documents including Drawings, Specifications and other materials which reflect the actual field conditions and representations of the Work performed, whether it be directed by addendum, Change Order or otherwise. Make available all records prescribed herein for reference and examination by City and its representatives and agents.
- 5.2.3 Update the Record Documents at least monthly prior to submission of periodic partial pay estimates. Failure to maintain current Record Documents constitutes cause for denial of a progress payment otherwise due.
- 5.2.4 Prior to requesting Substantial Completion inspection Contractor shall furnish a copy of its marked-up Record Documents and a preliminary copy of each instructional manual, maintenance and operating manual, parts catalog, wiring diagrams, spare parts, specified written warranties and like publications, or parts for all installed equipment, systems, and like items and as described in the Contract Documents. (Unexecuted samples of the aforementioned documentation may be reviewed by City when the absence of substantial completion transactions preclude execution; however, Contractor remains obligated to provide fully executed copies of such materials prior to final payment.)
- 5.2.5 Once determined acceptable by City with input from A/E, provide one (1) reproducible copy and one (1) electronic media copy of all Record Documents, unless otherwise required by the Supplementary General Conditions or Special Conditions.
- 5.2.6 Contractor shall be responsible for updating the Record Documents for all Contractor initiated documents and changes to the Contract Documents due to coordination and actual field conditions, including RFIs.
- 5.2.7 A/E shall be responsible for updating the Record Documents for any addenda, Change Orders, A/E supplemental instructions and any other alterations to the Contract Documents generated by A/E or City.

Article 6. Construction Safety

- 6.1 General. It is the duty and responsibility of Contractor and all of its Subcontractors to be familiar with, enforce and comply with all requirements of Public Law No. 91- 596, 29 U.S.C. § 651 et. seq., the Occupational Safety and Health Act of 1970, (OSHA) and all amendments thereto. Contractor shall prepare a safety plan specific to the Project and submit it to City and A/E prior to commencing Work. In addition, Contractor and all of its Subcontractors shall comply with all applicable laws and regulations of any public body having jurisdiction for safety of persons or property to protect them from damage, injury or loss and erect and maintain all necessary safeguards for such safety and protection.
- 6.2 Notices. Contractor shall provide notices as follows:
- 6.2.1 Notify owners of adjacent property including those that own or operate utility services and/or underground facilities, and utility owners, when prosecution of the Work may affect them or their facilities, and cooperate with them in the protection, removal, relocation and replacement, and access to their facilities and/or utilities.
- 6.2.2 Coordinate the exchange of material safety data sheets (MSDSs) or other hazard communication information required to be made available to or exchanged between or among employers at the site in connection with laws and regulations. Maintain a complete file of MSDSs for all materials in use on site throughout the construction phase and make such file available to City and its agents as requested.
- 6.3 Emergencies. In any emergency affecting the safety of persons or property, Contractor shall act to minimize, mitigate, and prevent threatened damage, injury or loss.
- 6.3.2 Have authorized agents of Contractor respond immediately upon call at any time of day or night when circumstances warrant the presence of Contractor to protect the Work or adjacent property from damage or to take such action pertaining to the Work as may be necessary to provide for the safety of the public.
- 6.3.3 Give City and A/E prompt notice of all such events.
- 6.3.4 If Contractor believes that any changes in the Work or variations from Contract Documents have been caused by its emergency response, promptly notify City within seventy-two (72) hours of the emergency response event.
- 6.3.5 Should Contractor fail to respond, City is authorized to direct other forces to take action as necessary and City may deduct any cost of remedial action from funds otherwise due Contractor.
- 6.4 Injuries. In the event of an incident or accident involving outside medical care for an individual on or near the Work, Contractor shall notify City and other parties as may be directed promptly, but no later than twenty-four (24) hours after Contractor learns that an event required medical care.
- 6.4.1 Record the location of the event and the circumstances surrounding it, by using photography or other means, and gather witness statements and other

documentation which describes the event. Supply City and A/E with an incident report no later than thirty-six (36) hours after the occurrence of the event. In the event of a catastrophic incident (one (1) fatality or three (3) workers hospitalized), barricade and leave intact the scene of the incident until all investigations are complete. A full set of incident investigation documents, including facts, finding of cause, and remedial plans shall be provided within one (1) week after occurrence, unless otherwise directed by legal counsel. Contractor shall provide City with written notification within one week of such catastrophic event if legal counsel delays submission of full report.

6.5 Environmental Safety. Upon encountering any previously unknown potentially hazardous material, or other materials potentially contaminated by hazardous material, Contractor shall immediately stop work activities impacted by the discovery, secure the affected area, and notify City immediately.

6.5.1 Bind all Subcontractors to the same duty.

6.5.2 Upon receiving such notice, City will promptly engage qualified experts to make such investigations and conduct such tests as may be reasonably necessary to determine the existence or extent of any environmental hazard. Upon completion of this investigation, City will issue a written report to Contractor identifying the material(s) found and indicate any necessary steps to be taken to treat, handle, transport or dispose of the material.

6.5.3 City may hire third-party Contractors to perform any or all such steps.

6.5.4 Should compliance with City's instructions result in an increase in Contractor's cost of performance, or delay the Work, City will make an equitable adjustment to the Contract Sum and/or the time of completion, and modify the Contract in writing accordingly.

6.6 Trenching Plan. When the project requires excavation which either exceeds a depth of four (4) feet, or results in any worker's upper body being positioned below grade level, Contractor is required to submit a trenching plan (see Supplementary General Conditions and Special Provisions, Exhibit SP-3, City of Bryan Record of Excavation) to City prior to commencing trenching operations unless an engineered plan is part of the Contract Documents. The plan is required to be prepared and sealed by a professional engineer registered in the State of Texas, and hired or employed by Contractor or Subcontractor to perform the work.

6.7 Traffic Control. The contractor is responsible for traffic control. The contractor shall provide, as a submittal, a Traffic Control Plan sealed by a Professional Engineer Licensed in the State of Texas. The contractor's traffic control plan and schedule shall be completed for review during the pre-construction meeting. No notice to proceed will be issued until the traffic control plan is approved through the appropriate authorities. The contractor shall update the traffic control plan as required during construction. All traffic control shall comply with the Texas Manual of Uniform Traffic Control Devices.

The contractor's plan must be approved by the City Project Manager prior to beginning

work.

Article 7. Quality Control

7.1 Materials & Workmanship. Contractor shall execute Work in a good and workmanlike matter in accordance with the Contract Documents. Contractor shall develop and provide a quality control plan specific to this Project and acceptable to City. Where Contract Documents do not specify quality standards, complete and construct all Work in compliance with generally accepted construction industry standards. Unless otherwise specified, incorporate all new materials and equipment into the Work under the Contract.

7.2 Testing.

7.2.1 City is responsible for coordinating and paying for routine and special tests required to confirm compliance with quality and performance requirements, except as stated below or otherwise required by the Contract Documents. Contractor shall provide the following testing:

7.2.1.1 Any test of basic material or fabricated equipment included as part of a submittal for a required item in order to establish compliance with the Contract Documents.

7.2.1.2 Any test of basic material or fabricated equipment offered as a substitute for a specified item on which a test may be required in order to establish compliance with the Contract Documents.

7.2.1.3 Preliminary, start-up, pre-functional and operational testing of building equipment and systems as necessary to confirm operational compliance with requirements of the Contract Documents.

7.2.1.4 All subsequent tests on original or replaced materials conducted as a result of prior testing failure.

7.2.2 All testing shall be performed in accordance with standard test procedures by an accredited laboratory, or special consultant as appropriate, acceptable to City. Results of all tests shall be provided promptly to City, A/E, and Contractor.

7.2.3 Non-Compliance (Test Results). Should any of the tests indicate that a material and/or system does not comply with the Contract requirements, the burden of proof remains with Contractor, subject to:

7.2.3.1 Contractor selection and submission of the laboratory for City acceptance.

7.2.3.2 Acceptance by City of the quality and nature of tests.

7.2.3.3 All tests taken in the presence of A/E and/or City, or their representatives.

- 7.2.3.4 If tests confirm that the material/systems comply with Contract Documents, City will pay the cost of the test.
- 7.2.3.5 If tests reveal noncompliance, Contractor will pay those laboratory fees and costs of that particular test and all future tests, of that failing Work, necessary to eventually confirm compliance with Contract Documents.
- 7.2.3.6 Proof of noncompliance with the Contract Documents will make Contractor liable for any corrective action which City determines appropriate, including complete removal and replacement of non-compliant work or material.
- 7.2.4 Notice of Testing. Contractor shall give City and A/E timely notice of its readiness and the date arranged so City and A/E may observe such inspection, testing, or approval.
- 7.2.5 Test Samples. Contractor is responsible for providing Samples of sufficient size for test purposes and for coordinating such tests with their Work Progress Schedule to avoid delay.
- 7.2.6 Covering Up Work. If Contractor covers up any Work without providing City an opportunity to inspect, Contractor shall, if requested by City, uncover and recover the work at Contractor's expense.

7.3 Submittals.

- 7.3.1 Contractor's Submittals. Contractor shall submit with reasonable promptness consistent with the Project schedule and in orderly sequence all Shop Drawings, Samples, or other information required by the Contract Documents, or subsequently required by Change Order. Prior to submitting, Contractor shall review each submittal for general compliance with Contract Documents and approve submittals for review by A/E and City by an approval stamp affixed to each copy. Submittal data presented without Contractor's stamp will be returned without review or comment, and any delay resulting from failure is Contractor's responsibility.
 - 7.3.1.1 Contractor shall within twenty-one (21) days of the effective date of the Notice To Proceed with construction, submit to City and A/E, a submittal schedule/register, organized by specification section, listing all items to be furnished for review and approval by A/E and City. The list shall include Shop Drawings, manufacturer's literature, certificates of compliance, materials Samples, materials colors, guarantees, and all other items identified throughout the Specifications.
 - 7.3.1.2 Contractor shall indicate the type of item, Contract requirements reference, and Contractor's scheduled dates for submitting the item along with the requested dates for approval answers from A/E and City. The submittal register shall indicate the projected dates for procurement of all included items and shall be updated at least monthly with actual

approval and procurement dates. Contractor's Submittal Register must be reasonable in terms of the review time for complex submittals. Contractor's submittal schedule must be consistent with the Work Progress Schedule and identify critical submittals. Show and allow a minimum of fifteen (15) calendar day's duration after receipt by A/E and City for review and approval. If resubmittal required, allow a minimum of an additional fifteen (15) calendar days for review. Submit the updated Submittal Register with each request for progress payment. City may establish routine review procedures and schedules for submittals at the preconstruction conference and/or elsewhere in the Contract Documents. If Contractor fails to update and provide the Submittal Register as required, City may, after seven (7) days' notice to Contractor withhold a reasonable sum of money that would otherwise be due Contractor.

7.3.1.3 Contractor shall coordinate the Submittal Register with the Work Progress Schedule. Do not schedule Work requiring a submittal to begin prior to scheduling review and approval of the related submittal. Revise and/or update both schedules monthly to ensure consistency and current project data. Provide to City the updated Submittal Register and schedule with each application for progress payment. Refer to requirements for the Work Progress Schedule for inclusion of procurement activities therein. Regardless, the Submittal Register shall identify dates submitted and returned and shall be used to confirm status and disposition of particular items submitted, including approval or other action taken and other information not conveniently tracked through the Work Progress Schedule.

7.3.1.4 By submitting Shop Drawings, Samples or other required information, Contractor represents that it has determined and verified all applicable field measurements, field construction criteria, materials, catalog numbers and similar data to the extent possible from existing conditions and design information provided by A/E prior to fabrication; and has checked and coordinated each Shop Drawing and Sample with the requirements of the Work and the Contract Documents.

7.3.2 Review of Submittals. A/E and City review is only for conformance with the design concept and the information provided in the Contract Documents. Responses to submittals will be in writing. The approval of a separate item does not indicate approval of an assembly in which the item functions. The approval of a submittal does not relieve Contractor of responsibility for any deviation from the requirements of the Contract unless Contractor informs A/E and City of such deviation in a clear, conspicuous, and written manner on the submittal transmittal and at the time of submission, and obtains City's written specific approval of the particular deviation.

7.3.3 Correction and Resubmission. Contractor shall make any corrections required to a submittal and resubmit the required number of corrected copies promptly so as to avoid delay, until submittal approval. Direct attention in writing to A/E and City, when applicable, to any new revisions other than the corrections

requested on previous submissions.

7.3.4 Limits on Shop Drawing Review. Contractor shall not commence any Work requiring a submittal until review of the submittal under Subsection 7.3.2. Construct all such work in accordance with reviewed submittals. Comments incorporated as part of the review in Subsection 7.3.2 of Shop Drawings and Samples is not authorization to Contractor to perform extra work or changed work unless authorized through a Change Order. A/E's and City's review, if any, does not relieve Contractor from responsibility for defects in the Work resulting from errors or omissions of any kind on the submittal, regardless of any approval action. A/E or City shall not make formal changes to the Contract Documents via the submittal process. Changes to the Construction Documents shall be accomplished via Section 3.2.2 and Article 10 changes.

7.3.5 No Substitutions Without Approval. City and A/E may receive and consider Contractor's request for substitution when Contractor agrees to reimburse City for review costs and satisfies the requirements of this section. If Contractor does not satisfy these conditions, City and A/E will return the request without action except to record noncompliance with these requirements. City will not consider the request if Contractor cannot provide the product or method because of failure to pursue the Work promptly or coordinate activities properly. Contractor's request for a substitution may be considered by City and A/E when:

7.3.5.1 The Contract Documents do not require extensive revisions; and

7.3.5.2 Proposed changes are in keeping with the general intent of the Contract Documents and the design intent of A/E and do not result in an increase in cost to City; and

7.3.5.3 The request is timely, fully documented, properly submitted and one or more of the following apply:

7.3.5.3.1 Contractor cannot provide the specified product, assembly or method of construction within the Contract Time;

7.3.5.3.2 The request directly relates to an "or-equal" clause or similar language in the Contract Documents;

7.3.5.3.3 The request directly relates to a "product design standard" or "performance standard" clause in the Contract Documents;

7.3.5.3.4 The requested substitution offers City a substantial advantage in cost, time, energy conservation or other considerations, after deducting additional responsibilities City must assume;

7.3.5.3.5 The specified product or method of construction cannot receive necessary approval by an authority having

jurisdiction, and City can approve the requested substitution;

7.3.5.3.6 Contractor cannot provide the specified product, assembly or method of construction in a manner that is compatible with other materials and where Contractor certifies that the substitution will overcome the incompatibility;

7.3.5.3.7 Contractor cannot coordinate the specified product, assembly or method of construction with other materials and where Contractor certifies they can coordinate the proposed substitution; or

7.3.5.3.8 The specified product, assembly or method of construction cannot provide a warranty required by the Contract Documents and where Contractor certifies that the proposed substitution provides the required warranty.

7.3.5.3.9 The manufacture of the specified product has been removed from production due to cancellation or obsolescence.

7.3.6 Unauthorized Substitutions at Contractor's Risk. Contractor is financially responsible for any additional costs or delays resulting from unauthorized substitution of materials, equipment or fixtures other than those specified. Contractor shall reimburse City for any increased design or contract administration costs resulting from such unauthorized substitutions.

7.4 Field Mock-up.

7.4.1 Mock-ups shall be constructed prior to commencement of a specified scope of work to confirm acceptable workmanship.

7.4.1.1 As a minimum, field mock-ups shall be constructed for roofing systems, exterior veneer / finish systems, glazing systems, and any other Work requiring a mock-up as identified throughout the Contract Documents. Mock-ups for systems not part of the Project scope shall not be required.

7.4.1.2 Mock-ups may be incorporated into the Work if allowed by the Contract Documents and if acceptable to City. If mock-ups are freestanding, they shall remain in place until otherwise directed by City.

7.4.1.3 Contractor shall include field mock-ups in their Work Progress Schedule and shall notify City and A/E of readiness for review sufficiently in advance to coordinate review without delay.

7.5 Inspection During Construction.

7.5.1 Contractor shall provide sufficient, safe, and proper facilities, including equipment as necessary for safe access, at all reasonable times for observation and/or inspection of the Work by City and its agents. "Reasonable times" of

inspection allow for sufficient monitoring of the quality of materials and installation without substantially impeding the progress of the Work.

7.5.2 Contractor shall not cover up any Work with finishing materials or other building components prior to providing City and its agents an opportunity to perform an inspection of the Work.

7.5.2.1 Should corrections of the Work be required for approval, Contractor shall not cover-up corrected Work until City indicates approval.

7.5.2.2 Contractor shall provide notification of at least five (5) working days or otherwise as mutually agreed, to City of the anticipated need for a cover-up inspection. Should City fail to make the necessary inspection within the agreed period, Contractor may proceed with cover-up Work, but is not relieved of responsibility for Work to comply with requirements of the Contract Documents.

Article 8. Construction Schedules

8.1 Contract Time. **TIME IS AN ESSENTIAL ELEMENT OF THE CONTRACT.** The Contract Time is the time between the dates indicated in the Notice to Proceed for commencement of the Work and for achieving Substantial Completion. The Contract Time can be modified only by Change Order. Failure to achieve Substantial Completion within the Contract Time as otherwise agreed to in writing will cause damage to City and may subject Contractor to liquidated damages as provided in the Contract Documents. If Contractor fails to achieve Final Completion within sixty (60) calendar days after Substantial Completion or a mutually agreed upon longer period of time between Contractor and City, Contractor shall be responsible for City's additional inspection, project management, and maintenance cost to the extent caused by Contractor's failure to achieve Final Completion.

8.2 Notice to Proceed. City will issue a Notice to Proceed which shall state the dates for beginning Work and for achieving Substantial Completion of the Work.

8.3 Work Progress Schedule. Refer to Supplementary General Conditions or Special Conditions for additional schedule requirements. Unless indicated otherwise in those documents, Contractor shall submit their initial Work Progress Schedule for the Work in relation to the entire Project not later than twenty-one (21) days after the effective date of the Notice to Proceed to City and A/E. Unless otherwise indicated in the Contract Documents, the Work Progress Schedule shall be computerized Critical Path Method (CPM) with fully editable logic. This initial schedule shall indicate the dates for starting and completing the various aspects required to complete the Work, including mobilization, procurement, installation, testing, inspection, delivery of Close-out Documents and acceptance of all the Work of the Contract. When acceptable to City, the initially accepted schedule shall be the Baseline Schedule for comparison to actual conditions throughout the Contract duration.

8.3.1 Schedule Requirements. Contractor shall submit electronic and paper copy of the initial Work Progress Schedule reflecting accurate and reliable

representations of the planned progress of the Work, the Work to date if any, and of Contractor's actual plans for its completion. Contractor shall organize and provide adequate detail so the schedule is capable of measuring and forecasting the effect of delaying events on completed and uncompleted activities.

8.3.1.1 Contractor shall resubmit initial schedule as required to address review comments from A/E and City until such schedule is accepted as the Baseline Schedule.

8.3.1.2 Submittal of a schedule, schedule revision or schedule update constitutes Contractor's representation to City of the accurate depiction of all progress to date and that Contractor will follow the schedule as submitted in performing the Work.

8.3.2 Schedule Updates. Contractor shall update the Work Progress Schedule and the Submittal Register monthly, as a minimum, to reflect progress to date and current plans for completing the Work, while maintaining original schedule as Baseline Schedule and submit paper and electronic copies of the update to A/E and City as directed, but as a minimum with each request for payment. City has no duty to make progress payments unless accompanied by the updated Work Progress Schedule. Show the anticipated date of completion reflecting all extensions of time granted through Change Order as of the date of the update. Contractor may revise the Work Progress Schedule when in Contractor's judgment it becomes necessary for the management of the Work. Contractor shall identify all proposed changes to schedule logic to City and to A/E via an executive summary accompanying the updated schedule for review prior to final implementation of revisions into a revised Baseline Schedule. Schedule changes that materially impact City's operations shall be communicated promptly to City and shall not be incorporated into the revised Baseline Schedule without City's consent.

8.3.3 The Work Progress Schedule is for Contractor's use in managing the Work and submittal of the schedule, and successive updates or revisions, is for the information of City and to demonstrate that Contractor has complied with requirements for planning the Work. City's acceptance of a schedule, schedule update or revision constitutes City's agreement to coordinate its own activities with Contractor's activities as shown on the schedule.

8.3.3.1 Acceptance of the Work Progress Schedule, or update and/or revision thereto does not indicate any approval of Contractor's proposed sequences and duration.

8.3.3.2 Acceptance of a Work Progress Schedule update or revision indicating early or late completion does not constitute City's consent, alter the terms of the Contract, or waive either Contractor's responsibility for timely completion or City's right to damages for Contractor's failure to do so.

8.6.2 When a delay defined herein as excusable prevents Contractor from completing the Work within the Contract Time, Contractor is entitled to an extension of time. City will make an equitable adjustment and extend the number of days lost because of excusable delay or Weather Days, as measured by Contractor's progress schedule. All extensions of time will be granted in calendar days. In no event, however, will an extension of time be granted for delays that merely extend the duration of non-critical activities, or only consume float without delaying the project Substantial Completion date(s).

8.6.2.1 A "Weather Day" is a day on which Contractor's current schedule indicates Work is to be done, and on which inclement weather and/or related site conditions prevent Contractor from performing seven (7) continuous hours of Work on the critical path between the hours of 7:00 a.m. and 6:00 p.m. Weather days are excusable delays. When weather conditions at the site prevent work from proceeding, Contractor shall immediately notify City for confirmation of the conditions. At the end of each calendar month, submit to City and A/E a list of Weather Days occurring in that month along with documentation of the impact on critical activities. Based on confirmation by City, any time extension granted will be issued by Change Order. If Contractor and City cannot agree on the time extension, City may issue a ULCO for fair and reasonable time extension.

8.6.2.2 Excusable Delay. Contractor is entitled to an equitable adjustment of the Contract Time, issued via change order, for delays caused by the following:

8.6.2.2.1 Errors, omissions and imperfections in design, which A/E corrects by means of changes in the Drawings and Specifications.

8.6.2.2.2 Unanticipated physical conditions at the Site, which A/E corrects by means of changes to the Drawings and Specifications or for which City directs changes in the Work identified in the Contract Documents.

8.6.2.2.3 Failure of City to have secured property, right-of-way or easements necessary for Work to begin or progress.

8.6.2.2.4 Changes in the Work that effect activities identified in Contractor's schedule as "critical" to completion of the entire Work, if such changes are ordered by City or recommended by A/E and ordered by City.

8.6.2.2.5 Suspension of Work for unexpected natural events, Force Majeure (sometimes called "acts of God"), civil unrest, strikes or other events which are not within the reasonable control of Contractor.

8.6.2.2.6 Suspension of Work for convenience of City, which prevents Contractor from completing the Work within the Contract Time.

8.6.2.2.7 Administrative delays caused by activities or approval requirements related to an Authority Having Jurisdiction.

8.6.3 Contractor's relief in the event of such delays is the time impact to the critical path as determined by analysis of Contractor's schedule. In the event that Contractor incurs additional direct costs because of the excusable delays other than described in Subparagraph 8.6.2.2.4 and within the reasonable control of City, the Contract price and Contract Time are to be equitably adjusted by City pursuant to the provisions of Article 10.

8.7 No Damages for Delay. Contractor has no claim for monetary damages for delay or hindrances to the work from any cause, including without limitation any act or omission of City.

8.8 Concurrent Delay. When the completion of the Work is simultaneously delayed by an excusable delay and a delay arising from a cause not designated as excusable, Contractor may not be entitled to a time extension for the period of concurrent delay.

8.9 Other Time Extension Requests. Time extensions requested in association with changes to the Work directed or requested by City shall be included with Contractor's proposed costs for such change. Time extensions requested for inclement weather are covered by Paragraph 8.6.2.1 above. If Contractor believes that the completion of the Work is delayed by a circumstance other than for changes directed to the Work or weather, they shall give City written notice, stating the nature of the delay and the activities potentially affected, within five (5) days after the onset of the event or circumstance giving rise to the excusable delay. Contractor shall provide sufficient written evidence to document the delay. In the case of a continuing cause of delay, only one claim is necessary. State claims for extensions of time in numbers of whole or half days.

8.9.1 Within ten (10) days after the cessation of the delay, Contractor shall formalize its request for extension of time in writing to include a full analysis of the schedule impact of the delay and substantiation of the excusable nature of the delay. All changes to the Contract Time or made as a result of such claims is by Change Order, as set forth in Article 10.

8.9.2 No extension of time releases Contractor or the Surety furnishing a performance or payment bond from any obligations under the Contract or such a bond. Those obligations remain in full force until the discharge of the Contract.

8.9.3 Contents of Time Extension Requests. Contractor shall provide with each Time Extension Request a quantitative demonstration of the impact of the delay on project completion time, based on the Work Progress Schedule. Contractor shall include with Time Extension Requests a reasonably detailed narrative setting forth:

8.9.3.1 The nature of the delay and its cause; the basis of Contractor's claim of

entitlement to a time extension.

8.9.3.2 Documentation of the actual impacts of the claimed delay on the critical path indicated in Contractor's Work Progress Schedule, and any concurrent delays.

8.9.3.3 Description and documentation of steps taken by Contractor to mitigate the effect of the claimed delay, including, when appropriate, the modification of the Work Progress Schedule.

8.9.4 City's Response. City will respond to the Time Extension Request by providing to Contractor written notice of the number of days granted, if any, and giving its reason if this number differs from the number of days requested by Contractor.

8.9.4.1 City will not grant time extensions for delays that do not affect the Contract Substantial Completion date.

8.9.4.2 City will respond to each properly submitted Time Extension Request within fifteen (15) days following receipt. If City cannot reasonably make a determination about Contractor's entitlement to a time extension within that time, City will notify Contractor in writing. Unless otherwise agreed by Contractor, City has no more than fifteen (15) additional days to prepare a final response. If City fails to respond within forty-five (45) days from the date the Time Extension Request is received, Contractor is entitled to a time extension in the amount requested.

8.10 Failure to Complete Work Within the Contract Time. **TIME IS AN ESSENTIAL ELEMENT OF THE CONTRACT.** Contractor's failure to substantially complete the Work within the Contract Time or to achieve Substantial Completion as required will cause damage to City. These damages shall be liquidated by agreement of Contractor and City, in the amount per day as set forth in the Contract Documents.

8.11 Liquidated Damages. City may collect liquidated damages due from Contractor directly or indirectly by reducing the Contract Sum in the amount of liquidated damages stated in the Supplementary General Conditions and Special Provisions, SP-14: FAILURE TO COMPLETE ON TIME.

Article 9. Payments

9.1 Schedule of Values. Contractor shall submit to City and A/E for acceptance a Schedule of Values accurately itemizing material and labor for the various classifications of the Work based on the organization of the specification sections and of sufficient detail acceptable to City. The accepted Schedule of Values will be the basis for the progress payments under the Contract.

9.1.1 No progress payments will be made prior to receipt and acceptance of the Schedule of Values, provided in such detail as required by City, and submitted not less than twenty-one (21) days prior to the first request for payment. The

Schedule of Values shall follow the order of trade divisions of the Specifications and include itemized costs for general conditions, costs for preparing close out documents, fees, contingencies, and City cash allowances, if applicable, so that the sum of the items will equal the Contract price. As appropriate, assign each item labor and/or material values, the subtotal thereof equaling the value of the work in place when complete.

9.1.1.1 City requires that the Work items be inclusive of the cost of the Work items only. Any contract markups for overhead and profit, general conditions, etc., shall be contained within separate line items for those specific purposes which shall be divided into at least two (2) lines, one (1) for labor and one (1) for materials.

9.1.2 Contractor shall retain a copy of all worksheets used in preparation of its bid or proposal, supported by a notarized statement that the worksheets are true and complete copies of the documents used to prepare the bid or proposal. Make the worksheets available to City at the time of Contract execution. Thereafter Contractor shall grant City during normal business hours access to said copy of worksheets at any time during the period commencing upon execution of the Contract and ending one year after final payment.

9.2 Progress Payments. Contractor will receive periodic progress payments for Work performed, materials in place, suitably stored on Site, or as otherwise agreed to by City and Contractor. Payment is not due until receipt by City or his designee of a correct and complete Pay Application in electronic and/or hard copy format as set forth in Supplementary General Conditions, Special Conditions, and certified by A/E. Progress payments are made provisionally and do not constitute acceptance of work not in accordance with the Contract Documents. City will not process progress payment applications for Change Order Work until all parties execute the Change Order.

9.2.1 Preliminary Pay Worksheet. Once each month that a progress payment is to be requested, the Contractor shall submit to A/E and City a complete, clean copy of a preliminary pay worksheet or preliminary pay application, to include the following:

9.2.1.1 Contractor's estimate of the amount of Work performed, labor furnished and materials incorporated into the Work, using the established Schedule of Values;

9.2.1.2 An updated Work Progress Schedule including the executive summary and all required schedule reports;

9.2.1.3 Such additional documentation as City may require as set forth in the Supplementary General Conditions or elsewhere in the Contract Documents; and

9.2.1.4 Construction payment affidavit.

9.2.2 Contractor's Application for Payment. As soon as practicable, but in no event

later than seven (7) days after receipt of the preliminary pay worksheet, A/E and City will meet with Contractor to review the preliminary pay worksheet and to observe the condition of the Work. Based on this review, City and A/E may require modifications to the preliminary pay worksheet prior to the submittal of an Application for Payment, and will promptly notify Contractor of revisions necessary for approval. As soon as practicable, Contractor shall submit its Application for Payment on the appropriate and completed form, reflecting the required modifications to the Schedule of Values required by A/E and/or City. Attach all additional documentation required by City and/or A/E, as well as an affidavit affirming that all payrolls, bills for labor, materials, equipment, subcontracted work and other indebtedness connected with Contractor's Application for Payment are paid or will be paid within the time specified in Tex. Gov't Code, Ch. 2251. No Application for Payment is complete unless it fully reflects all required modifications, and attaches all required documentation including Contractor's affidavit.

9.2.3 Certification by Architect/Engineer. Within five (5) days or earlier following A/E's receipt of Contractor's formal Application for Payment, A/E will review the Application for Payment for completeness, and forward it to City. A/E will certify that the application is complete and payable, or that it is incomplete, stating in particular what is missing. If the Application for Payment is incomplete, Contractor shall make the required corrections and resubmit the Application for Payment for processing.

9.3 City's Duty to Pay. City has no duty to pay the Contractor except on receipt by City of: 1) a complete Application for Payment certified by A/E; 2) Contractor's updated Work Progress Schedule; and 3) confirmation that Contractor's record documentation at the Site is kept current.

9.3.1 Payment for stored materials and/or equipment confirmed by City and A/E to be on-site or otherwise properly stored is limited to eighty-five (85) percent of the invoice price or eighty-five (85) percent of the scheduled value for the materials or equipment, whichever is less.

9.3.2 Retainage. City will withhold from each progress payment, as retainage, five (5) percent of the total earned amount, the amount authorized by law, or as otherwise set forth in the Supplementary General Conditions or Special Conditions. Retainage is managed in conformance with Tex. Gov't Code, Ch. 2252, Subch. B.

9.3.2.1 Contractor shall provide written consent of its surety for any request for reduction or release of retainage.

9.3.2.2 At least sixty-five (65) percent of the Contract, or such other discrete Work phase as set forth in Subsection 11.1.6 or Work package delineated in the Contract Documents, must be completed before City can consider a retainage reduction or release.

9.3.2.3 Contractor shall not withhold retainage from their Subcontractors and

suppliers in amounts that are any percentage greater than that withheld in its Contract with City under this subsection, unless otherwise acceptable to City.

9.3.3 Price Reduction to Cover Loss. City may reduce any Application for Payment, prior to payment to the extent necessary to protect City from loss on account of actions of Contractor including, but not limited to, the following:

9.3.3.1 Defective or incomplete Work not remedied;

9.3.3.2 Damage to Work of a separate Contractor;

9.3.3.3 Failure to maintain scheduled progress or reasonable evidence that the Work will not be completed within the Contract Time;

9.3.3.4 Persistent failure to carry out the Work in accordance with the Contract Documents;

9.3.3.5 Reasonable evidence that the Work cannot be completed for the unpaid portion of the Contract Sum;

9.3.3.6 Intentionally omitted.

9.3.3.7 Failure to include the appropriate amount of retainage for that periodic progress payment.

9.3.4 Title to all material and Work covered by progress payments transfers to City upon payment.

9.3.4.1 Transfer of title to City does not relieve Contractor and its Subcontractors of the sole responsibility for the care and protection of materials and Work upon which payments have been made until substantial completion, responsibility for the care and protection of materials and Work in areas where punch list items are completed until final completion or the restoration of any damaged Work, or waive the right of City to require the fulfillment of all the terms of the Contract.

9.4 Progress Payments. Progress payments to Contractor do not release Contractor or its surety from any obligations under the Contract.

9.4.1 Upon City's request, Contractor shall furnish manifest proof of the status of Subcontractor's accounts in a form acceptable to City.

9.4.2 Pay estimate certificates must be signed by a corporate officer or a representative duly authorized by Contractor.

9.4.3 Provide copies of bills of lading, invoices, delivery receipts or other evidence of the location and value of such materials in requesting payment for materials.

- 9.4.4 For purposes of Tex. Gov't Code § 2251.021(a)(2), the date the performance of service is complete is the date when City approves the Application for Payment.
- 9.5 Off-Site Storage. With prior approval by City and in the event Contractor elects to store materials at an off-site location, abide by the following conditions, unless otherwise agreed to in writing by City.
- 9.5.1 Store materials in a commercial warehouse meeting the criteria stated below.
- 9.5.2 Provide insurance coverage adequate not only to cover materials while in storage, but also in transit from the off-site storage areas to the Project Site. Copies of duly authenticated certificates of insurance, made out to insure the State agency which is signatory to the Contract, must be filed with City's representative.
- 9.5.3 Inspection by City's representative is allowed at any time. City's inspectors must be satisfied with the security, control, maintenance, and preservation measures.
- 9.5.4 Materials for this Project are physically separated and marked for the Project in a sectioned-off area. Only materials which have been approved through the submittal process are to be considered for payment.
- 9.5.5 City reserves the right to reject materials at any time prior to final acceptance of the complete Contract if they do not meet Contract requirements regardless of any previous progress payment made.
- 9.5.6 With each monthly payment estimate, submit a report to City and A/E listing the quantities of materials already paid for and still stored in the off-site location.
- 9.5.7 Make warehouse records, receipts and invoices available to City's representatives, upon request, to verify the quantities and their disposition.
- 9.5.8 In the event of Contract termination or default by Contractor, the items in storage off-site, upon which payment has been made, will be promptly turned over to City or City's agents at a location near the jobsite as directed by City. The full provisions of performance and payment bonds on this Project cover the materials off-site in every respect as though they were stored on the Project Site.
- 9.6 Time for Payment by Contractor Pursuant to Tex. Gov't Code § 2255.022.
- 9.6.1 Contractor who receives a payment from a governmental entity shall pay Subcontractor the appropriate share of the payment not later than the tenth (10th) day after the date Contractor receives the payment.
- 9.6.2 The appropriate share is overdue on the eleventh (11th) day after the date Contractor receives the payment.

Article 10. Changes

- 10.1 Change Orders. A Change Order issued after execution of the Contract is a written order to Contractor, signed by City, Contractor, and A/E, authorizing a change in the Work

or an adjustment in the Contract Sum or the Contract Time. The Contract Sum and the Contract Time can only be changed by Change Order. A Change Order signed by Contractor indicates his agreement therewith, including the adjustment in the Contract Sum and/or the Contract Time. City may issue a written authorization for Contractor to proceed with Work of a Change Order in advance of final execution by all parties in accordance with Section 11.9.

- 10.1.1 City, without invalidating the Contract, may order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions, and the Contract Sum and the Contract Time will be adjusted accordingly. All such changes in the Work shall be authorized by Change Order or ULCO, and shall be performed under the applicable conditions of the Contract Documents. If such changes cause an increase or decrease in Contractor's cost of, or time required for, performance of the Contract, an equitable adjustment shall be made and confirmed in writing in a Change Order or a ULCO.
- 10.1.2 It is recognized by the parties hereto and agreed by them that the Specifications and Drawings may not be complete or free from errors, omissions and imperfections or that they may require changes or additions in order for the Work to be completed to the satisfaction of City and that, accordingly, it is the express intention of the parties, notwithstanding any other provisions in this Contract, that any errors, omissions or imperfections in such Specifications and Drawings, or any changes in or additions to same or to the Work ordered by City and any resulting delays in the Work or increases in Contractor's costs and expenses arising out of such errors, shall not constitute or give rise to any claim, demand or cause of action of any nature whatsoever in favor of Contractor, whether for breach of Contract, or otherwise; provided, however, that City shall be liable to Contractor for the sum stated to be due Contractor in any Change Order approved and signed by both parties, it being agreed hereby that such sum, together with any extension of time contained in said Change Order, shall constitute full compensation to Contractor for all costs, expenses and damages to Contractor.
- 10.1.3 Procedures for administration of Change Orders shall be established by City and stated in Supplementary General Conditions, Special Conditions, or elsewhere in the Contract Documents.
- 10.1.4 No verbal order, verbal statement, or verbal direction of City or his duly appointed representative shall be treated as a change under this article or entitle Contractor to an adjustment.
- 10.1.5 Contractor agrees that City or any of its duly authorized representatives shall have access and the right to examine any directly pertinent books, documents, papers, and records of Contractor. Further, Contractor agrees to include in all its subcontracts a provision to the effect that Subcontractor agrees that City or any of its duly authorized representatives shall have access to and the right to examine any directly pertinent books, documents, papers and records of such Subcontractor relating to any claim arising from the Contract, whether or not the Subcontractor is a party to the claim. The period of access and examination

described herein which relates to appeals under the Disputes article of the Contract, litigation, or the settlement of claims arising out of the performance of the Contract shall continue until final disposition of such claims, appeals or litigation.

10.2 Unit Prices. If unit prices are stated in the Contract Documents or subsequently agreed upon, and if the quantities originally contemplated are so changed in a Proposed Change Order that application of the agreed unit prices to the quantities of work proposed will cause substantial inequity to City or Contractor, the applicable unit prices shall be equitably adjusted as provided in the Supplementary General Conditions or Special Conditions or as agreed to by the parties and incorporated into a Change Order.

10.3 Claims for Additional Costs.

10.3.1 If Contractor wishes to make a claim for an increase in the Contract Sum not related to a requested change, they shall give City and A/E written notice thereof within twenty-one (21) days after the occurrence of the event giving rise to such claim, but, in any case before proceeding to execute the Work considered to be additional cost or time, except in an emergency endangering life or property in which case Contractor shall act in accordance with Subsection 6.2.1. No such claim shall be valid unless so made. If City and Contractor cannot agree on the amount of the adjustment in the Contract Sum, it shall be determined as set forth under Article 14. Any change in the Contract Sum resulting from such claim shall be authorized by a Change Order or a ULCO.

10.3.2 If Contractor claims that additional cost is involved because of, but not limited to, 1) any written interpretation of the Contract Documents, 2) any order by City to stop the Work pursuant to Article 13 where Contractor was not at fault, or 3) any written order for a minor change in the Work issued pursuant to Section 10.4, Contractor shall make such claim as provided in Subsection 10.3.1.

10.3.3 Should Contractor or his Subcontractors fail to call attention of A/E to discrepancies or omissions in the Contract Documents, but claim additional costs for corrective Work after Contract award, City may assume intent to circumvent competitive bidding for necessary corrective Work. In such case, City may choose to let a separate Contract for the corrective Work, or issue a ULCO to require performance by Contractor. Claims for time extensions or for extra cost resulting from delayed notice of patent Contract Document discrepancies or omissions will not be considered by City.

10.4 Minor Changes. A/E, with concurrence of City, will have authority to order minor changes in the Work not involving an adjustment in the Contract Sum or an extension of the Contract Time. Such changes shall be effected by written order which Contractor shall carry out promptly and record on as-built record documents.

10.5 Concealed Site Conditions. Contractor is responsible for visiting the Site and being familiar with local conditions such as the location, accessibility, and general character of the Site and/or building. If, in the performance of the Contract, subsurface, latent, or concealed conditions at the Site are found to be materially different from the information included in the Contract Documents, or if unknown conditions of an

unusual nature are disclosed differing materially from the conditions usually inherent in Work of the character shown and specified, City and A/E shall be notified in writing of such conditions before they are further disturbed or subsequent related work proceeds. Upon such notice, or upon its own observation of such conditions, A/E, with the approval of City, will promptly make such changes in the Drawings and Specifications as they deem necessary to conform to the different conditions, and any increase or decrease in the cost of the Work, or in the time within which the Work is to be completed, resulting from such changes will be adjusted by Change Order, subject to the prior approval of City.

10.6 Extension of Time. All changes to the Contract Time shall be made as a consequence of requests as required under Section 8.6, and as documented by Change Order as provided under Section 10.1.

10.7 Administration of Change Order Requests. All changes in the Contract shall be administered in accordance with procedures approved by City, and when required, make use of such electronic information management system(s) as City may employ.

10.7.1 Routine changes in the construction Contract shall be formally initiated by A/E by means of a PCO form detailing requirements of the proposed change for pricing by Contractor. This action may be preceded by communications between Contractor, A/E and City concerning the need and nature of the change, but such communications shall not constitute a basis for beginning the proposed Work by Contractor. Except for emergency conditions described below, approval of Contractor's cost proposal by A/E and City will be required for authorization to proceed with the Work being changed. City will not be responsible for the cost of Work changed without prior approval and Contractor may be required to remove Work so installed.

10.7.2 All proposed costs for change order Work must be supported by itemized accounting of material, equipment and associated itemized installation costs in sufficient detail, following the outline and organization of the establish Schedule of Values, to permit analysis by A/E and City using current estimating guides and/or practices. Photocopies of Subcontractor and vendor proposals shall be furnished unless specifically waived by City. Contractor shall provide written response to a change request within twenty-one (21) days of receipt.

10.7.3 Any unexpected circumstance which necessitates an immediate change in order to avoid a delay in progress of the Work may be expedited by verbal communication and authorization between Contractor and City, with written confirmation following within twenty-four (24) hours. A limited scope not-to-exceed estimate of cost and time will be requested prior to authorizing Work to proceed. Should the estimate be impractical for any reason, City may authorize the use of detailed cost records of such work to establish and confirm the actual costs and time for documentation in a formal Change Order.

10.7.4 Emergency changes to save life or property may be initiated by Contractor alone (see Section 6.3) with the claimed cost and/or time of such work to be fully documented as to necessity and detail of the reported costs and/or time.

- 10.7.5 The method of incorporating approved Change Orders into the parameters of the accepted Schedule of Values must be coordinated and administered in a manner acceptable to City.
- 10.8 Pricing Change Order Work. The amounts that Contractor and/or its Subcontractor adds to a Change Order for profit and overhead will also be considered by City before approval is given. The amounts established hereinafter are the maximums that are acceptable to City.
- 10.8.1 For Work performed by its forces, Contractor will be allowed their actual costs for materials, the total amount of wages (including benefits) paid for labor, plus the total cost of State and Federal payroll taxes and of worker's compensation and comprehensive general liability insurance, plus additional bond and builders risk insurance cost if the change results in an increase in the premium paid by Contractor. To the total of the above costs, Contractor will be allowed to add a percentage as noted below to cover overhead and profit combined. Allowable percentages for overhead and profit on any specific change shall not exceed fifteen (15) percent for the first \$10,000 of value for self-performed work or portion thereof, ten (10) percent for the second \$10,000 of value for self-performed work or portion thereof and seven and a half (7.5) percent for any value of the self-performed work that exceeds \$20,000.
- 10.8.2 For subcontracted Work each affected Subcontractor shall figure its costs, overhead and profit as described above for Contractor's Work, all Subcontractor costs shall be combined, and to that total Subcontractor cost Contractor will be allowed to add a maximum mark-up of ten (10) percent for the first \$10,000 of subcontracted Work value or portion thereof, seven and half (7.5) percent for the second \$10,000 of subcontracted Work value or portion thereof, and five (5) percent for any value of the subcontracted Work exceeding \$20,000.
- 10.8.3 On changes involving both additions and deletions, percentages for overhead and profit will be allowed only on the net addition. City does not accept and will not pay for additional Contract cost identified as indirect or consequential damages.
- 10.8.4 For Contracts based on a Guaranteed Maximum Price (GMP), the Construction Manager-at-Risk or Design Builder shall NOT be entitled to a percentage mark-up on any Change Order Work unless the Change Order increases the Guaranteed Maximum Price.
- 10.9 Unilateral Change Order (ULCO). City may issue a written ULCO directing a change in the Work prior to reaching agreement with Contractor on the adjustment, if any, in the Contract price and/or the Contract Time.
- 10.9.1 City and Contractor shall negotiate for appropriate adjustments, as applicable, to the Contract Sum or the Contract Time arising out of a ULCO. As the changed Work is performed, Contractor shall submit its costs for such Work with its Application for Payment beginning with the next Application for Payment

within thirty (30) days of the issuance of the ULCO. The Parties reserve their rights as to the disputed amount, subject to Article 14.

- 10.10 Final Resolution of Changes. Upon execution of a Change Order and /or a ULCO by City, Contractor and A/E, all costs and time issues regarding that change are final and not subject to additive adjustments.

Article 11. Project Completion and Acceptance

11.1 Closing Inspections.

11.1.1 Substantial Completion Inspection. When Contractor considers the entire Work or part thereof Substantially Complete, it shall notify City in writing that the Work will be ready for Substantial Completion inspection on a specific date. Contractor shall include with this notice Contractor's Punchlist to indicate that it has previously inspected all the Work associated with the request for inspection, noting items it has corrected and included all remaining work items with date scheduled for completion or correction prior to final inspection. The failure to include any items on this list does not alter the responsibility of Contractor to complete all Work in accordance with the Contract Documents. If any of the items on this list prevents the Project from being used as intended, Contractor shall not request a Substantial Completion Inspection. City and its representatives will review the list of items and schedule the requested inspection, or inform Contractor in writing that such an inspection is premature because the Work is not sufficiently advanced or conditions are not as represented on Contractor's list.

11.1.1.1 Prior to the Substantial Completion inspection, Contractor shall furnish a copy of its marked-up Record Documents and a preliminary copy of each instructional manual, maintenance and operating manual, parts catalog, wiring diagrams, spare parts, specified written warranties, and like publications or parts for all installed equipment, systems, and like items as described in the Contract Documents. Delivery of these items is a prerequisite for requesting the Substantial Completion inspection.

11.1.1.2 On the date requested by Contractor, or as mutually agreed upon pending the status of the Open Items List, A/E, City, Contractor, and other City representatives as determined by City will jointly attend the Substantial Completion inspection, which shall be conducted by City or their delegate. If City determines that the Work is Substantially Complete, City will issue a Certificate of Substantial Completion to be signed by A/E, City, and Contractor establishing the date of Substantial Completion and identifying responsibilities for security, maintenance, insurance and utilities. A/E will provide with this certificate a consolidated list of Punchlist items (the pre-final Punchlist including all items noted by the various inspecting parties) for completion prior to final inspection. This list may include items in addition to those on Contractor's Punchlist, which the inspection team

deems necessary to correct or complete prior to final inspection. The failure to include any items on this list does not alter the responsibility of Contractor to complete all Work in accordance with the Contract Documents. If City occupies the Project upon determination of Substantial Completion, Contractor shall complete all corrective Work at the convenience of City, without disruption to City's use of the Project for its intended purposes.

11.1.2 Final Inspection. Contractor shall complete the list of items identified on the pre-final Punchlist prior to requesting a final inspection. Unless otherwise specified, or otherwise agreed in writing by the parties as documented on the Certificate of Substantial Completion, Contractor shall complete and/or correct all Work within thirty (30) days of the Substantial Completion date. Upon completion of the pre-final Punchlist work, Contractor shall give written notice to City and A/E that the Work will be ready for final inspection on a specific date. Contractor shall accompany this notice with a copy of the updated pre-final Punchlist indicating resolution of all items. On the date specified or as soon thereafter as is practicable, City, A/E and Contractor will inspect the Work. A/E will submit to Contractor a final Punchlist of open items that the inspection team requires corrected or completed before final acceptance of the Work.

11.1.2.1 Correct or complete all items on the final Punchlist before requesting Final Payment. Unless otherwise agreed to in writing by the parties, complete this work within seven (7) days of receiving the final Punchlist. Upon completion of the final Punchlist, notify A/E and City in writing stating the disposition of each final Punchlist item. A/E, City, and Contractor shall promptly inspect the completed items. When the final Punchlist is complete, and the Contract is fully satisfied according to the Contract Documents City will issue a certificate establishing the date of Final Completion. Completion of all Work is a condition precedent to Contractor's right to receive Final Payment.

11.1.3 Annotation. Any Certificate issued under this Article may be annotated to indicate that it is not applicable to specified portions of the Work, or that it is subject to any limitation as determined by City.

11.1.4 Purpose of Inspection. Inspection is for determining the completion of the Work, and does not relieve Contractor of its overall responsibility for completing the Work in a good and competent fashion, in compliance with the Contract. Work accepted with incomplete Punchlist items or failure of City or other parties to identify Work that does not comply with the Contract Documents or is defective in operation or workmanship does not constitute a waiver of City's rights under the Contract or relieve Contractor of its responsibility for performance or warranties.

11.1.5 Additional Inspections.

11.1.5.1 If City's inspection team determines that the Work is not substantially complete at the Substantial Completion inspection, City or A/E will

give Contractor written notice listing cause(s) of the rejection. Contractor will set a time for completion of incomplete or defective work acceptable to City. Contractor shall complete or correct all work so designated prior to requesting a second Substantial Completion inspection.

11.1.5.2 If City's inspection team determines that the Work is not complete at the final inspection, City or A/E will give Contractor written notice listing the cause(s) of the rejection. Contractor will set a time for completion of incomplete or defective work acceptable to City. Contractor shall complete or correct all Work so designated prior to again requesting a final inspection.

11.1.5.3 The Contract contemplates three (3) comprehensive inspections: the Substantial Completion inspection, the Final Completion inspection, and the inspection of completed final Punchlist items. The cost to City of additional inspections resulting from the Work not being ready for one or more of these inspections is the responsibility of Contractor. City may issue a ULCO deducting these costs from Final Payment. Upon Contractor's written request, City will furnish documentation of any costs so deducted. Work added to the Contract by Change Order after Substantial Completion inspection is not corrective Work for purposes of determining timely completion, or assessing the cost of additional inspections.

11.1.6 Phased Completion. The Contract may provide, or Project conditions may warrant, as determined by City, that designated elements or parts of the Work be completed in phases. Where phased completion is required or specifically agreed to by the parties, the provisions of the Contract related to closing inspections, occupancy, and acceptance apply independently to each designated element or part of the Work. For all other purposes, unless otherwise agreed by the parties in writing, Substantial Completion of the Work as a whole is the date on which the last element or part of the Work completed receives a Substantial Completion certificate.

Final Completion of the Work as a whole is the date on which the last element or part of the Work completed receives a Final Completion certificate.

11.2 City's Right of Occupancy. City may occupy or use all or any portion of the Work following Substantial Completion, or at any earlier stage of completion. Should City wish to use or occupy the Work, or part thereof, prior to Substantial Completion, City will notify Contractor in writing and identify responsibilities for security, maintenance, insurance and utilities. Work performed on the premises by third parties on City's behalf does not constitute occupation or use of the Work by City for purposes of this Article. All Work performed by Contractor after occupancy, whether in part or in whole, shall be at the convenience of City so as to not disrupt City's use of, or access to occupied areas of the Project.

11.3 Acceptance and Payment

- 11.3.1 Request for Final Payment. Following the certified completion of all work, including all final Punchlist items, cleanup, and the delivery of record documents, Contractor shall submit a certified Application for Final Payment and include all sums held as retainage and forward to A/E and City for review and approval.
- 11.3.2 Final Payment Documentation. Contractor shall submit, prior to or with the Application for Final Payment, final copies of all close out documents, maintenance and operating instructions, guarantees and warranties, certificates, Record Documents and all other items required by the Contract. Contractor shall submit evidence of return of access keys and cards, evidence of delivery to City of attic stock, spare parts, and other specified materials. Contractor shall submit consent of surety to Final Payment form and an affidavit (see Exhibit “C”) that all payrolls, bills for materials and equipment, subcontracted work and other indebtedness connected with the Work, except as specifically noted, are paid, will be paid, after payment from City or otherwise satisfied within the period of time required by Tex. Gov’t Code, Ch. 2251. Contractor shall furnish documentation establishing payment or satisfaction of all such obligations, such as receipts, releases and waivers of claims and liens arising out of the Contract. Contractor may not subsequently submit a claim on behalf of Subcontractor or vendor unless Contractor’s affidavit notes that claim as an exception.
- 11.3.3 Architect/Engineer Approval. A/E will review a submitted Application for Final Payment promptly but in no event later than ten (10) days after its receipt. Prior to the expiration of this deadline, A/E will either: 1) return the Application for Final Payment to Contractor with corrections for action and resubmission; or 2) accept it, note their approval, and send to City.
- 11.3.4 Offsets and Deductions. City may deduct from the Final Payment all sums due from Contractor. If the Certificate of Final Completion notes any Work remaining, incomplete, or defects not remedied, City may deduct the cost of remedying such deficiencies from the Final Payment. On such deductions, City will identify each deduction, the amount, and the explanation of the deduction on or by the twenty-first (21st) day after City’s receipt of an approved Application for Final Payment. Such offsets and deductions shall be incorporated via a final Change Order, including a ULCO as may be applicable.
- 11.3.5 Final Payment Due. Final Payment is due and payable by City, subject to all allowable offsets and deductions, on the thirtieth (30th) day following City’s approval of the Application for Payment. If Contractor disputes any amount deducted by City, Contractor shall give notice of the dispute on or before the thirtieth (30th) day following receipt of Final Payment. Failure to do so will bar any subsequent claim for payment of amounts deducted.
- 11.3.6 Effect of Final Payment. Final Payment constitutes a waiver of all claims by City, relating to the condition of the Work except those arising from:
- 11.3.6.1 Faulty or defective Work appearing after Substantial Completion

(latent defects);

11.3.6.2 Failure of the Work to comply with the requirements of the Contract Documents;

11.3.6.3 Terms of any warranties required by the Contract, or implied by law; or

11.3.6.4 Claims arising from personal injury or property damage to third parties.

11.3.7 Waiver of Claims. Final payment constitutes a waiver of all claims and liens by Contractor except those specifically identified in writing and submitted to City prior to the application for Final Payment.

11.3.8 Effect on Warranty. Regardless of approval and issuance of Final Payment, the Contract is not deemed fully performed by Contractor and closed until the expiration of all warranty periods. Issuance of Final Payment does not alter Contractor's contractual obligations during the warranty period.

Article 12. Warranty and Guarantee

12.1 Contractor's General Warranty and Guarantee. Contractor warrants to City that all Work is executed in accordance with the Contract, complete in all parts and in accordance with approved practices and customs, and of the required finish and workmanship. Contractor further warrants that unless otherwise specified, all materials and equipment incorporated in the Work under the Contract are new. City may, at its option, agree in writing to waive any failure of the Work to conform to the Contract, and to accept a reduction in the Contract price for the cost of repair or diminution in value of the Work by reason of such defect. Absent such a written agreement, Contractor's obligation to perform and complete the Work in accordance with the Contract Documents is absolute and is not waived by any inspection or observation by City, A/E or others, by making any progress payment or final payment, by the use or occupancy of the Work or any portion thereof by City, at any time, or by any repair or correction of such defect made by City.

12.2 Warranty Period. Except as may be otherwise specified or agreed, Contractor shall repair all defects in materials, equipment, or workmanship appearing within one year from the date of Substantial Completion of the Work. If Substantial Completion occurs by phase, then the warranty period for that particular Work begins on the date of such occurrence, or as otherwise stipulated on the Certificate of Substantial Completion for the particular Work.

12.3 Limits on Warranty. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:

12.3.1 Modification or improper maintenance or operation by persons other than Contractor, Subcontractors, or any other individual or entity for whom Contractor is not responsible, unless City is compelled to undertake

maintenance or operation due to the neglect of Contractor.

- 12.3.2 Normal wear and tear under normal usage after acceptance of the Work by City.
- 12.4 Events Not Affecting Warranty. Contractor's obligation to perform and complete the Work in a good and workmanlike manner in accordance with the Contract Documents is absolute. None of the following will constitute an acceptance of defective Work that is not in accordance with the Contract Documents or a release of Contractor's obligation to perform the Work in accordance with the Contract Documents:
- 12.4.1 Observations by City and/or A/E;
- 12.4.2 Recommendation to pay any progress or final payment by A/E;
- 12.4.3 The issuance of a certificate of Substantial Completion or any payment by City to Contractor under the Contract Documents;
- 12.4.4 Use or occupancy of the Work or any part thereof by City;
- 12.4.5 Any acceptance by City or any failure to do so;
- 12.4.6 Any review of a Shop Drawing or sample submittal; or
- 12.4.7 Any inspection, test or approval by others.
- 12.5 Separate Warranties. If a particular piece of equipment or component of the Work for which the Contract requires a separate warranty is placed in continuous service before Substantial Completion, the warranty period for that equipment or component will not begin until Substantial Completion, regardless of any warranty agreements in place between suppliers and/or Subcontractors and Contractor. City will certify the date of service commencement in the Substantial Completion certificate.
- 12.5.1 In addition to Contractor's warranty and duty to repair, Contractor expressly assumes all warranty obligations required under the Contract for specific building components, systems and equipment.
- 12.5.2 Contractor may satisfy any such obligation by obtaining and assigning to City a complying warranty from a manufacturer, supplier, or Subcontractor. Where an assigned warranty is tendered and accepted by City which does not fully comply with the requirements of the Contract, Contractor remains liable to City on all elements of the required warranty not provided by the assigned warranty.
- 12.6 Correction of Defects. Upon receipt of written notice from City, or any agent of City designated as responsible for management of the warranty period, of the discovery of a defect, Contractor shall promptly remedy the defect(s), and provide written notice to City and designated agent indicating action taken. In case of emergency where delay would cause serious risk of loss or damage to City, or if Contractor fails to remedy within thirty (30) days, or within another period agreed to in writing, City may correct the defect and be reimbursed the cost of remedying the defect from Contractor or its

surety.

- 12.7 Certification of No Asbestos Containing Materials or Work. Contractor shall ensure compliance with the Asbestos Hazard Emergency Response Act (AHERA– 40 C.F.R § 763-99(7)) from all Subcontractors and materials suppliers, and shall provide a notarized certification to City that all equipment and materials used in fulfillment of their Contract responsibilities are non-Asbestos Containing Building Materials (ACBM). This certification must be provided no later than Contractor’s application for Final Payment.

Article 13. Suspension and Termination

- 13.1 Suspension of Work for Cause. City may, at any time without prior notice, suspend all or any part of the Work, if after reasonable observation and/or investigation, City determines it is necessary to do so to prevent or correct any condition of the Work, which constitutes an immediate safety hazard, or which may reasonably be expected to impair the integrity, usefulness or longevity of the Work when completed.

13.1.1 City will give Contractor a written notice of suspension for cause, setting forth the reason for the suspension and identifying the Work suspended. Upon receipt of such notice, Contractor shall immediately stop the Work so identified. As soon as practicable following the issuance of such a notice, City will initiate and complete a further investigation of the circumstances giving rise to the suspension, and issue a written determination of the findings.

13.1.2 If it is confirmed that the cause was within the control of Contractor, Contractor will not be entitled to an extension of time or any compensation for delay resulting from the suspension. If the cause is determined not to have been within the control of Contractor, and the suspension has prevented Contractor from completing the Work within the Contract Time, the suspension is an excusable delay and a time extension will be granted through a Change Order.

13.1.3 Suspension of Work under this provision will be no longer than is reasonably necessary to remedy the conditions giving rise to the suspension.

- 13.2 Suspension of Work for City’s Convenience. Upon seven (7) days written notice to Contractor, City may at any time without breach of the Contract suspend all or any portion of the Work for a period of up to thirty (30) days for its own convenience. City will give Contractor a written notice of suspension for convenience, which sets forth the number of suspension days for which the Work, or any portion of it, and the date on which the suspension of Work will cease. When such a suspension prevents Contractor from completing the Work within the Contract Time, it is an excusable delay. A notice of suspension for convenience may be modified by City at any time on seven (7) days written notice to Contractor. If City suspends the Work for its convenience for more than sixty (60) consecutive days, Contractor may elect to terminate the Contract pursuant to the provisions of the Contract.

- 13.3 Termination by City for Cause.

- 13.3.1 Upon written notice to Contractor and its surety, City may, without prejudice to any right or remedy, terminate the Contract and take possession of the Site and of all materials, equipment, tools, construction equipment, and machinery thereon owned by Contractor under any of the following circumstances:
- 13.3.1.1 Persistent or repeated failure or refusal, except during complete or partial suspensions of work authorized under the Contract, to supply enough properly skilled workmen or proper materials;
 - 13.3.1.2 Persistent disregard of laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, including City;
 - 13.3.1.3 Persistent failure to prosecute the Work in accordance with the Contract, and to ensure its completion within the time, or any approved extension thereof, specified in the Contract;
 - 13.3.1.4 Failure to remedy defective work condemned by City;
 - 13.3.1.5 Failure to pay Subcontractors, laborers, and material suppliers pursuant to Tex. Gov't Code, Ch.2251;
 - 13.3.1.6 Persistent endangerment to the safety of labor or of the Work;
 - 13.3.1.7 Failure to supply or maintain statutory bonds or to maintain required insurance, pursuant to the Contract;
 - 13.3.1.8 Any material breach of the Contract; or
 - 13.3.1.9 Contractor's insolvency, bankruptcy, or demonstrated financial inability to perform the Work.
- 13.3.2 Failure by City to exercise the right to terminate in any instance is not a waiver of the right to do so in any other instance.
- 13.3.3 Should City decide to terminate the Contract under the provisions of Section 14.3, it will provide to Contractor and its surety thirty (30) days prior written notice.
- 13.3.4 Should Contractor or its surety, after having received notice of termination, demonstrate to the satisfaction of City that Contractor or its surety are proceeding to correct such default with diligence and promptness, upon which the notice of termination was based, the notice of termination may be rescinded in writing by City. If so rescinded, the Work may continue without an extension of time.
- 13.3.5 If Contractor or its surety fails, after written notice from City to commence and continue correction of such default with diligence and promptness to the satisfaction of City within thirty (30) days following receipt of notice, City may arrange for completion of the Work and deduct the cost of completion from the

unpaid Contract Sum.

13.3.5.1 This amount includes the cost of additional City costs such as A/E services, other consultants, and contract administration.

13.3.5.2 City will make no further payment to Contractor or its surety unless the costs to complete the Work are less than the Contract balance, then the difference shall be paid to Contractor or its surety. If such costs exceed the unpaid balance, Contractor or its surety will pay the difference to City.

13.3.5.3 This obligation for payment survives the termination of the Contract.

13.3.5.4 City reserves the right in termination for cause to take assignment of all the Contracts between Contractor and its Subcontractors, vendors, and suppliers. City will promptly notify Contractor of the contracts City elects to assume. Upon receipt of such notice, Contractor shall promptly take all steps necessary to effect such assignment.

13.4 Conversion to Termination for Convenience. In the event that any termination of Contractor for cause under Section 13.3 is later determined to have been improper, the termination shall automatically convert to a termination for convenience under Section 13.5 and Contractor's recovery for termination shall be strictly limited to the payments allowable under Section 13.5.

13.5 Termination for Convenience of City. City reserves the right, without breach, to terminate the Contract prior to, or during the performance of the Work, for any reason. Upon such an occurrence, the following shall apply:

13.5.1 City will immediately notify Contractor and A/E in writing, specifying the reason for and the effective date of the Contract termination. Such notice may also contain instructions necessary for the protection, storage or decommissioning of incomplete work or systems, and for safety.

13.5.2 Upon receipt of the notice of termination, Contractor shall immediately proceed with the following obligations, regardless of any delay in determining or adjusting any amounts due at that point in the Contract:

13.5.2.1 Stop all work.

13.5.2.2 Place no further subcontracts or orders for materials or services.

13.5.2.3 Terminate all subcontracts for convenience.

13.5.2.4 Cancel all materials and equipment orders as applicable.

13.5.2.5 Take action that is necessary to protect and preserve all property related to the Contract which is in the possession of Contractor.

13.5.3 When the Contract is terminated for City's convenience, Contractor may

recover from City payment for all Work executed. Contractor may not claim lost profits on other work or lost business opportunities.

- 13.6 Termination By Contractor. If the Work is stopped for a period of ninety (90) days under an order of any court or other public authority having jurisdiction, or as a result of an act of government, such as a declaration of a national emergency making materials unavailable, through no act or fault of Contractor or Subcontractor or their agents or employees or any other persons performing any of the Work under a contract with Contractor, then Contractor may, upon thirty (30) additional days written notice to City, terminate the Contract and recover from City payment for all Work executed, but not lost profits on other work or lost business opportunities. If the cause of the Work stoppage is removed prior to the end of the thirty (30) day notice period, Contractor may not terminate the Contract.
- 13.7 Settlement on Termination. When the Contract is terminated for any reason, at any time prior to one hundred eighty (180) days after the effective date of termination, Contractor shall submit a final termination settlement proposal to City based upon recoverable costs as provided under the Contract. If Contractor fails to submit the proposal within the time allowed, City may determine the amount due to Contractor because of the termination and pay the determined amount to Contractor.

Article 14. Dispute Resolution

- 14.1 Unresolved Contractor Disputes. All disputes against City that arise from this Contract or any Project shall be resolved in accordance with the procedures and limitations of the Texas Local Government Code, Subchapter I, Chapter 271.151 et seq., City's General Conditions, and the Contract.
- 14.2 Alternative Dispute Resolution Process. City may establish a dispute resolution process to be utilized. In the event, a dispute remains unresolved after both parties engage in the dispute resolution process, the City Manager's determination in regard to any dispute shall be final.
- 14.3 Nothing herein shall hinder, prevent, or be construed as a waiver of City's right to seek redress on any disputed matter in a court of competent jurisdiction.

Article 15. Miscellaneous

- 15.1 Supplementary General and Special Conditions. When the Work contemplated by City is of such a character that the foregoing Uniform General Conditions of the Contract cannot adequately cover necessary and additional contractual relationships, the Contract may include Supplementary General and Special Conditions as described below:
- 15.1.1 Supplementary General Conditions may describe the standard procedures and requirements of contract administration followed by City covered by the Uniform General Conditions, where necessary, provided the expansion does not weaken the character or intent of the Uniform General Conditions.

Supplementary General Conditions are of such a character that it is to be anticipated that City will normally use the same, or similar, conditions to supplement each of its several projects.

- 15.1.2 Special Conditions shall relate to a particular Project and be unique to that Project but shall not weaken the character or intent of the Uniform General Conditions.
- 15.2 Federally Funded Projects. On Federally funded projects, City may waive, suspend or modify any Article in these Uniform General Conditions which conflicts with any Federal statute, rule, regulation or procedure, where such waiver, suspension or modification is essential to receipt by City of such Federal funds for the Project. In the case of any Project wholly financed by Federal funds, any standards required by the enabling Federal statute, or any Federal rules, regulations or procedures adopted pursuant thereto, shall be controlling.
- 15.3 Internet-based Project Management Systems. At its option, City may administer its design and construction management through an Internet-based management system. In such cases, Contractor shall conduct communication through this media and perform all Project related functions utilizing this database system. This includes correspondence, submittals, Requests for Information, vouchers or payment requests and processing, amendment, Change Orders and other administrative activities.
- 15.3.1 Accessibility and Administration.
- 15.3.1.1 When used, City will make the software accessible via the Internet to all Project team members.
- 15.3.1.2 City shall administer the software.
- 15.3.2 Training. When used, City shall provide training to the Project team members.
- 15.4 Right to Audit Contractor's Records. By execution of the Contract, Contractor grants City the right to audit, examine, inspect and/or copy, at City's election at all reasonable times during the term of this Contract and for a period of four (4) years following the completion or termination of the Work, all of Contractor's written and electronically stored records and billings relating to the performance of the Work under the Contract Documents. The audit, examination or inspection may be performed by a City designee, which may include its internal auditors or an outside representative engaged by City. Contractor agrees to retain its records for a minimum of four (4) years following termination of the Contract, unless there is an ongoing dispute under the Contract, then, such retention period shall extend until final resolution of the dispute, with full access allowed to authorized representatives of City upon request, for purposes of evaluating compliance with this and other provisions of the Contract.
- 15.4.1 As used in these General Conditions, "Contractor written and electronically stored records" shall include any and all information, materials and data of every kind and character generated as a result of the work under this Contract. Example of Contractor written and electronically stores records include, but are not limited to: accounting data and reports, billings, books, general ledgers, cost

ledgers, invoices, production sheets, documents, correspondences, meeting notes, subscriptions, agreements, purchase orders, leases, contracts, commitments, arrangements, notes, daily diaries, reports, drawings, receipts, vouchers, memoranda, time sheets, payroll records, policies, procedures, Subcontractor agreements, Supplier agreements, rental equipment proposals, federal and state tax filings for any issue in question, along with any and all other agreements, City of Bryan's General Conditions, sources of information and matters that may, in City's sole judgment, have any bearing on or pertain to any matters, rights, duties or obligations under or covered by any Contract Documents.

15.4.2 City agrees that it shall exercise the right to audit, examine or inspect Contractor's records only during regular business hours. Contractor agrees to allow City and/or City's designee access to all of the Contractor's Records, Contractor's facilities and current or former employees of Contractor, deemed necessary by City or its designee(s), to perform such audit, inspection or examination. Contractor also agrees to provide adequate and appropriate work space necessary for City or its designees to conduct such audits, inspections or examinations.

15.4.3 Contractor shall include this Section 15 in any Subcontractor, supplier or vendor contract.

15.5 List of Exhibits

The following exhibits are fully incorporated into this General Conditions by reference:

Ex. A. Performance Bond

Ex. B. Payment Bond

Ex. C. Contractor's All Bills Paid Affidavit – City of Bryan

EXHIBIT “A”
PERFORMANCE BOND

Bond No. _____

PERFORMANCE BOND

**STATE OF TEXAS
COUNTY OF**

KNOW ALL MEN BY THESE PRESENTS That _____ of the City of _____, County of _____, and State of _____, as principal, and _____ authorized under the laws of the State of Texas to act as surety on bonds for principals, are held and firmly bound unto the City of Bryan of Brazos County, Texas (Owner), in the penal sum of _____ (\$_____) for the payment whereof, the said Principal and Surety bind themselves and their heirs, administrators, executors, successors and assigns, jointly and severally by these presents:

WHEREAS, the Principal has entered into a certain written contract with the Owner, dated the day _____ of _____, 20____, to furnish all labor, materials and equipment necessary for completing

**Travis Bryan Midtown Park Indoor Sports and Recreation Center
CITY JOB NO. 700-D0-2020**

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

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said Principal shall faithfully perform said Contract and shall in all respects duly and faithfully observe and perform all and singular the covenants, conditions and agreements in and by said contract agreed and covenanted by the Principal to be observed and performed, and according to the true intent and meaning of said Contract and the Plans and the Specifications hereto annexed, 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, Government Code, Vernon’s Texas Civil Statutes and all liabilities on this bond shall be determined in accordance with the provisions of said Code to the same extent as if it were copied at length herein.

Surety, for value received, stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract, or to the work performed thereunder, or the plans, specifications or drawings accompanying the same, shall in anywise affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work to be performed thereunder. Performable and enforceable in Brazos County, Texas.

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

Principal

Surety

By: _____

Title: _____

Title: _____

Title: _____

Address: _____

Address: _____

The name and address of the Resident Agent of Surety is:

Corporation Seal if Corporation.

Bonding Company Seal if Bonding Company.

EXHIBIT “B”
PAYMENT BOND

Bond No. _____

PAYMENT BOND

**STATE OF TEXAS
COUNTY OF**

KNOW ALL MEN BY THESE PRESENTS That _____ of the City of _____, County of _____, and State of _____, as principal, and _____ authorized under the laws of the State of Texas to act as surety on bonds for principals, are held and firmly bound unto the City of Bryan of Brazos County, Texas (Owner), in the penal sum of _____ (\$ _____) for the payment whereof, the said Principal and Surety bind themselves and their heirs, administrators, executors, successors and assigns, jointly and severally by these presents:

WHEREAS, the Principal has entered into a certain written contract with the Owner, dated the _____ day of _____, 20____, to furnish all labor, materials and equipment necessary for completing

**Travis Bryan Midtown Park Indoor Sports and Recreation Center
CITY JOB NO. 700-D0-2020**

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

NOW, THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH, that if the said Principal shall pay all claimants supplying labor and materials 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, Government Code, Vernon’s Texas Civil Statutes and all liabilities on this bond shall be determined in accordance with the provisions of said Code to the same extent as if it were copied at length herein.

Surety, for value received, stipulates and agrees that no change, extension of time, alteration or addition to the terms of the contract, or to the work performed thereunder, or the plans, specifications or drawings accompanying the same, shall in anywise affect its obligation on this bond, and it does hereby waive notice of any such change, extension of time, alteration or addition to the terms of the contract, or to the work to be performed thereunder. Performable and enforceable in Brazos County, Texas.

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

Principal

Surety

By: _____

Title: _____

Title: _____

Title: _____

Address: _____

Address: _____

The name and address of the Resident Agent of Surety is:

Corporation Seal if Corporation.

Bonding Company Seal if Bonding Company.

EXHIBIT “C”
CONTRACTOR’S ALL BILLS PAID AFFIDAVIT – CITY OF BRYAN

In consideration of the funds paid to CONTRACTOR by CITY in reliance on this affidavit, CONTRACTOR waives and releases all of CONTRACTOR's statutory and constitutional mechanic's lien rights connected with the construction of the Project, conditioned on the actual payment or collection if payment is made by check or draft.

CONTRACTOR further agrees and understands that if any BILLS, for any items, which CONTRACTOR is responsible for as shown in the Contract, are presented after the signing of this Final Bills Paid Affidavit, then CONTRACTOR will be liable for prosecution by law, as well as remaining financially responsible for full payment of ANY and ALL BILLS.

CONTRACTOR further understands that this Final Bills Paid Affidavit is being given pursuant to and in accordance with Sections 53.085 of the Texas Property Code and that the intentional, knowing, or reckless making of a false or misleading statement in this Affidavit constitutes an offense under said Section and is a Class A misdemeanor.

CONTRACTOR further agrees, by the signing of the Final Bills Paid Affidavit, that this statement is true and correct, and that this AFFIDAVIT may be used against CONTRACTOR in any and all proceedings at law, civil or criminal.

CONTRACTOR Signature:

If D/B/A, Show Business Name:

TITLE:

Sworn to and subscribed before me this _____ day of _____, 201__.

Notary Public in and for the State of Texas

My Commission Expires: _____

End of Uniform General Conditions

EXHIBIT “C”
SUPPLEMENTARY GENERAL CONDITIONS AND SPECIAL PROVISIONS

Supplementary General Conditions and Special Provisions

FOR

**Travis Bryan Midtown Park Indoor Sports and Recreation
Center and Amphitheater**

CITY JOB NO. 700-D0-2020

RFB # 20-020



CITY OF BRYAN
The Good Life, Texas Style.™

PREPARED BY:

CITY OF BRYAN

May 2020

Supplementary General Conditions and Special Provisions
Travis Bryan Midtown Park Indoor Sports and Recreation Center and Amphitheater
CITY JOB NO. 700-D0-2020
RFB #20-018

TABLE OF CONTENTS

General Conditions:

- I. Disclosure Statement**

- II. Additional Certifications**

Special Provisions

- SP-1 Testing and Study Receipt Acknowledgement**
- SP-2 Submittals**
- SP-3 City of Bryan Record of Excavation**
- SP-4 Policy Utility Installation Notifications**
- SP-5 State and City Sales Taxes/Sales Tax Exemption Permit**
- SP-6 Stormwater Pollution Prevention**
- SP-7 Final Cleanup**
- SP-8 Authority and Duties of Inspectors**
- SP-9 Project Safety**
- SP-10 Basic Safeguarding of Contractor Information Systems**
- SP-11 Permits and Licenses**
- SP-12 Sanitary Provisions**
- SP-13 Sample Certificate of Insurance**
- SP-14 Failure to Complete On-Time**

SUPPLEMENTARY GENERAL CONDITIONS

**Travis Bryan Midtown Park Indoor Sports and Recreation Center
CITY JOB NO. 700-D0-2020
RFB #20-018**

DISCLOSURE REQUIREMENTS

Chapter 176 of the Texas Local Government Code mandates the public disclosure of certain information concerning persons doing business or seeking to do business with the City of Bryan, including affiliations and business and financial relationships such persons may have with City of Bryan officers. An explanation of the requirements of Chapter 176, applicable forms and a complete text of the new law are available at:

<http://www.bryantx.gov/purchasing-services/#vendorethics>

If you are unable to obtain such information online, please contact the City of Bryan Purchasing Department, 205 E. 28th Street, Bryan, Texas 77803 or call (979) 209-5505.

BY DOING BUSINESS OR SEEKING TO DO BUSINESS WITH THE CITY OF BRYAN, YOU ACKNOWLEDGE THAT YOU HAVE BEEN NOTIFIED OF THE REQUIREMENTS OF CHAPTER 176 OF THE TEXAS LOCAL GOVERNMENT CODE AND THAT YOU ARE SOLELY RESPONSIBLE FOR COMPLYING WITH THEM.

DISCLOSURE OF INTERESTED PARTIES

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 or state agency may not enter into certain contracts with a business entity unless the business entity submits a disclosure of interested parties to the governmental entity or state agency at the time the business entity submits the signed contract to the governmental entity or state agency. The law applies only to a contract of a governmental entity or state agency that either (1) requires an action or vote by the governing body of the entity or agency before the contract may be signed or (2) has a value of at least \$1 million. The disclosure requirement applies to a contract entered into on or after January 1, 2016. The process as implemented by the Commission is as follows:

1. A business entity must use the application to enter the required information on Form 1295 and print a copy of the form and a separate certification of filing that will contain a unique certification number.
2. An authorized agent of the business entity must sign the printed copy of the form and have the form notarized. The completed Form 1295 and certification of filing must be filed with the city “at the time the business entity submits the signed contract” to the city.
3. The city must notify the Commission, using the Commission’s filing application, of the receipt of the filed Form 1295 and certification of filing not later than the 30th day after the date the contract binds all parties to the contract.

For more information regarding how to file Form 1295, please click on the following link: https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm .

FELONY CONVICTION NOTIFICATON

Any person and/or business entity that enters into a contract with the City of Bryan must give advance notice to the City if any employee or an owner or operator of the business entity has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony. The notice must also describe the role that the employee, owner, or operator will perform in executing the contract. The City may require substitution of employees in the performance of the contract.

The City may terminate a contract with a person or business entity if the City determines that the person or business entity failed to give notice as required by this clause, misrepresented the conduct resulting in the conviction, or failed to substitute personnel at City's request.

I, the undersigned agent for the firm named below, certify that the information concerning notification of felony convictions has been reviewed by me and the following information furnished is true to the best of my knowledge.

Vendor's Name:

Authorized Company Official's Name (Printed)

Date

A. My firm is not owned or operated by anyone who has been convicted of a felony nor does it have any employees who have been convicted of a felony:

Signature of Company Official:

B. My firm has employee(s) or is owned or operated by the following individual(s) who has/have been convicted of a felony:

Signature of Company Official:

C. Provide a general description of the conduct resulting in the conviction of a felony.

Signature of Company Official:

D. Describe the role that the person(s) convicted of a felony will play in the performance of the contract.

Signature of Company Official:

SPECIAL PROVISIONS

Travis Bryan Midtown Park Indoor Sports and Recreation Center

CITY JOB NO. 700-D0-2020

RFB #20-018

SP-1: Testing and Study Receipt Acknowledgement

See form on the following page.

TESTING AND STUDY ACKNOWLEDGEMENT OF RECEIPT

Date: _____

I hereby acknowledge the receipt of the following documents (testing reports, environmental, etc.) from the City regarding the Travis Bryan Midtown Park Indoor Sports and Events Center that include:

Signature of Contractor

SP-2: SUBMITTALS: The Contractor shall submit to the City's Project Manager for review and approval all items required in the specifications and the following items prior to beginning work:

- a. Organizational chart showing the Project Superintendent and all subcontractors planned for the project.
- b. Work Plan indicating sequence and schedule
- c. Material Storage Location(s)
- d. Subcontractors to be used if applicable
- e. Traffic Control Plan
- f. Storm Water Pollution Control Plan
- g. Concrete Mix Design
- h. Materials
- i. Residential Notification

Each submittal shall include a cover sheet with the following identifying information:

1. Submittal Number and Revision (beginning with Submittal No. 1, and Revision 0)
2. Project Name and COB Project Number
3. Contractor Name
4. Nature of Submittal: product, materials, traffic control plan, schedule, etc.
5. Supplier or Manufacturer of materials submitted (if applicable)
6. Pertinent Drawing Number (if applicable)
7. Pertinent Detail (if applicable)
8. Specification Number
9. Deviations (identify any deviations from the contract documents)

Submittals delivered electronically may include this information in the content of the transmittal e-mail.

SP-3: CITY OF BRYAN RECORD OF EXCAVATION

SEE THE FOLLOWING PAGE FOR FORM.

City of Bryan
Record of Excavation

Instructions: This record must be prepared for each excavation in a readable, descriptive, and accurate manner. All necessary signatures must be present and approved prior to commencement of work. This record must be retained for (3) years.

Division: _____ Date of Excavation: _____

Period that the Excavation is open: (dates) _____

Specific Location: _____

Purpose: _____

Class of soil determined to be: (check one) A B C
(See Appendix A to Subpart P)

Soil test used: _____

Visual: Layered Cohesive Granular Gravel Utilities
 Water drains from sides or bottom

Manual: Plasticity Dry Strength Thumb Penetration

1. All public utility systems notified? Yes No
2. Received permit to dig before digging? Yes No
Time: _____ Date: _____
Person: _____
3. Hazardous atmosphere tested? Yes No
4. Constructed means of egress from excavation? Yes No
5. Controlled exposure to vehicle traffic? Yes No
6. Controlled exposure to falling loads? Yes No
7. Warning system for mobile equipment? Yes No
8. Determined emergency rescue equipment needed and available? Yes No
9. Prepared for hazards of water accumulation? Yes No
10. Verified stability of adjacent structure? Yes No
11. Constructed protection from loose rock and soil daily Yes No
12. Scheduled a worksite inspection plan? Yes No
13. Prepared for fall protection? Yes No

Excavation Diagram: (Include length, width, depth)

Diagram / Explain type of excavation protection: (Be specific and note distances)

Competent Person in Charge of Excavation:

Signature

Date

SP-4: POLICY UTILITY INSTALLATION NOTIFICATION

It is the policy of the City of Bryan Public Works Services Department and its Divisions that all city work forces and/or city contractors performing work involving the installation of underground utilities provide adequate notification to utility companies prior to the commencement of any excavation activity.

Notification of all utility companies shall occur at least 2 Working Days in advance of the planned excavation activity in accordance with Chapter 251 of the State of Texas Utilities Code, Title 5. A record of the notification time, date, and person contacted shall be made and retained for the City of Bryan's records. City work forces under the direction of the Director of Public Works, shall forward a copy of this notification record to the Public Works Services Department's office. Contractors performing work under the direction of the Engineering Division shall forward a copy of the notification record to the City Engineer's office so that it may be filed in the Engineering Division's files. A form entitled "Utility Installation Notification Check-Off List" shall be used to maintain a record of notification activities.

If a utility company that has been duly notified fails to respond to a request for locating their underground facilities within the prescribed period, City of Bryan work forces and/or contractors are advised that they must notify the utility company and/or companies that work will commence on the planned underground excavation within 1 Working Day. It is the responsibility of the various utilities to respond to a request that its lines be located.

In no event should a city work force and/or contractor delay its work activities for a period exceeding 3 Working Days. If an underground utility company has not responded within the prescribed 3 Working Days, city work forces and/or its contractors are advised to commence the underground excavation activity. After the above described notification period has expired, all responsibility for underground utility breaks and/or ruptures become the responsibility of the owning utility company.

The following procedure will be followed when an emergency excavation of underground facilities is required. If the emergency condition will permit notification time, city work forces and/or contractors shall notify all utility companies that an emergency condition exists that may involve underground facilities owned by the utility company. The nature, location and commencement time of the planned excavation work necessary to resolve the emergency condition will be communicated to the utility companies. The utility company or companies shall advise the agency conducting the emergency excavation of the time necessary for them to respond to a location request. City work forces and/or contractors (agencies making emergency excavation) shall not be required to delay emergency repairs for a period exceeding the time to respond indicated by the utility company or companies. In the event that the emergency condition does not provide city work forces and/or contractors time for notification, emergency work will be completed and any damage to underground facilities will be reported to the owning utility company immediately following completion of the emergency work activity. Damage information reported to the utility company involved shall include the type of damage, location, time that the damage occurred, name of city department and/or contractor along with address and telephone number. All damage to

facilities resulting from an emergency condition that did not allow notification time for underground locations will be considered the responsibility of the owning utility company.

**UTILITY INSTALLATION NOTIFICATION
CHECK-OFF LIST**

CONTRACTOR _____

PROJECT NO. / SUBDIVISION _____

UTILITY	DATE/TIME UTILITY CALLED	DATE/TIME UTILITY RESPONDED	NAME OF UTILITY CONTACT
Texas One Call			
Frontier			
C.O.B. Engineering Dept.			
C.O.B. Water Services			
BTU			
SuddenLink Cablevision			
Atmos Gas			

Miscellaneous: _____

TELEPHONE NUMBERS FOR LOCATION OF CABLES & LINES

Texas One Call	811
AT&T	1-800-225-5288
Sprint	1-866-866-7509
Frontier	1-800-921-8101
Southwestern Gas Pipeline	903-536-7012
Bryan Woodbine Gathering	979-776-0121
BWOC	972-934-3800
Exxon Pipeline Company	1-800-537-5200
Energy Transfer	1-800-375-5702 or 210-404-2730
Atmos Gas	1-800-545-6005
SuddenLink Cablevision	877-778-2486
Wickson Crk. Spec. Utility District	979-589-3030

SP-5: STATE AND CITY SALES TAXES

The Contractor's attention is directed to Texas House Bill 11 (72nd Legislature, 1st C.S.), which amended the Texas Tax Code Section 151.311. This amendment provides that by the Contractor entering into a separate contract, the Contractor will become a seller of materials purchased for the project, which will obviate paying taxes on materials incorporated into the project.

As a seller, the Contractor purchases materials and issues a resale certificate instead of paying the sales tax at the time of purchase. The City, as an exempt entity, will provide the Contractor with an exemption certificate at the time of the "sale" of the materials to the City, thereby precluding the City, and Contractor, from paying the sales tax on the materials.

Services are not tax exempt. The Contractor will be required to pay all appropriate taxes for all services as set forth herein.

For purpose of these Contract Documents, the following definitions are provided for materials and services:

Materials: Materials are those items that are tax exempt and are physically incorporated into the facility constructed for the City. Materials include, but are not limited to, purchased items such as the filters, pumps, valves, pipe, fittings, concrete, asphalt, road-base and sub-base, electrical equipment, building components, etc.

Services: Services are those items that are not tax exempt and are items used by the Contractor but that are not physically incorporated into the City's facility and/or are items which are consumed by construction. Services include, but are not limited to items, such as supplies, tools, concrete form, scaffolding, temporary storage buildings, the purchase or rental or lease of equipment, skill and labor, etc.

For further information concerning taxes as they related to materials and services, the Contractor shall refer to House Bill 11 and/or contact the Texas Comptroller of Public Accounts, Austin, Texas.

SALES TAX EXEMPTION CERTIFICATE

01-339 (Back)
(7/01/09)

TEXAS SALES AND USE TAX EXEMPTION CERTIFICATION

Name of purchaser, firm or agency City of Bryan	
Address (street & number, P.O. Box or Route number) P. O. BOX 1000	Phone (Area code and number) (979) 209-5030
City, State, ZIP code BRYAN, TEXAS 77805	

I, the purchaser named above, claim an exemption from payment of sales and use taxes for the purchase of taxable items described below or on the attached order or invoice form:

CONTRACTOR:

Street Address: _____ City, State, ZIP Code: _____

Description of items to be purchased or on the attached order or invoice:

All labor, materials, supplies and equipment purchased for and consumed or incorporated in the City of Bryan Construction.

Project:

Project Manager: _____

CIP No.: _____

Purchaser claims this exemption for the following reason:

**FORM TO FILLED OUT AND SUPPLIED TO CONTRACTOR
UPON PROJECT START**

Purchaser's Signature	Title	Date
-----------------------	-------	------

NOTE: This certificate cannot be issued for the purchase, lease, or rental of a motor vehicle.
THIS CERTIFICATE DOES NOT REQUIRE A NUMBER TO BE VALID.
Sales and Use Tax "Exemption Numbers" or "Tax Exempt" Numbers do not exist.

This certificate should be furnished to the supplier. Do not send the completed certificate to the Comptroller of Public Accounts.

SP- 6: STORMWATER POLLUTION PREVENTION

The Contractor shall comply with the TCEQ Construction General Permit No. TXR 150000 and maintain appropriate SWPPP documentation on site.

The Contractor shall take precaution to prevent the deposition of mud from the construction site on adjoining property, roads, streets and alleys during construction. These shall remain in a clean and usable condition. The contractor is responsible for providing erosion control measures during all phases of construction. Appropriate use of silt fence and storm sewer inlet protection is the contractor's responsibility and should be maintained throughout the projects duration. The contractor shall place plastic, wood, or another barrier between spoils and paved areas to prevent embedding into the pavement.

For waterline or sewer line construction, the Contractor shall keep adjacent streets and/or alleys in a clean and usable condition as the job progresses. All sedimentation control measures shall be maintained in an effective operating condition during construction. This will prevent removal of sediment and mud from the project by wind or water.

SP-7: FINAL CLEANUP

Upon the completion of the work and before acceptance and final payment will be made, the Contractor shall clean and remove from the site of the work all surplus and discarded materials, temporary structures, and debris of every kind. All equipment shall be removed from the job site after completion or acceptance of the construction work. If excavated material is placed on private property, it shall be the Contractor's responsibility to provide the City Project Manager with a written statement signed by the property owner stating that the property owner requested the material and is satisfied with the condition in which the property was left. All excavated material containing any oil based products or asphaltic products must be disposed of at a licensed sanitary landfill. All brush that is not burned must be disposed of at a licensed compost facility. The Contractor will be allowed to burn debris on-site, provided that he obtains a permit to burn said debris from the City of Bryan Fire Marshall twenty-four (24) hours in advance of any burning. Permits will be issued on a day to day basis only and the Contractor shall be totally responsible for any damage incurred due to burning. No brush, oil- based soil, or asphaltic products will be allowed to be placed on private property. Material is not to be placed in floodplain without prior approval by the City's Floodplain Administrator. The Contractor shall be totally responsible for any damage incurred due to illegal dumping. He shall leave the site of the work in a neat and orderly condition equal to that which originally existed. Surplus and waste materials removed from the site of the work shall be disposed of at a licensed sanitary landfill or as directed by the City Project Manager. No payment will be made for this work, its cost being subsidiary to the various bid items.

SP-8: AUTHORITY AND DUTIES OF INSPECTORS

Inspectors will be authorized to inspect all work done and all materials furnished. In case of any dispute arising between the Contractor and the Inspector as to the materials furnished or the manner of performing the work, the Inspector will have authority to reject materials or suspend work until the question at issue can be referred to and decided by the City Engineer. The Inspector will not, however, be authorized to revoke, alter, enlarge, or release any requirement of these specifications, not to approve or accept any portion of work, nor to issue instructions contrary to the Plans and specifications. He will in no case act as foreman, nor perform other duties for the Contractor, nor interfere with the management of the work.

SP-9: PROJECT SAFETY

The Contractor will adhere to all safety rules and regulations pertaining to trenching and excavation work as stated in the OSHA standard 29CFR 1926, Subpart P, Excavation. Texas Health and Safety Code, Title 9, Subtitle A, Chapter 756, Subchapter C, 756.021, 756.022 and 756.023 are also applicable while performing trench and excavation work as a part of this contract.

Where trench depths or other excavations exceed a depth of 5 feet, the Contractor must use protective devices as specified on OSHA Standard 29 CFR Part 1926, Subpart P and appendices thereto. A trench shoring plan in accordance with Vernon's Health and Safety Code Section 756.021 shall be submitted by the Contractor prior to issuance of a work order for this project. All soil for this project shall be classified as type "C" soil. The "Record of Excavation" form, included in this contract, is to be filled out by the Contractor at the time of excavation.

The Contractor will be required to furnish and erect adequate protective devices (barricades, warning signs, lights, etc.) to ensure safe conditions once construction has begun. Barricades shall be painted in a color that will be visible at night.

The Contractor shall submit a Traffic Control Plan to the City Engineer, which must be approved before the Contractor begins work. The City Engineer reserves the right to change the Traffic Control Plan at anytime.

The Contractor will be held responsible for all damage to the work due to failure of barricades, signs, lights, and watchmen to protect it. Under any and all circumstances signs, barricades, lights, and other traffic control devices shall conform to the requirements of the Texas Manual on Uniform Traffic Control Devices with respect to design, application and maintenance.

SP-10: BASIC SAFEGUARDING OF CONTRACTOR INFORMATION SYSTEMS

The Contractor shall apply basic safeguarding requirements and procedures to protect the Contractor's information systems whenever the information systems store, process or transmit any information, not intended for public release, which is provided by or generated for the City. This requirement does not include information provided by the City to the public or simple transactional information, such as that necessary to process payments. These requirements and procedures shall include, at a minimum, the security control requirements "reflective of actions a prudent business person would employ" which are outlined in the Federal Acquisition Regulations FAR 52.204-21(b) and codified in the Code of Federal Regulations at 48 C.F.R. § 52.204-21(b) (2016).

Contractor shall include the substance of this clause in subcontracts under this contract (including subcontracts for the acquisition of commercial items other than commercially available off-the-shelf items) in which the subcontractor may have City contract information residing in or transiting through its information system.

SP-11: PERMITS AND LICENSES

The Contractor shall obtain all permits and licenses, and give all notices necessary and incident to the due and lawful prosecution of the work. All City of Bryan fees for permits will be waived.

SP-12: SANITARY PROVISIONS

The Contractor shall establish and enforce among his employees such regulations in regard to cleanliness and disposal of garbage and waste as will tend to prevent the inception and spread of infectious or contagious diseases and to prevent effectively the creation of a nuisance about the work on any property either public or private, and such regulations as are required by the City Engineer shall be put into immediate force and effect by the Contractor. The necessary sanitary conveniences for the use of laborers on the work, properly secluded from public observation, shall be constructed and maintained by the Contractor in such manner and at such points as will be approved by the City Engineer, and their use shall be strictly enforced by the Contractor. All sanitary laws and regulations of the State of Texas and the City of Bryan shall be strictly complied with.

SP-13: SAMPLE CERTIFICATE OF INSURANCE

SEE FOLLOWING PAGE

SP-14: FAILURE TO COMPLETE ON TIME

The time of completion is the essence of the contract. For each working or calendar day that any work shall remain uncompleted (including any remaining items of work 30 days beyond Substantial Completion) after the time specified in the Proposal and the Contract, or the increased time granted by the City, or as increased by work or materials ordered as provided in Section 8.6, the sum per day given in the following schedule, unless otherwise specified in the Special Provisions, will be deducted from the monies due the Contractor, not as a penalty but as administrative costs.

AMOUNT OF CONTRACT \$ TO \$	AMOUNT OF ADMINISTRATIVE COSTS PER DAY \$
0 to 9,999	200
10,000 to 24,999	300
25,000 to 49,999	400
50,000 to 99,999	500
100,000 to 499,999	600
500,000 to 999,999	700
1,000,000 to 1,999,999	800
2,000,000 to 19,999,999	1,000
20,000,000 – 39,999,999	2,000

The time for the Substantial and Final Completion of the work described herein are reasonable times for the completion of each, taking into consideration all conditions, including but not limited to the average climatic conditions and usual industrial conditions prevailing in this locality. The amount of administrative damages for the Contractor's failure to meet the deadlines for Substantial and/or Final Completion are fixed and agreed on by the Contractor because of the impracticability and extreme difficulty in fixing and ascertaining the actual damages that the City would in such an event sustain. The amounts to be charged are agreed to be damages the City would sustain and shall be retained by the City from current periodic estimates for payment or from final payment.

As a result of the difficulty in estimation, calculation and ascertainment of City's damages due to a failure of Contractor to achieve timely completion of the Work, if the Contractor should neglect, fail, or refuse to either Substantially Complete or Finally Complete the work within the time herein specified, or any proper extension thereof granted by the City Engineer, then

the Contractor does hereby agree as part of the consideration for the awarding of this Agreement that the City may permanently withhold from the Contractor's total compensation the sum as shown on the table above for each and every calendar day that the Contractor shall be in default after the time stipulated for Substantial Completion and/or Final Completion, not as a penalty, but as administrative costs incurred by the City as a result of the Contractor's delay. It is specifically understood that the assessment of administrative costs may be made for any failure to meet either or both of the deadlines specified for Substantial Completion and/or Final Completion.

The sum of money thus deducted for such delay, failure or non-completion is not to be considered as a penalty, but shall be deemed, taken and treated as reasonable administrative costs, since it would be impracticable and extremely difficult to fix the actual losses incurred by the City as a result of the Contractor's delay.

END OF SUPPLEMENTARY GENERAL CONDITIONS AND SPECIAL PROVISIONS.

**EXHIBIT
“D”
ALLOWABLE GENERAL CONDITION LINE ITEMS**

On-Site Project Management Staff

Persons as identified in the approved Guaranteed Maximum Price proposal Out-of-State Project Specific Travel*

Bonds and

Insurance
Builder’s Risk
Insurance
Professional Liability / EO
Coverage
General Liability Insurance
Contractor Payment and Performance
Bonds Other Project Insurance as
Required by Contract
Subcontractor bonds or Subcontractor
Default Insurance

Temporary Project

Utilities
Temporary
Toilets
Temporary Fire
Protection
Dumpsters
Project Electricity and Water
Fencing, Covered Walkways and Barricades
Monthly Telephone /Internet Service (Field Offices Only, No Cell Phones, PDAs)
Telephone / Internet System Installation (Field Offices Only, No Cell Phones
or PDAs) Temporary Water Distribution and Meters (Field Offices Only)
Temporary Electrical Distribution and Meters (Field Offices Only)
Site Erosion Control (BMP) and Project Entrance(s)

Field Offices & Office Supplies

Partnering Costs	First Aid Supplies
Job Photos/Videos	Reprographic Services Project Specific
Signage	Monthly Office Supplies
Postage/Special Shipping	Remote Parking Expenses
Project Record Drawings	Project Reference Manuals

Project Milestone Event(s)*	Move-In/Out and Office Setup
Employee Identification System	Drinking Water and
Accessories Small Tools and Storage Trailers	Office Clean-Up/Janitorial
Services Monthly Office Trailer Rental Costs	Security
System/Watchman	
Safety Material and Equipment	

- * Specific justification and all estimated costs shall be submitted and approved by the City prior to any travel or event.

EXHIBIT
“E”
GUARANTEED MAXIMUM PRICE (GMP) PROPOSAL

The Design-Build Contractor hereby submits to City of Bryan, Texas the following Guaranteed Maximum Price Proposal for the [Project Name], Project No. [Project Number], based on Plans and Specifications dated [Date on Drawings Month Day, Year].

1. A not-to-exceed amount for the Cost of the Work pursuant to the Agreement: (\$ _____)
(In Numerals)

2. A not-to-exceed amount for the General Conditions Costs pursuant to the Agreement: (\$ _____)
(In Numerals)

3. A not-to-exceed amount for the Design-Build Contractor’s Contingency pursuant to the Agreement:
(\$ _____)(In Numerals)

4. A lump sum amount for Contractor’s Construction Phase Fee, pursuant to the Agreement is:
(\$ _____)(In Numerals)

5. TOTAL OF ITEMS 1 THROUGH 4
This amount is the Guaranteed Maximum Price (GMP) which the Contractor hereby guarantees to the City for constructing the [Project Name], [System Member], [City], Texas, Project No. [Project Number] complete in place and operational. All attached breakdowns shall total this GMP amount:
(\$ _____)(In Numerals)

6. CONSTRUCTION TIME:
The undersigned agrees to complete all Work in the following number of calendar days from the Notice to Proceed:
(_____)(In Numerals)

This GMP Proposal will not be withdrawn for a period of sixty (90) days from the date of receipt of this offer by the City.

The Contractor further agrees to pay, as Liquidated Damages, the sum of [Liquidated Damages Amount from UGC, Article 8] per calendar day for failure to complete the work within the contracted time in accordance with the Agreement between City and Contractor.

BY SIGNING BELOW, the Parties have executed and bound themselves to this Proposal.

CITY OF BRYAN

By _____
(Signature)

Andrew Nelson, Mayor

Date_ _____

(Design-Build
Contractor)

By _____
(Signature)

(Print or Type Name)

Date_ _____

EXHIBIT “F”
Security Bond

SECURITY BOND

Surety Bond No. _____

STATE OF
TEXAS

KNOW ALL MEN BY THESE PRESENTS:

§

COUNTY OF _____
§

That we, _____, as Principal, and _____, as Surety, are hereby held and firmly bound unto City of Bryan, Texas as Obligee in the penal sum of Five Percent (5%) of _____ (\$ _____), the Amount Available for the Construction Contract (AACC) for the Project defined herein below, for payment whereof the said Principal and Surety bind themselves, their heirs, executors, administrators, and successors, jointly and severally, firmly by these presents.

Whereas the Principal has executed a contract with Obligee dated _____, _____ (the "Contract"), for _____, Project No. _____ (the "Project").

NOW THEREFORE, the condition of this obligation is such that, if the aforesaid Principal shall execute a Guaranteed Maximum Price Proposal acceptable to all parties, the said Principal will, within the time required by the Contract, give Performance and Payment Bonds, as required by the Contract, to secure the performance of the terms and conditions of the Contract, then this obligation to be void; otherwise the Principal and Surety will pay to the Obligee the difference in money between the amount of the Guaranteed Maximum Price Proposal of the said Principal and the amount for which the Obligee legally contracts with another party to perform the work if the latter amount be in excess of the former, but in no event shall liability hereunder exceed the penal sum hereof.

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

(SEAL)

Principal

ATTEST:

By: _____

By: _____

(Typed Name and Title)

(Typed Name and Title)

(SEAL)

Surety

ATTEST:

By: _____

By: _____

(Typed Name and Title)

(Typed Name and Title)

EXHIBIT

“G”

PERSONNEL TITLES AND MONTHLY RATES

The Construction Manager for this project will assemble the following information from its assigned staff or any subcontractor team members associated with the project. The categories of personnel indicated should be edited to include only those expected to be actually working on this project. When preparing this schedule, you are expected to adhere to the position classifications and titles presented to the greatest extent possible. Additional listings and/or position classifications may be added as needed or required by the project.

Firm/Position Classification

Monthly Billing Rate

Design-Build Contractor

Senior Superintendent	<u>\$ 20,800</u>
Project Manager	<u>\$20,550</u>
Assistant Project Manager/ Project Engineer	<u>\$14,550</u>
Assistant Superintendent	<u>\$14,550</u>
Safety Coordinator	<u>\$13,500</u>

EXHIBIT
“H”
Subcontractor Insurance Requirements



Exhibit H Insurance Requirements

The following are the standard types, minimum amounts and forms of insurance required under this Subcontract, they shall be obtained, endorsed, and maintained at Subcontractor's sole expense. The policies of insurance shall be in such form and shall be issued by such company or companies as may be satisfactory to Contractor (minimum carrier rating shall be A VII). If Contract Documents require more extensive insurance coverage applicable to Subcontractor, the Contract Documents shall prevail. Certificate(s) of Insurance along with copies of all endorsements required herein shall be delivered to Contractor **prior to site mobilization or commencement of Subcontractor's work**. The insurance obligations of Subcontractor are fully binding on anyone hired by Subcontractor and Subcontractor's Agent. To the extent permitted by applicable law, Subcontractor shall comply with the following:

1. **General Liability**

Subcontractor shall provide commercial general liability insurance on a policy form no less broad than **ISO CG 00 01**. Limits shall be **not less than:**

[\$1,000,000] Each Occurrence

[\$1,000,000] Personal & Adv. Injury

[\$2,000,000] General Aggregate

[\$2,000,000] Products-Completed Operations Aggregate

- a. **General aggregate shall be project-specific and be affirmed on the policy.**
- b. Coverage shall apply on a **primary and non-contributory basis** for the Additional Insureds noted below and be affirmed on the policy.
- c. **Waiver of Subrogation** shall be in favor of indemnitees and Additional Insureds noted below and shall be affirmed on the policy.
- d. **Only Occurrence Based general liability policies are acceptable**, Claims-made general liability policies are not acceptable.
- e. Completed operations coverage shall be maintained for the period of time Subcontractor may be held contractually liable for its work.
- f. There shall be no exclusion for the following:
 - 1) Your scope of work
 - 2) Residential or habitational construction
 - 3) EIFS, or exclusion applying to similar systems
 - 4) Subsidence or earth movement exclusions
 - 5) Prior work exclusions
 - 6) Cross-liability exclusion, except for Named Insureds
 - 7) Breach of contract exclusions
 - 8) No action-over or similar employee-injury exclusion
 - 9) No exclusion for bodily injury for contractor of any tier
 - 10) Work from heights
 - 11) Occurrences causing continuous or progressively deteriorating injury or damage
 - 12) Damage to work performed by subcontractors on your behalf.
 - 13) No absolute pollution exclusion, only standard ISO pollution exclusion
 - 14) Only standard ISO definition for insurance contract
- g. There shall be no change to the standard ISO 00 01 employer's liability exclusion regarding the exception for contractually assumed liability.
- h. There shall be no exclusion or changes to the standard ISO 00 01 policy wording for the definition of "insured contract". Such ISO wording includes the assumption of the tort liability of another.
- i. Any professional liability exclusion must contain an exception for construction means and methods.
- j. **Additional Insureds** shall be as follows:

SpawGlass Construction Corp., its parent, subsidiary, and affiliated companies, predecessors and successors; Project Owner and indemnitees required to be indemnified in the Prime Contract; And each of their respective officers, directors, partners, employees, agents or representatives, volunteers, elected boards or officials and other consultants;

 - 1) Additional Insureds shall be added to the policy by way of **ISO Endorsement CG 20 10 11 85, or CG 20 10 10 01 plus CG 20 37 10 01, or equivalent.**
 - 2) Additional Insured Endorsements shall accompany the Certificate of Insurance.
 - 3) Additional Insured status shall apply to both ongoing and completed operations.
 - 4) Additional Insured status shall not be limited to comparative negligence, sole negligence, or vicarious liability of the Contractor.
 - 5) Additional Insured status shall be maintained for the term of the subcontract plus the period of time Subcontractor may be held legally liable for its work or the work performed on its behalf.
 - 6) Additional insured status shall be for the full limits of Subcontractor's policies and not be limited to minimum limits required herein.
 - 7) Contractor reserves the right, at its sole and subjective discretion, to reject any additional insured endorsement that it deems not equivalent to what is required herein.

- 8) Subcontractor must include these Additional Insured requirements (Section 1 of this Attachment) in the contracts of its subcontractors and vendors.

2. Workers' Compensation Insurance

Subcontractor must have statutory Worker's Compensation coverage for the State in which the Project is located and the states in which any subcontractor is domiciled.

- a. Shall be obtained for all subcontracts and in accordance with state statute.
- b. Other States coverage shall be included.
- c. Jones Act coverage shall be included, if applicable.
- d. USL&H coverage shall be included, if applicable.
- e. Policy shall contain a Maritime Coverage Endorsement, if applicable.
- f. Policy shall include a **Waiver of Subrogation Endorsement** in favor of indemnitees and Additional Insureds (listed in Section 1 of this Attachment).
- g. If Subcontractor is an employee leasing firm, utilizes an employee leasing firm, or will supply equipment with an operator, the workers' compensation coverage applying to that employee shall contain an Alternate Employers Endorsement on NCCI Form WC 00 03 01 A, naming **SpawGlass Construction Corp.**, its parent, subsidiary and affiliated companies, predecessors and successors;
- h. Subcontractor and its insurer waive all rights against Contractor and Owner, and their agents, officers, directors and employees for recovery of damages to the extent those damages are covered by the workers compensation policy obtained by Subcontractor pursuant to this Exhibit C.

3. Employers Liability Insurance

Limits shall be **not less than:**

\$ [1,000,000] each accident

\$ [1,000,000] disease – each employee

\$ [1,000,000] disease – policy limit

4. Automobile Liability Insurance

Limits shall be **not less than:**

[\$1,000,000] Combined Single Limit

- a. Coverage shall apply to **any auto**, including all owned, hired, and non-owned vehicles used by Subcontractor, its employees, agents, subcontractors, or suppliers.
- b. **Waiver of Subrogation** shall be in favor of indemnitees and Additional Insureds noted in Section 1 of this Attachment and shall be affirmed on the policy.
- c. If Subcontractor's work involves the transport of pollutants, policy shall be endorsed with **Pollution Liability - Broadened Pollution for Covered Autos ISO CA 99 48 10 01**.
- d. If Subcontractor's work is **within fifty feet of any railroad**, policy shall be endorsed with **ISO CA 20 70**.
- e. Contractor, owner and any other party required under the General Contract shall be included as an additional insured under the business auto liability policy. Subcontractor and its insurer waive all rights against Contractor and Owner and their agents, officers, directors and employers for recovery of damages to the extent those damages are covered by the business auto liability insurance policy obtained by Subcontractor pursuant to this Exhibit C.

5. Excess/Umbrella Liability Insurance

Subcontractor's limits shall be **not less than:**

\$ [2,000,000] each occurrence

\$ [2,000,000] aggregate

For Tower Crane, Crawler Cranes, and Mobile Cranes, limits of liability shall be **not less than:**

[\$5,000,000] Each Occurrence

[\$10,000,000] General Aggregate

(Limits may be obtained via combination of primary and excess coverage.)

- a. Coverage shall apply as excess to Subcontractor's policies, including, but not limited to, its general liability, automobile liability, and employers liability policies.
- b. Completed Operations coverage shall be maintained for the period of time Subcontractor may be held legally liable for its work.
- c. Coverage shall be on a **follow-form** basis.
- d. Coverage shall apply on a **primary and non-contributory basis** for the Additional Insureds noted in Section 1 of this Attachment and be affirmed on the policy.
- e. **Waiver of Subrogation** shall be in favor of indemnitees and Additional Insureds noted in Section 1 of this Attachment and shall be affirmed on the policy.
- f. **Additional Insured** requirement of Section 1 of this Attachment shall also apply and shall be affirmed on the policy.
- g. Subcontractor acknowledges that they are purchasing excess/umbrella insurance on behalf of Contractor and that such coverage shall be subject to vertical exhaustion before any other primary, umbrella, excess, any other insurance, or self-insurance programs of the Contractor or Owner will be triggered.

6. Pollution Liability Insurance

This is required for all entities that have the potential to release pollutants into the environment.

Limits of liability for the scopes listed below shall be **not less than**:

[\$1,000,000] each occurrence
[\$2,000,000] annual aggregate

- Exterior Envelope Subcontractors
- Plumbing: Gas, Sanitary Sewer, Flushing Chemicals
- HVAC: Cooling Tower Chemicals, Flushing Chemicals
- Earthwork
- Utilities: Gas, Sanitary Sewer

Limits of liability for the scopes listed below shall be **not less than**:

[\$2,000,000] each occurrence
[\$3,000,000] annual aggregate

- Abatement
- Demolition
- Fuel Storage/Gas Station

- a. Coverage shall apply to:
 - 1) Bodily injury and property damage arising from a pollution incident or event in connection with Subcontractor's activities
 - 2) Clean-up costs
 - 3) Remediation expenses (including costs for investigation, sampling, characterization, and monitoring)
 - 4) Legal & defense costs
 - 5) Natural resource damages
 - 6) Transportation of pollutants on and off the project site
 - 7) Non-owned disposal site liability (if Subcontractor's scope of work, or work performed on its behalf, includes the responsibility for manifesting and disposing of contaminated material or waste from its activities)
- b. Such insurance shall include coverage for silica, mold and fungi.
- c. Such insurance shall include contractual liability coverage applicable to the indemnity provisions of this Subcontract, and shall not contain a cross-suits exclusion, except for Named Insureds.
- d. If coverage is written on a claims-made basis, the retro date shall be on or before the date Subcontractor commenced the Work.
- e. Policy shall add the **Additional Insureds** noted in Section 1 by way of endorsement.
- f. Coverage and Additional Insured status shall remain in full force and effect for the term of the subcontract plus the period of time Subcontractor may be held legally liable for its work or the work performed on its behalf.
- g. **Waiver of Subrogation** shall be in favor of Additional Insureds noted in Section 1 and shall be affirmed on the policy by way of endorsement.

7. Professional Liability Insurance

This is required for subcontractors providing professional services, design services, or drawings by a registered engineer.

Limits of liability for the scopes listed below shall be **not less than**:

[\$1,000,000] each claim

[\$2,000,000] annual aggregate

- Mobile Crane, Crawler Crane, & Tower Crane
 - Material Hoists Foundation and Tie-Off Points Engineering
 - Fall Protection Engineering/ Tie-Off Points
 - Forming/Shoring Systems for Concrete Structures
 - Load Bearing Masonry Walls
 - Structural Steel Engineering
 - Curtainwall Systems
 - Drywall, when Load Bearing Metal Stud Walls and/or Deflection criteria on Metal Stud Walls
 - Elevator and Escalator
 - Fire Suppression
 - Delegated Design - Mechanical, Electrical & Plumbing
 - Fire Alarm System
 - Security
 - Segmented Block/Retaining Walls Engineering
 - Temporary Shoring Engineering for subgrade excavation
- b. Coverage shall apply to any negligent acts, errors, or omissions arising from Subcontractor's professional services.
- c. The retro date on the policy shall be prior to the commencement of Work.
- d. Coverage shall be maintained for the term of the subcontract plus the period of time Subcontractor may be held legally liable for its work or the work performed on its behalf.
- e. Subcontractor and its architects, engineers, design professionals, subconsultants, and subcontractors shall provide prompt notice to Contractor of any claim asserted, the entry of any settlement, or rendering of any judgment which may be covered by this policy and which exceeds twenty-five percent (25%) of available policy limits of the policy.
- 1) In the event of such claim asserted, entry of any settlement, or rendering of any judgment, Contractor may require Subcontractor and its architects, engineers, design professionals, and subcontractors to obtain additional professional liability insurance coverage so that coverage available is not less than the amounts specified above.
- f. Coverage shall not be limited to dollar amounts of the Work or this agreement.

8. Riggers Liability Insurance (required if work involves rigging including, but not limited to, moving, erecting, storing, hoisting, or lowering)

Limits shall be **not less than**:

[\$5,000,000] each occurrence

[\$10,000,000] aggregate

- a. Increased limits may be required depending on the value of equipment being lifted or moved for Owner or others.

9. Railroad Protective Liability (required if work is within 50 feet either side of a railroad)

Limits and terms of such coverage shall be not less than those set forth by the railway operator.

If subcontractor doesn't have any scope of work within 50 feet either side of the railroad, then this coverage is not required.

10. Builders Risk Property Insurance

- a. Subcontractor shall be responsible for its pro-rata share of any applicable deductible for builders risk claims.
- b. Subcontractor waives, and shall require all subcontractors to the lowest tier to waive, all rights against each other and against the Contractor, Owner, Subcontractor, and all other persons or entities providing labor or material to the Project as required by the Contract Documents for damages caused by fire or other perils to the extent covered by Builder's Risk relating to the Project, except such rights as any of them may have to the proceeds of such insurance.

11. Watercraft Protection and Indemnity Insurance (required if Subcontractor's work involves the use of watercraft not covered by general liability policy)

Limits shall be **not less than** those set forth below, or the value of the watercraft, whichever is greater:
[\$5,000,000] each occurrence

- a. Coverage shall apply to all the crew members as well as passengers.

12. General Provisions

- a. Policy terms, limits and coverages provided by Subcontractor shall equal or exceed any requirements specified in the Contract Documents or required by law, but in no event shall they be less than required herein.
- b. Subcontractor shall provide evidence of compliance by way of **ACORD 25 Insurance Certificate** which transmittal shall **include all policy endorsements required herein**.
- c. Certificate shall show all **liability limits in US Dollars**.
- d. Subcontractor must provide no less than **thirty (30) days** written notice to Contractor prior to any cancellation, non-renewal of any insurance required herein, or any reduction in or impairment of insurance limits.
- e. Waiver of Subrogation in favor of indemnitees and Additional Insureds as outlined in Section 1 applies to any insurance required hereunder or otherwise maintained by Subcontractor.
- f. Any self-insured retentions on any of the coverages required above must be clearly disclosed on the Certificate of Insurance and are subject to Contractor's approval.
- g. Contractor maintains the right to require a proper form of collateral for any self-insured retention.
- h. Subcontractor's insurance, whether or not specified or required herein, shall be **primary and non-contributory** to any insurance maintained by the indemnitees and the Additional Insureds as outlined in Section 1.
- i. Contractor has the right to receive certified copies of any Subcontractor insurance policies upon written request.
- j. Acceptance of Subcontractor's insurance certificate will not relieve any of Subcontractor's responsibilities under the subcontract and shall not constitute a waiver of Subcontractor's obligation to provide insurance in accordance with and as required by the subcontract agreement.
- k. Contractor has the right to withhold payment to Subcontractor until such time as subcontractor complies with the insurance requirements.
- l. Failure to comply with the requirements of this Exhibit C shall be deemed a material breach of the Subcontractor's obligations under the subcontract agreement.

13. EVIDENCE OF INSURANCE

Prior to commencement of Subcontractor's Work, Subcontractor shall submit to Contractor Certificates of insurance with applicable endorsements showing the insurance required in this Exhibit. Upon Contractor's request, Subcontractor shall furnish certified copies of required insurance policies and, if requested, shall furnish updated policies thereafter. Prior to expiration of any of the insurance policies, Subcontractor shall submit to Contractor updated certificates of insurance. There shall be no cancellation, material modification or reduction of coverage without 30 days' prior written notice to Contractor by Subcontractor.

Contractor shall have the right, but not the obligation, to prohibit Subcontractor or any subcontractor from entering the Project site until such certificates or other evidence of insurance has been placed in full compliance with these requirements as received and approved by Contractor. Failure to maintain the required insurance may result in termination of this Subcontract at Contractor's option. If Subcontractor fails to maintain the insurance as set forth herein, Contractor shall have the right, but not the obligation, to purchase and bill Subcontractor for the insurance. Any failure of Contractor to require or obtain evidence of the insurance required hereunder shall not be deemed a waiver of such requirement. Subcontractor's obligation to procure insurance shall be independent of all other obligations under this Subcontract.

14. SUB-SUBCONTRACTOR'S INSURANCE

- a. Subcontractor must include these insurance requirements in the agreements of its lower-tier subcontractors, vendors, suppliers, and service providers. This is inclusive of any requirements for additional insured status as outlined in Section 1. A third party's obtaining the required insurance shall in no manner lessen or affect Subcontractors obligations or liability as set forth herein or otherwise imposed by law.

EXHIBIT
“1”
CITY OF BRYAN REQUEST FOR QUALIFICATIONS

REQUEST FOR QUALIFICATIONS

**Design – Build Services for
Design and Construction of a Sports and Event Center, Parking, Related Infrastructure, Amphitheater, Grand
Lawn, and other Possible Facilities and Park Amenities**



CITY OF BRYAN
The Good Life, Texas Style.™

Request for Qualifications # 20-020
DUE DATE: Thursday, February 27, 2020
@ 2:00 P.M. C.T.

CITY OF BRYAN
Purchasing Department
205 E. 28th Street
Bryan, TX 77803
979-209-5500
www.bryantx.gov

Disclosure Requirements

Chapter 176 of the Texas Local Government Code mandates the public disclosure of certain information concerning persons doing business or seeking to do business with the City of Bryan, including affiliations and business and financial relationships such persons may have with City of Bryan officers. An explanation of the requirements of Chapter 176, applicable forms and a complete text of the new law are available at: <https://www.bryantx.gov/purchasing-services/#vendorethics> . If you are unable to obtain such information online, please contact the City of Bryan Purchasing Department, 205 E. 28th Street, Bryan, Texas 77803 or call (979) 209-5500.

BY DOING BUSINESS OR SEEKING TO DO BUSINESS WITH THE CITY OF BRYAN, YOU ACKNOWLEDGE THAT YOU HAVE BEEN NOTIFIED OF THE REQUIREMENTS OF CHAPTER 176 OF THE TEXAS LOCAL GOVERNMENT CODE AND THAT YOU ARE SOLELY RESPONSIBLE FOR COMPLYING WITH THEM.

CONTENTS

CONTENTS..... 2

GENERAL INFORMATION..... 3

INTENT AND SCOPE OF WORK..... 3

REQUEST FOR QUALIFICATIONS SCHEDULE..... 7

DEFINITIONS, TERMS, AND CONDITIONS 8

SPECIAL PROVISIONS..... 13

FORMAT REQUIREMENTS..... 14

EVALUATION FACTORS..... 16

CERTIFICATION AND AUTHORIZATION..... 17

EXHIBIT A..... 18

EXHIBIT B..... 19

EXHIBIT C..... 20

EXHIBIT D..... 40

EXHIBIT A..... 48

EXHIBIT B..... 49



GENERAL INFORMATION

Background

The City of Bryan is located in Central Texas between Austin and Houston. The City of Bryan was incorporated in 1872. The original square-mile town site now consists of more than 45.72 square miles. Based upon the most recent population estimates, Bryan has an estimated population of 88,734. The community also is home to Texas A & M University, including the new RELLIS Campus, and Blinn College, which when combined, includes approximately 76,000 college students.

The City of Bryan is a home-rule city that operates under the Council-Manager form of government. The City provides a full range of municipal services as prescribed by statute or charter. These services include, but are not limited to, police, fire and emergency medical services, parks and recreational facilities, library services, street maintenance and construction, public improvements, general administrative services and electrical, water, sewer, and sanitation systems.

City Charter, Council minutes, budget information, maps and a wealth of miscellaneous information about the City of Bryan can be found online at www.bryantx.gov.

The City of Bryan has 56 parks that cover 2,440 acres, including the former Travis B. Bryan Municipal Golf Course (i.e., proposed regional park site) and gorgeous Lake Bryan.

INTENT AND SCOPE OF WORK

City of Bryan, Texas (“City”) is seeking a Design / Build firm (the “D/B Firm”) to perform typical and complete design / build services in conjunction with the design and construction of a Sports and Event Center, inclusive of parking, infrastructure, and possibly exterior amenities such as an amphitheater, a grand lawn, and other ancillary facilities, while working with the City staff and any appropriate consultants engaged by the City.

The City owns property that most recently served as the Travis B. Bryan Municipal Golf Course. Additionally, within the Park Property are two (2) existing parks, one of which has recently been improved and another that has experienced some recent maintenance upkeep: Williamson Park and the Astin Recreational Area, respectively. Another property, commonly referred to as Travis Park, is located on the west side of Bomber Drive between Carson Street and Williamson Drive, and is used by the Bryan United Little League. The former golf course property includes an oil pad site that was recently plugged and abandoned, and is planned to be incorporated into the park. The Park Property is located northwest of the intersection of Villa Maria Road and South College Avenue, and is bordered by Villa Maria Road, South College Avenue, Rountree Drive, Williamson Drive, and the Union Pacific Railroad tracks. (See **Exhibit A**)

The Park Property is comprised of almost 148 acres, including the former municipal golf course property, the two (2) existing parks, and the Bryan Municipal Lake: Brazos Central Appraisal District (BCAD) Property ID 101898 at 104.7113 acres and BCAD Property ID 101897 at 44.13 acres. Williamson Park includes the following amenities: a new skate park, two (2) new pavilions, a new restroom, a basketball court, green space, and a parking area. The Astin Recreational Area includes a recently improved fishing dock, parking, and green space. Travis Park, BCAD Property ID 50975, is part of an approximate 27 acre tract, and is not part of the 148 acre property as it is further north and not directly adjacent to the former golf course property. The City reserves the right to separate out areas of the Park Property for specific development and/or other uses.

The site is in close proximity to a premier two-year college (Blinn College) and a world-class university (Texas A&M University).

In seeking a D/B Firm, the City is looking for a qualified general contractor, with prior experience in the design and build (or construction) of similar facilities with turn-key design and construction budgets (inclusive of furnishings and FF&E), with a not to exceed combined amount total of \$40,000,000, which is the Construction Budget.

The D/B Firm will need to work with the City staff and the City's consultants during the design phase, prior to construction, to develop the conceptual design, to develop the Plans and Specifications, to ensure the feasibility and constructability of the Project design, and to assist in bringing the estimated construction cost of the Project within the budget through value engineering, the selection of building systems and materials, cost estimating, scheduling, and other means, without adversely affecting the capacity and quality of the Project.

The D/B Firm will propose a Guaranteed Maximum Price (GMP) for the construction of the Project, which is within the Construction Budget, after or during completion of the preconstruction services. If the City exercises their option, the D/B Firm will serve as general contractor for the Project during the construction phase.

The Architect or Engineer (A/E) member of the D/B Firm will prepare construction documents for the Project and have full responsibility for complying with the requirements of Chapter 1051, Subtitle B of the Texas Occupations Code (Regulation of Architecture and Related Practices).

The City desires that Respondents address the following criteria:

- 1) Demonstrated capability, as a company, to perform the Design / Build services based upon successfully completed similar projects without legal, technical, or safety problems.
- 2) Capability to provide the resources, including financial, equipment and staffing, necessary to meet Project requirements.
- 3) Recent experience with project cost estimates and project schedule adherence with the proposed Project schedule.
- 4) Past performance on similar projects with this or other local municipality on construction of publicly funded projects.
- 5) Qualifications and experience of the team members proposed to manage the Project for Respondent as evidenced by the resumes of the proposed personnel. Only those personnel who will be directly involved in and assigned to this project shall be submitted with their role clearly indicated.
- 6) Knowledge of current construction methodologies and technology, including warranty item management, alternative construction methods, non-traditional and cost-effective construction methods appropriate for the use in this Project.
- 7) Quality of references from past customers of Respondent.
- 8) Timeline for the design of the Project.
- 9) Timeline for the construction of the Project.
- 10) Client references for local subcontractors available for the Project with experience in the design-build project delivery system.
- 11) Client references for local subcontractors available for the Project who have constructed similar or like facilities or building projects of this magnitude.

Scope of Work:

- A. Project Scope, Time/Project Schedule: Information about the scope and timing/project schedule follows:
 - 1) **Scope of Work**: The scope of services is the design and construction of a Sports and Event Center, inclusive of parking, infrastructure (e.g., water, sewer, electric, gas, fiber, WiFi, communications,

lighting, etc.), and possibly exterior amenities such as an amphitheater, a grand lawn, and other ancillary amenities/facilities, while working with the City staff and any appropriate consultants. The project is turn-key, inclusive of design, build/construction, and furnishings (inclusive of FF&E) for the Project. The following are work tasks assumed necessary to complete this Project.

- The Firm will meet with City staff to review the scope of the Project, establish design standards, and become familiar with any concerns.
- The Firm will provide designs that incorporate industry standards with a focus on efficient operations and maintenance, and durable materials and design with the expectation of a low-cost operation and long life expectancy facility. Design elements should complement the overall theme of the park.
- The Firm will include in the design the following elements, which may be amended during the negotiation phase:
 - a) **Sports and Event Center or The Center:** The Center is the heart of the regional park and is to be a Class A facility suitable for attracting regional, state, and national indoor tournaments and events, along with use by citizens and out of town visitors. The master plan suggests a facility of at least 110,000 square feet and as much as nearly 160,000 square feet. Floor space should be sufficient for at least eight high school sized basketball courts. Seating is preferred to be in a mezzanine area. Other space could address activities such as sports injury services, locker rooms, meeting space, food preparation/services, and other space for services as may be suggested by the Firm.
 - Possible specific uses for The Center include but are not limited to: tournaments (e.g., basketball, volleyball, gymnastics, wrestling, pickleball, archery, soccer, boxing, etc.), competitions (e.g., cheerleading, dance, e-gaming/e-sports, virtual reality, martial arts, etc.), exhibits, tradeshow, concerts, mini-conferences, markets, and special events.
 - b) **Parking:** Design shall incorporate the City's standards and include easy ingress and egress. The design should address pleasing aesthetic features such a casual observer does not recognize an expansive concrete space. Additionally, the parking design should address safety and ease of access for visitors/pedestrians to the Sports and Event Center and other facilities.
 - c) **Infrastructure:** The design shall address all infrastructure needs inclusive of, but not limited to, parking, drives, water, sewer, electricity, gas, fiber – this listing is not to be considered all-inclusive and the design will address any and all infrastructure needs for a quality project and facility to meet current standards and demands.
 - d) **Amphitheater:** An amphitheater is contemplated in a space between the Sports and Event Center and the lake, with the intent of providing festivals, concerts, movies, and other community events. The space, which is adjacent to the water's edge, could include a stage, viewing area, restroom, fountain or other features, stage access for equipment, and storage space. The selected Firm should recommend amenities, space size, etc.
 - e) **Grand Lawn:** A grand lawn may be included in the amphitheater space and spill out into the surrounding area. Such space can be for open play and access during non-event times.
 - f) **Other Park Amenities:** Design will address landscaping, irrigation, and other amenities, especially if require by City Code.

- g) **Possible Other Facilities:** The Firm is expected to suggest other ancillary facilities as it determines advantageous and beneficial to the City's new park. However, the Firm also must consider budget constraints and operational costs.

For more information, refer to the master plan layout in **Exhibit B** (i.e., possible initial amenities within the proposed regional park) and the presentation provided as **Exhibit C**. The Firm's design must contemplate costs, limited budgets, limited resources, operating costs, quality construction and materials, life-cycles, and other factors to ensure the best long-term operational value for the City.

- The Firm may arrange, coordinate, and conduct sites visits of similar facilities with City staff and the City's consultants.
 - The Firm may conduct public input meetings with citizens to aid in the design.
- 2) Following selection, the Firm's engineers or architects shall develop designs, inclusive of construction documents, submitting all design elements for review and determination of scope and code compliance to the City before construction.
 - 3) The Firm's engineer shall have responsibility for compliance with the engineering design requirements and all other applicable requirements of Chapter 1001, Occupations Code. A Firm's architect shall have responsibility for compliance with the requirements of Chapter 1051, Occupations Code.
 - 4) The Firm will work with the City and the City's consultants, prior to construction, to ensure the feasibility and constructability of their designs, and that the cost of construction of the Project is within the estimated Construction Budget through value engineering, the selection of building systems and materials, cost estimating, scheduling, and other means.
 - 5) The Firm shall obtain all required permits and contractor's licenses. The City of Bryan permit fees shall be waived. The City will provide necessary water and sewer taps, and the City will provide necessary electric service to the property. The Firm shall identify water, sewer, electric, fiber, electronic communications, and other infrastructure needs during the design phase.
 - 6) The Firm will serve as General Contractor to complete all work for the construction of the Project. The scope of Construction services will be determined based on the final Drawings and Specifications but may consist of **one or more** of the following areas of work or building components: site clearing, excavation, fill, select fill and backfill; site utilities; concrete sidewalks, curbs and gutters; paving, rough and finish grading, topsoil and seeding; fencing and gates, concrete foundations, concrete slab-on-grade, concrete masonry (CMU) interior walls, cast stone lintels, limestone and plaster exterior veneer, concrete floor topping, masonry, metal roof deck, metal wall and roof panels, miscellaneous metals and metal fabrications; rough and finish carpentry, millwork and casework; damp-proofing and waterproofing, caulking and sealants, thermal insulation, flashing and sheet metal, metal soffit panels, modified bitumen roofing; other roofing, wood doors, metal doors and frames, aluminum doors and frames, glass and glazing, finish architectural hardware, acoustical ceilings, resilient flooring and base, carpeting, tile or wood flooring, metal studs and support systems, gypsum drywall, painting, interior and exterior signage; metal louvers and miscellaneous specialties; furnishings and appliances; equipment and specialty equipment; sound enhancement systems; fire protection; lightning protection; audio/visual; security and telecommunications systems along with adequate conditioned and secure supporting communications facilities; and mechanical, plumbing / electrical systems, and any other Contract

Documents requirements. Materials used shall be of high quality, low maintenance, designated for durability, and tamper/vandal resistance.

- 7) The Firm shall provide, at a minimum, a one (1) year warranty from the date of acceptance by the City on all materials and construction.
- 8) The work does not include inspection services, and the materials testing services necessary for City's acceptance of the Project, which will be performed under a separate contract with an independent provider engaged directly by the City.
- 9) The Firm shall supply a signed and sealed set of "As-Built" construction documents, specifications and operations and maintenance manuals for the Project at the conclusion of construction in both hard copy and electronic format. Drawings shall be provided in both "dwg" and "pdf" formats.

B. Time: Time is of the essence and the D/B Firm shall provide a proposed design and construction schedule(s) with this submittal. This Schedule may be adjusted as a result of negotiations on submittals or preconstruction services by the D/B Firm. Refer to Tab E, #6 on Page 15 of this RFQ for additional information.

Note: The City has other projects in design or under construction on the regional park property. These projects include, but are not limited to, an entrance road off of Villa Maria Road, infrastructure/utilities within the entrance road, lake rehabilitation, trail construction, and baseball improvements on fields north (part of Travis Park) of the subject property.

REQUEST FOR QUALIFICATIONS (RFQ) SCHEDULE

The City of Bryan is seeking Statement of Qualifications (SOQ) from qualified Respondent(s) for Design and Build (or construction) of a Sports and Event Center to be constructed within the City's Travis B. Bryan Regional Park. The purpose of the Request for Qualifications (RFQ) process is to identify the most qualified firm. The selected Firm or team is expected to accomplish and/or supply all services outlined in this Request for Qualifications. The City has made no promises or representations and cannot offer, promise, or guarantee that the selected Firm will be awarded any future contracts to provide services to the City.

The City intends to select a single Respondent to accomplish services outlined in this Request for Qualifications, but reserves the right to select more than one firm.

Sealed responses will be accepted until **2:00 p.m. CT on Thursday, February 27, 2020**, and should be addressed to:

City of Bryan - Purchasing Department
Attn: Karen Sonley, Purchasing Supervisor
205 E. 28th Street
Bryan, TX 77803
ksonley@bryantx.gov

You may upload one (1) electronic proposal in the format prescribed herein on our website at brazosbid.ionwave.net. Please note that the City of Bryan is not responsible for high internet traffic/demand at or near the time the response packages are due and that firms submitting their response package during peak traffic times risk their submittal not being received by the due date and time. If you choose to respond in writing, one (1) original, three (3) copies and one (1) electronic version (Flashdrive, etc.) of the proposal must be returned in a sealed envelope bearing the name and address of the respondent on the outside of the envelope. Response packages will be accepted until 2:00 p.m. CT on February 27, 2020, and should be addressed to as described above.

A non-mandatory pre-SOQ conference is scheduled at 10:00 a.m. CT, January 23, 2020, at the City of Bryan Purchasing Department Office at 205 East 28th Street, Bryan, Texas. All potential Respondents are strongly encouraged to attend.

To ensure a fair and objective RFQ process and evaluation, all questions and inquiries related to this Request for Qualifications shall be addressed in writing via the Online Bidding System (brazosbid.ionwave.net) or to the individual identified above. **The deadline for written questions and inquiries is February 13, 2020 @ 10:00 a.m. CT.** Contact with any City of Bryan employee or official is prohibited without prior written consent from the Purchasing Department or designee. Respondents contacting any other employee(s) or official(s) without prior written consent risk elimination of their SOQ from further consideration.

These documents are also available online at brazosbid.ionwave.net or may be viewed at the Purchasing Department Office at 205 E. 28th Street, Bryan, Texas.

The City believes that the data contained in this RFQ is sufficient for the preparation of a response. Requests for additional information will be considered depending on the RFQ time frame and the availability of the requested information. Such information will be submitted to all known possible Respondents simultaneously.

Schedule of Important Dates

The tentative schedule for this Request for Qualifications is as follows:

Release RFQ to Offeror’s	January 9, 2020
Non-Mandatory Pre-SOQ Conference	January 23, 2020 @ 10:00 a.m. CT
Deadline for Questions	February 13, 2020 @ 2:00 p.m. CT
SOQ Submission Deadline	February 27, 2020 @ 2:00 p.m. CT
SOQ Evaluations	February 2020 – March 2020
Contract Negotiations	March 2020 – April 2020
Earliest Award of Contract	March 24, 2020

DEFINITIONS, TERMS, AND CONDITIONS

Definitions

To simplify the language throughout this request for qualification, the following definitions shall apply:

CITY OF BRYAN – Same as City.

CITY COUNCIL – The elected officials of the City of Bryan, Texas, given the authority to exercise such powers and jurisdiction of all City business as conferred by the State Constitution and Laws.

CONSTRUCTION BUDGET – The Construction Budget for the Project includes turn-key services to design, build, and furnish (inclusive of FF&E) the Project. The Construction Budget includes funding for possible and various amenities and facilities within the Project. The not to exceed funding for the Project is \$40,000,000, and the Firm’s Guaranteed Maximum Price (GMP) should consider this funding limit as well as other factors impacting total Project cost (i.e., the Construction Budget).

CONTRACT – An agreement between the City and a Respondent to furnish supplies or services over a designated period of time during which repeated purchases are made of the commodity or service specified.

CITY – The government of the City of Bryan, Texas, a home-rule municipal corporation.

DESIGN/BUILD (D/B) FIRM – A “Design / Build (D/B) Firm” is a sole proprietorship, partnership, corporation, or other legal entity that assumes the risk for the design, documentation, construction, rehabilitation, alteration, or repair of a facility at the contracted price as a general contractor and provides consultation to the City regarding all phases of the design and build (or construction) of the facility. Firms submitting Statements of Qualifications shall be referred to as “Respondents,” and in some instances referred to as “Firm” or “firm.”

PARK PROPERTY – The property includes the former municipal golf course property and the two (2) existing parks (Williamson Park and Astin Recreational Area). The Park Property also includes parts of the Travis Athletic Complex or Travis Park (i.e., the existing ballfields), excluding the large field (Nutrabolt Stadium) and vacant property on the east side of Bomber Drive. The City reserves the right to separate out areas of the property/properties for specific development and/or other uses.

PROJECT – The Project includes a Design/Build model with multiple elements to be reviewed, revised, and finalized through the design process, of which the D/B Firm will have an extensive and inclusive role. The primary focus of the Project is an indoor Sports and Event Center, and includes necessary and required parking, infrastructure, an amphitheater, a grand lawn, and other park amenities and facilities as may be determined through the design process. Once designed, the Project moves into the build phase. That is, as defined, submittals should consider the Project to be all components of design/build with the City reserving the right to move forward to the build phase based on results of the design phase. The Project is turn-key, inclusive of design, build/construction, and furnishings (inclusive of FF&E) for the Project. For more information, refer to the Intent and Scope of Work section within this RFQ.

RESPONDENT – Organization offering a SOQ in response to this RFQ. Respondent also may be referred to as “Offeror,” “offeror,” “firm,” “Firm,” “Design/Build Firm,” or “D/B Firm.”

RFQ – Request for Qualifications.

SOQ – Statement of Qualification, which is a response to this RFQ.

Request of Statement of Qualification (SOQ)

The submitted SOQ(s) must be received by the Purchasing Department prior to the time and date specified herein. The mere fact that the SOQ was dispatched will not be considered; the Respondent must ensure that the SOQ is actually delivered and received on time.

SOQs received after the date and time specified shall be returned unopened and will be considered void and unacceptable. The City of Bryan is not responsible for lateness of mail carrier, etc., delays due to high internet traffic/demand, etc., and time/date stamp in the Purchasing Department shall be the official time of receipt.

SOQs cannot be altered or amended after the closing date. Alterations made before closing must be initialed by Respondent guaranteeing authenticity. SOQs may not be withdrawn after the SOQ closing date and Respondent so agrees upon submittal of their SOQ.

The SOQs will be publicly acknowledged in the Purchasing Department’s Conference Room at 205 E. 28th Street, Bryan, TX 77803 at 2:00 p.m. CT on the date specified. Respondents, their representative(s), and interested persons may be present. SOQs received will be publicly opened but not read aloud. SOQs shall remain valid for a period of one hundred and twenty days (120) days from the date and time of the SOQ submission deadline date, with the same terms, conditions and negotiated fee schedule.

The SOQ must be submitted as instructed in the RFQ Schedule on Page 7.

By submitting a SOQ, the Respondent certifies that they have fully read and understands this “Request for Qualifications” and has full knowledge of the scope, quantity, and quality of the services to be furnished and intends to adhere to the provisions described herein. Failure to do so will be at the Respondent’s own risk, and they cannot secure relief on pleas or error. Neither law nor regulations make allowance for error of omission or commission on part of the Respondent.

Any SOQ that does not contain all of the information requested in this RFQ will be considered incomplete and may be rejected by the City of Bryan.

By State statute, the City of Bryan is exempt from State Sales Tax and Federal Excise Tax, and the SOQ price shall not include taxes.

The Respondent shall furnish any additional information as the City of Bryan may require. The City of Bryan reserves the right to make investigation of the qualifications of the Respondent(s) as they deem appropriate.

A SOQ, when properly accepted by the City of Bryan, shall constitute a contract equally binding between the successful Respondent(s) and the City of Bryan. No different or additional terms will become part of this Contract with the exception of a Change Order.

This Request for Qualifications does not commit the City of Bryan to award a contract, to pay any cost incurred in the preparation of a SOQ, or to procure or contract for services.

Reservations

The City of Bryan reserves the right to accept or reject any or all SOQs as a result of this request, to negotiate with all qualified sources, or to cancel, in part or in its entirety, this Request for Qualifications if found in the best interest of the City of Bryan. All SOQs become the property of the City of Bryan.

The City of Bryan reserves the right to waive any informalities and technicalities and to accept the offer considered most advantageous in order to obtain the best value for the City. Causes for rejection of a SOQ may include but shall not be limited to the Respondent’s current violation of any City ordinance, the Respondent’s current inability to satisfactorily perform the work or service, or the Respondent’s previous failure to properly and timely perform its obligations under a contract with the City. A Respondent may be disqualified and rejection of SOQs may be recommended for any (but not limited to) of the following causes: 1) Failure to use the SOQ forms furnished by the City; 2) Lack of signature by an authorized representative on the Certification and Authorization form; 3) Failure to properly complete the SOQ; 4) Evidence of collusion among Respondents; 5) Omission of uncertified personal or company check as a SOQ guarantee (if Bid Bond required); or 6) Any alteration of the language contained within the RFQ forms. The City of Bryan reserves the right to waive any minor informality or irregularity.

The City reserves the right to retain all SOQs submitted and to use any idea in a SOQ regardless of whether that SOQ is selected. Submission of a SOQ indicates acceptance by the Respondent of the terms and conditions contained in this request for SOQs, unless clearly and specifically noted in the submitted SOQ and confirmed in the contract between the City of Bryan and the selected Respondent.

The City of Bryan may conduct reference checks as needed to evaluate SOQs. The City may contact those listed, and inclusion of this listing in your SOQ is agreement that the City may contact the named reference. The City reserves the right to contact other companies or individuals that can provide information to the City that will assist the City in evaluating the capability of the Respondent.

Reimbursements

There is no expressed or implied obligation for the City of Bryan to reimburse responding firms for any expenses incurred in preparing SOQs in response to this Request for Qualifications, and the City of Bryan will not reimburse Respondents for

these expenses, nor will they pay any subsequent costs associated with the provision of any additional information or presentation, or to procure a contract for these services.

Certification

SOQs must be completed and submitted as required in this document. **The Certification and Authorization form must be fully completed. Failure to submit the Certification and Authorization form within the sealed RFQ will result in the RFQ being rejected as non-responsive.**

By submitting a RFQ, the Respondent certifies they have fully read and understands this "Request for Qualifications" and has full knowledge of the scope, quantity, and quality of the services to be furnished and intends to adhere to the provisions described herein. Failure to do so will be at the Respondent's own risk, and he cannot secure relief on pleas or error. Neither law nor regulations make allowance for error of omission or commission on part of Respondent.

Standard Contracts

This Request for Qualifications includes the City's Standard Form of Agreement Contract (Exhibit D). The Firm should review this agreement thoroughly. Firms not willing to sign the agreement without modification need not submit. The enclosed "Certification and Authorization Acknowledgment Form" must be properly executed and provided with the sealed submittals indicating the Firm's willingness to execute the City's Standard Form of Agreement Contract.

Communication

The City of Bryan shall not be responsible for any verbal communication between any employee of the City or City Official and any potential Respondent. Only written and properly submitted SOQs will be considered.

Negotiations

During the evaluation process, City of Bryan reserves the right, where it may serve the City of Bryan's best interest, to request additional information or clarifications from Respondent(s). At the discretion of the City, Respondent(s) reasonably susceptible of being selected based on criteria set forth in this RFQ, may be requested to make oral presentations. Each SOQ must designate the person(s) who will be responsible for answering technical and contractual questions. Preliminary negotiations may be conducted with the responsible Respondent who submits the SOQs that is reasonably susceptible of being selected. At the discretion of the City, Respondents reasonably susceptible of being selected based on criteria set forth in this RFQ may be given an opportunity to make a presentation and/or interview with the Selection Committee.

Respondents will be ranked in the City's order of preference and final contract negotiations will begin with the top ranked Respondent. Should negotiations with the highest ranked Respondent fail to yield a contract, or if the Respondent is unable to execute said contract, negotiations will be formally ended and then may commence with the second highest ranked Respondent, etc.

If an agreement can be reached, a formal written agreement, which will include insurance and bonding requirements, will be drafted and such requires consideration by the City of Bryan City Council. An agreement is not finalized until the City Council takes formal action at an appropriately posted public meeting to approve said agreement.

Disclosure

At the public opening, there will be no disclosure of contents to competing Respondents, and all SOQs will be kept confidential during the negotiation process. Except for trade secrets and confidential information the Respondent(s) identifies as proprietary, all SOQs will be open for public inspection after the contract award.

Legislative Acts

Pursuant to Texas Government Code 2252.152, contracts with companies engaged in business with Iran, Sudan, or foreign terrorist organizations are prohibited; a governmental entity may not enter into a governmental contract with a company that is identified on a list prepared and maintained under Government Code Sections 806.051, 807.051, or 2252.153.

Pursuant to Government Code 2270.002, a governmental entity may not enter into a contract with a company for goods or services unless the contract contains written verification the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract.

Basic Safeguarding Of Contractor Information Systems

- A. The Contractor shall apply basic safeguarding requirements and procedures to protect the Contractor's information systems whenever the information systems store, process or transmit any information, not intended for public release, which is provided by or generated for the City. This requirement does not include information provided by the City to the public or simple transactional information, such as that necessary to process payments. These requirements and procedures shall include, at a minimum, the security control requirements "reflective of actions a prudent business person would employ" which are outlined in the Federal Acquisition Regulations FAR 52.204-21(b) and codified in the Code of Federal Regulations at 48 C.F.R. § 52.204-21(b) (2016).

- B. Contractor shall include the substance of this clause in subcontracts under this contract (including subcontracts for the acquisition of commercial items other than commercially available off-the-shelf items) in which the subcontractor may have City contract information residing in or transiting through its information system.

Award of the Contract

Award of the contract shall be based on demonstrated competence and qualifications, so long as the professional fees are consistent with, and not higher than the published recommended practices and fees of the various professional associations and do not exceed any maximums provided by state law.

If the SOQ Results in a Contract, the Following Terms and Conditions Will Apply:

Respondent(s) should be aware that the RFQ and the contents of the successful SOQ will become a part of any subsequent contractual document that may arise from this RFQ. In case of discrepancy between the RFQ and the Respondent's, the RFQ will rule.

The opportunity for City of Bryan to enter into contract with the successful Respondent(s) will remain open for a period of one hundred twenty (120) days from the date and time of the SOQ submission deadline date with the same terms, conditions, and negotiated fee schedule.

The City of Bryan will not accept any contract terms that require pre-payment for services, supplies, or equipment.

No oral statement of any person shall modify or otherwise change, or affect the terms, conditions, or specifications stated in the resulting contract. All Change Orders to the contract will be made in writing and approved by the Firm and then considered by the City of Bryan.

Should there be a change in ownership or management, the Contract shall be cancelled unless a mutual written agreement is reached with the new owner or management to continue the contract with its present provisions and prices. This Contract is nontransferable by either party unless mutually agreed upon by both parties.

Payment(s) will be made in accordance with a negotiated fee schedule.

All invoicing shall be submitted in duplicate to the City of Bryan. If invoices are subject to cash discount, discount period is to be taken from the date of completion of order or date of receipt of invoice, whichever occurs last regardless of whether or not correct discount terms appear on invoice. All invoices are to be paid in full within thirty (30) days after satisfactory delivery of services and billing.

No public official or City employee shall enter into a contract with the City that violates Local Government Code, Section 171.003.

The Respondent will be required to comply with all provisions of the President’s Executive Order No. 11246 as of September 24, 1965.

Respondents are advised that all contracts are subject to all legal requirements provided in the City Charter and applicable City Ordinances, State, and Federal Statutes.

The City of Bryan operates and is funded on a fiscal year basis; accordingly, the City of Bryan reserves the right to terminate, without liability, any contract for which funding is not available. Renewal of contract will be in accordance with Local Government Code 271.903 concerning non-appropriation of funds for multi-year contracts.

The enclosed “Certification and Authorization” form must be properly executed and provided with the sealed SOQ indicating the Respondent’s willingness to execute a Contract if awarded the SOQ.

Disclosure of Interested Parties: 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 or state agency may not enter into certain contracts with a business entity unless the business entity submits a disclosure of interested parties to the governmental entity or state agency at the time the business entity submits the signed contract to the governmental entity or state agency. The law applies only to a contract of a governmental entity or state agency that either (1) requires an action or vote by the governing body of the entity or agency before the contract may be signed or (2) has a value of at least \$1 million. The disclosure requirement applies to a contract entered into on or after January 1, 2016. The process as implemented by the Commission is as follows:

1. A business entity must use the application to enter the required information on Form 1295 and print a copy of the form and a separate certification of filing that will contain a unique certification number.
2. An authorized agent of the business entity must sign the printed copy of the form and have the form notarized. The completed Form 1295 and certification of filing must be filed with the city “at the time the business entity submits the signed contract” to the city.
3. The city must notify the Commission, using the Commission’s filing application, of the receipt of the filed Form 1295 and certification of filing not later than the 30th day after the date the contract binds all parties to the contract.

For more information regarding how to file Form 1295, please click on the following link: https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm .

Addenda

In the event of a needed change in the published documents, it is understood that all the foregoing terms and conditions and all performance requirements will apply to any published addendum.

All published addenda shall be signed and included with the Firm’s response package as acknowledgement of the addendum. Responders are responsible for obtaining all published addenda from the City of Bryan Purchasing Office or by downloading these documents from the City of Bryan website. The City assumes no responsibility for the Responder’s failure to obtain and/or properly submit any addendum. Failure to acknowledge and submit any addendum may be cause for the SOQ to be rejected. The City’s decision to accept or reject any particular SOQ due to a failure to acknowledge and submit addenda shall be final.

SPECIAL PROVISIONS

Selection Process

A selection committee composed of City staff, City consultants, and other identified persons may review SOQs.

The selection shall be based on the responsible Respondent whose SOQ is determined to be the **best value to the City of Bryan**, considering the relative importance of the evaluation criteria listed herein.

It is the intent of the City of Bryan to select a single Respondent to accomplish services outlined in this Request for Qualifications. However, the City reserves the right to select multiple firms based on the best interest of the City.

Oral Presentations

After all SOQs have been evaluated, the selection committee may require representatives of one or more of the respondents to appear and make presentations to the selection committee for the purpose of making a final evaluation and recommendation for contract award. However, the City may, in its sole discretion, award a contract without presentations, based solely on information supplied in the SOQ responses.

News Releases/Publicity

News releases, publicity releases, or advertisements relating to this engagement or the tasks or project(s) associated with this engagement shall not be made without prior written approval from the City.

FORMAT REQUIREMENTS

Requirements:

The following instructions describe the form in which SOQs must be submitted.

Responses to the following items will be used for SOQ evaluation. The SOQs that do not contain responses to each of the requirement items will be considered incomplete and may be rejected by the City of Bryan.

SOQ documents should provide a straightforward, concise description of the Respondent's capabilities to satisfy the requirements of this RFQ. Emphasis should be on completeness, clarity of content, and conveyance of the information requested by the City of Bryan. The requirements stated do not preclude Respondent(s) herein from furnishing additional reports, functions, and costs as deemed appropriate.

You may upload one (1) electronic submittal in the format prescribed herein on our website at brazosbid.ionwave.net. Please note that the **City of Bryan is not responsible for high internet traffic/demand** at or near the time the response packages are due and that firms submitting their response package during peak traffic times risk their submittal not being received by the due date and time. If you choose to respond in writing, one (1) original, three (3) copies and one (1) electronic version (CD-ROM) of the submittals should be returned in a sealed envelope bearing the name and address of the respondent **on the outside of the delivery package.**

To facilitate the review of the responses, firms shall follow the proposal format described below and in the Evaluation Factors (note: these tabs should address design/build):

COVER

LETTER

Firm Introduction.

1. Briefly introduce your Firm, providing a summary of the administration, organization, and staffing of your Firm, including multiple offices, if applicable.
2. Provide an organizational chart indicating the positions and names of the core management team that will undertake this engagement.
3. If your Firm has multiple office locations and/or multiple firms involved, specify which location(s) you propose to service the City of Bryan.

TAB A

Demonstrate the Competence and Qualifications of the Individual who will be Directly Responsible for the Management and Delivery of the Proposed Work.

1. Identify the project manager and each individual who will work as part of this engagement. Include resumes for each person to be assigned. Include any professional designations and affiliations, certifications and licenses, etc.

TAB B

Demonstrate the Technical Adequacy of the Personnel and Sub-consultants to be Utilized for the Proposed Work.

1. Describe the organization of the proposed team, detailing the level of involvement, field of expertise, and estimated hours for each member of the team.

TAB C Demonstrate the Experience of the Firm and Sub-consultants based upon Previous work Similar to that of the Type Considered.

1. Describe the experience of the Firm in the last thirty six (36) months in performing services in similar size and scope. Particular emphasis will be placed on firms that have performed similar work and services for municipalities.

TAB D Workload Capability and History of Performing Work within a Specified Schedule and Budget.

1. Identify the number and type of work and services presently being conducted by the Firm.
2. Provide examples of similar projects with actual timelines demonstrating the ability to abide by schedules, meet milestones, and complete projects on time and within budget.

TAB E Proposed Approach for the Design / Build Project.

1. Methodology including technical approach and understanding of the scope of the Project.
2. Submittals must indicate a clear understanding of the scope of the work, including a detailed Project plan for this engagement outlining major tasks and responsibilities, time frames, and staff assigned for each category of the scope of work identified above.
3. Submittals shall identify progress reports that will be made available during the process and key decision points.
4. Submittals shall clearly distinguish the Offeror's duties and responsibilities and those of the City. Absence of this distinction shall mean the Offeror is assuming full responsibility for all tasks. Describe what municipal staff support you anticipate for the Project.
5. Submittals must include a time-line that includes as a minimum, each decision point and milestones for each step of the process, including design and build.
6. Submittals must provide chronological time-line of each task or event and the estimated time required to complete the engagement, including design and build.

TAB F Proposed Cost, Fees, Rates, Etc.

1. As a design/build project, costs will be negotiated, however proposals should take into consideration the Construction Budget. A firm should not reply if minimally the Construction Budget amount cannot be the initial target.
2. Submittals should address costs for types and quality of materials, building construction types, etc.

TAB G Knowledge of City of Bryan Criteria and Specifications and Local Site Conditions.

TAB H Consideration for the Utilization of a Prime Firm or Individuals that have Prior Experience with the Project.

TAB I References.

Provide references for similarly successful projects from three government agencies, including the name of the agency, contact name, telephone, fax and email address.

TAB J Certification and Authorization page, acknowledgement of any Addenda issued and a statement of willingness to sign the City's Standard Form of Agreement. (Note: Use the form attached as part of this document.)

For more information about scope specifics and possible information/details to include in a SOQ, refer to the "Intent and Scope of Work" on Page 3 of this document.

EVALUATION FACTORS

The City of Bryan will review all SOQs to determine compliance with the requirements as specified in the RFQ. Only SOQs which, in the opinion of the Selection Committee, meet the requirements of the RFQ will be further evaluated.

SOQs that pass the preliminary review may be evaluated on how well the SOQ meets the needs of the City of Bryan as described in the Respondent's response to each requirement listed in the RFQ. The Selection Committee may review all written SOQs that meet the minimum RFQ submittal requirements and may select what it deems to be the top two to four SOQs for further review. It is important that the responses be clear and complete so that the Selection Committee can adequately understand all aspects of the SOQs.

Evaluation Factors

After receipt of SOQs, the City of Bryan will use the following criteria in the selection process (inclusive of design and construction):

- 10% Competence and Qualifications
- 10% Technical Adequacy
- 10% Experience of the Firm and Sub-consultants
- 15% Workload Capability and History of Performing Work within a Specified Schedule and Budget
- 20% Proposed Approach for the Design / Build Project
- 15% Proposed Cost, Fees, Rates, Etc.
- 10% Knowledge of City of Bryan Criteria and Specifications and Local Site Conditions
- 5% Consideration for the Utilization of a Prime Firm or Individuals that have Prior Experience with the Project
- 5% References

EXHIBIT A

SITE LOCATION

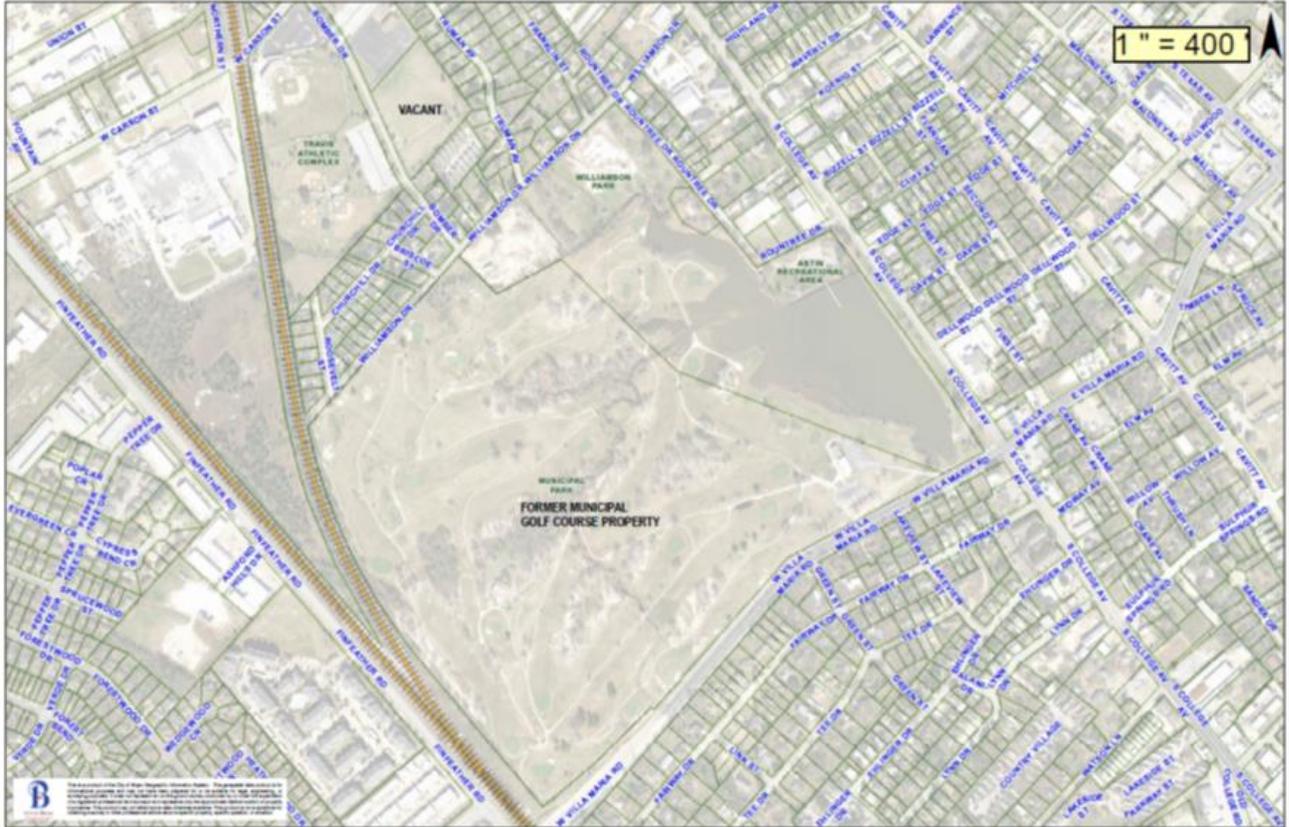


EXHIBIT B

MASTER PLAN



EXHIBIT C

**PHASE A PRESENTATION
(DATED NOVEMBER 13, 2018 AS PRESENTED BY BURDITT CONSULTANTS)**

BRYAN REGIONAL PARK

Presented by: Burditt Consultants
November 13, 2018



AGENDA

1. Project Purpose & Mission
2. Project Vision & Goals
3. Stakeholder Feedback
4. Program Overview
5. Phase A Plan—
 - Overview
 - Detail
 - Cost
 - Activity & Revenues
 - Financial Impact



PROJECT | PURPOSE & MISSION

RFQ: *"The City is considering transforming the Golf Course property into a regional park. Proposals should consider that the property is to be designed to serve multiple uses, including attracting out of town visitors (e.g. tournaments and special events), and amenities for local use and appealing to all age groups."*

Key Scope Items:

- Stakeholder and Public Engagement
- Coordination of Design Intentions with Staff
- Phased Approach
- Target Budget
- Develop Overall Program Based on Market Research and Input
- Develop O&M Costs
- Develop Revenue Projections
- Conduct PER
- Tree Assessment, Surveys

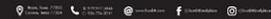
Feedback from Mayor, Council, Staff and Community:

- Sports Tourism (attract visitors and economic activity)
- Renewal of the Midtown Area ("Central Park")
- Respect the History and Legacy of the Site
- Respect the Natural Corridors and Open Space



ARCHITECTURE • LANDSCAPE ARCHITECTURE • PLANNING

BRYAN REGIONAL PARK



PROJECT | VISION & GOALS

Vision

- A regional park which serves the people and the economic well-being of Bryan while also serving as a destination for regional and outside visitors to enjoy recreational activities and the rich natural spaces of the park.

Goals

- Balance – Sports and Active Recreation can Coexist with Preservation of Large, Beautiful, Open, and Natural Spaces
- Renewal of the Lake and Natural Areas throughout the Park
- Economic Development through Sports and Recreational Tourism
- Accessibility for a Wide Range of People in both Program and Design
- Connectivity to Midtown, the rest of the City, and to Texas A&M/College Station
- Build what is lacking in the Region; don't try to outdo what already exists
- Impactful but Affordable



ARCHITECTURE • LANDSCAPE ARCHITECTURE • PLANNING

BRYAN REGIONAL PARK



STAKEHOLDER FEEDBACK

Who We Talked To:

- All City departments
- Frequent and intimate interaction with City Executive staff and Parks leadership
- Parks Advisory Board
- City of College Station
- Texas A&M
- Experience BCS
- Rio Brazos Audubon Society
- Brazos Valley Arts Council
- Bryan Business Council
- Sports Leagues
- Numerous other stakeholders and influencers
- Online Survey – 1,363 responses
- Public Meetings – 2 with nearly 200 attendees

Major Findings:

- **Balance, Balance, Balance!**
- Respect the history of the park
- Renew and revitalize the lake
- Respect, preserve, and revitalize the natural spaces of the park
- Attract visitors to Bryan
- Need for indoor competitive space for local leagues as well as tournaments
- Paddle sports facility
- Improvement of local baseball and softball diamonds
- Multi-sport flat fields
- Adventure Sports opportunities



ARCHITECTURE • LANDSCAPE ARCHITECTURE • PLANNING

BRYAN REGIONAL PARK



PROGRAM OVERVIEW | PREMISE

Outdoor:

- Develop sports and recreational tourism for economic development purposes
- Revitalize and develop baseball, softball, and additional sports & recreation opportunities
- Renew and revitalize the lake
- Expand the lake for improved paddling and aquatic sports/recreation
- Improve the lake for positive drainage impact on the surrounding area
- Preserve and create sustainable path for natural corridors and areas within the park
- Create interesting, safe, and attractive walking, jogging, biking opportunities
- Connect the park to the neighborhood, Bryan, and larger area

Indoor:

- Create opportunity for local basketball & volleyball team play and practice
- Develop sports and recreational tourism for economic development purposes
- Tournament play and events on courts and indoor free span space:
 - Basketball
 - Volleyball
 - Cheerleading
 - Gymnastics
 - Trade Shows
 - Performances



ARCHITECTURE • LANDSCAPE ARCHITECTURE • PLANNING

BRYAN REGIONAL PARK



PROGRAM OVERVIEW | OUTCOMES

Outdoor:

- Renewal of existing (3) 200' fields at Travis Park
- Development of (2) new baseball/softball fields at Travis Park
- All artificial turf at all fields if possible
- Ample, attractive, and comfortable seating
- Parking increases
- Drain & scrape lake bottom
- Expand lake for improved utilization and area stormwater detention
- Onsite detention of all resulting improvements
- Over 3 miles of trails including perimeter trail
- Lakeside open lawn and amphitheater for play and events

- Pavilions, playgrounds, restrooms distributed throughout natural spaces
- Substantial landscaping and planting throughout the park
- Creation of new road and drainage infrastructure

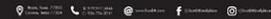
Indoor:

- Sports and Events Center with 8 high school-sized courts for basketball, volleyball, etc.
- Flexible and adaptable floor space up to 50,000 square feet for other events/tournaments (cheerleading, gymnastics, etc.)
- Spectator Seating for Large Events
- Meeting and administrative rooms for tournament and event management
- Ample concessions and restrooms
- 800+ parking spots



ARCHITECTURE • LANDSCAPE ARCHITECTURE • PLANNING

BRYAN REGIONAL PARK



PHASE A | OVERVIEW



PHASE A

- SPORTS & EVENT CENTER**
 - SPORTS AND EVENT CENTER
 - PARKING (+ 800 SP)
 - SIDEWALKS
 - LANDSCAPE
- AMPHITHEATER & GRAND LAWN**
 - AMPHITHEATER
 - GRAND LAWN
 - RESTROOMS/CONCESSION
 - GATHERING NODES
 - SIDEWALKS
 - WATER FEATURE
 - PLAY AREA
- TRAVIS PARK DIAMOND FIELDS**
 - 200' LITTLE LEAGUE FIELDS (6)
 - RESTROOMS/CONCESSIONS
 - BATTING CAGES (2)
 - LARGE MAINTENANCE YARD
 - NEW PARKING (+ 80 SP)
- LAKE IMPROVEMENTS**
- PARK INFRASTRUCTURE**
 - ENTRANCE ROAD

PHASE B

- DIAMOND FIELDS**
 - 225' FLEX FIELDS (2)
 - 345' FLEX FIELD (1)
 - RESTAURANT/RESTROOMS/CONCESSIONS
 - PLAYGROUNDS
 - BATTING CAGES (10)
 - SIDEWALKS
 - GATHERING NODES
 - PARKING
 - LANDSCAPE
 - ROADWAY ENTRANCE



ARCHITECTURE • LANDSCAPE ARCHITECTURE • PLANNING

BRYAN REGIONAL PARK





PHASE A | TRAVIS PARK



BENEFITS

- Traditional League Play
- Improved Concession & Restrooms
- Shaded & Flexible Seating
- Tournament Play Opportunities



PHASE A | LAKE IMPROVEMENTS & FAMILY RECREATION



- PHASE A**
- SPORTS & EVENT CENTER**
 - SPORTS AND EVENT CENTER
 - PARKING (+ 800 SP)
 - SIDEWALKS
 - LANDSCAPE
 - AMPHITHEATER & GRAND LAWN**
 - AMPHITHEATER
 - GRAND LAWN
 - RESTROOMS/CONCESSION
 - GATHERING NODES
 - SIDEWALKS
 - WATER FEATURE
 - PLAY AREA
 - TRAVIS PARK DIAMOND FIELDS**
 - 200' LITTLE LEAGUE FIELDS (3)
 - RESTROOMS/CONCESSIONS
 - BATTING CAGES (2)
 - LARGE MAINTENANCE YARD
 - NEW PARKING (+ 80 SP)
 - LAKE IMPROVEMENTS**
 - PARK INFRASTRUCTURE**
 - ENTRANCE ROAD
- PHASE B**
- DIAMOND FIELDS**
 - 225' FLEX FIELDS (3)
 - 345' FLEX FIELD (1)
 - RESTAURANT/RESTROOMS/CONCESSIONS
 - PLAYGROUNDS
 - BATTING CAGES (10)
 - SIDEWALKS
 - GATHERING NODES
 - PARKING
 - LANDSCAPE
 - ROADWAY ENTRANCE

PHASE A | LAKE IMPROVEMENTS



ATTRIBUTES

- Defined & Expanded Lake Edge
- Habitat Restoration
- Create Sedimentation Basins Upstream
- Increased Storm Water Capacity for Midtown



PHASE A | LAKE IMPROVEMENTS



BENEFITS

- A Renewed Lake – Clean, High Quality Water
- Help Control Water Release
- Safer, Beautiful Lake Edges
- Restore Aquatic Ecosystem
- Better Visibility and Use of the Lake
- Educational Opportunities
- Increased Detention Opportunities & Stormwater Management
- Allow for Sediment Removal

PHASE A | FAMILY RECREATION



BENEFITS

- Preservation & Planting of Trees
- Large Open Areas for Nature, Relaxation, and Family Play
- Sustainable Drainage through use of Existing Corridors



PHASE A | AMPHITHEATER & GRAND LAWN



- PHASE A**
- SPORTS & EVENT CENTER**
 - SPORTS AND EVENT CENTER
 - PARKING (1,000 SP)
 - SIDEWALKS
 - LANDSCAPE
 - AMPHITHEATER & GRAND LAWN**
 - AMPHITHEATER
 - GRAND LAWN
 - RESTROOMS/CONCESSIONS
 - GATHERING NODES
 - SIDEWALKS
 - WATER FEATURE
 - PLAY AREA
 - TRAVIS PARK DIAMOND FIELDS**
 - 200' LITTLE LEAGUE FIELDS (5)
 - RESTROOMS/CONCESSIONS
 - BATTING CAGES (2)
 - LARGE MAINTENANCE YARD
 - NEW PARKING (1,000 SP)
 - LAKE IMPROVEMENTS**
 - PARK INFRASTRUCTURE**
 - ENTRANCE ROAD
- PHASE B**
- DIAMOND FIELDS**
 - 225' FLEX FIELDS (3)
 - 345' FLEX FIELD (1)
 - RESTAURANT/RESTROOMS/CONCESSIONS
 - PLAYFIELDS
 - BATTING CAGES (10)
 - SIDEWALKS
 - GATHERING NODES
 - PARKING
 - LANDSCAPE
 - ROADWAY ENTRANCE

PHASE A | AMPHITHEATER & GRAND LAWN



ATTRIBUTES

- Performance Amphitheater/Stage
- Grand Lawn
- Outdoor Concessions/Restrooms
- Accessible Sidewalks
- Water Feature
- Small Play Area



PHASE A | AMPHITHEATER & GRAND LAWN



BENEFITS

- Outdoor Performance Opportunities
 - Festivals
 - Concerts
 - Movies
- Waters Edge Access
- Open Play during Non-Event Times



PHASE A | SPORTS & EVENT CENTER



- PHASE A**
- SPORTS & EVENT CENTER**
 - SPORTS AND EVENT CENTER
 - PARKING (+ 800 SP)
 - SIDEWALKS
 - LANDSCAPE
 - AMPHITHEATER & GRAND LAWN**
 - AMPHITHEATER
 - GRAND LAWN
 - RESTROOMS/CONCESSION
 - GATHERING NODES
 - SIDEWALKS
 - WATER FEATURE
 - PLAY AREA
 - TRAVIS PARK DIAMOND FIELDS**
 - 200' LITTLE LEAGUE FIELDS (5)
 - RESTROOMS/CONCESSIONS
 - BATTING CAGES (2)
 - LARGE MAINTENANCE YARD
 - NEW PARKING (+ 80 SP)
 - LAKE IMPROVEMENTS**
 - PARK INFRASTRUCTURE**
 - ENTRANCE ROAD
- PHASE B**
- DIAMOND FIELDS**
 - 325' FLEX FIELDS (3)
 - 345' FLEX FIELD (1)
 - RESTAURANT/RESTROOMS/CONCESSIONS
 - PLAYGROUND(S)
 - BATTING CAGES (10)
 - SIDEWALKS
 - GATHERING NODES
 - PARKING
 - LANDSCAPE
 - ROADWAY ENTRANCE

PHASE A | SPORTS & EVENT CENTER



ATTRIBUTES

- Sports and Event Center Facility
 - Basketball/Volleyball Courts
 - Free Span Sports (e.g. gymnastics)
 - Concessions
 - Restrooms
 - Offices
 - Event Admin Rooms
 - Perimeter Track (Upper Deck)
- Seating for Large Events
- Parking for +800



ARCHITECTURE • LANDSCAPE ARCHITECTURE • PLANNING

BRYAN REGIONAL PARK



PHASE A | SPORTS & EVENT CENTER



Floor Plan Level 1 (with expandable bleacher seating)



Floor Plan Level 2 (upper deck with mezzanine seating)

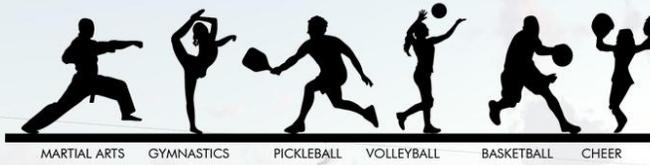


ARCHITECTURE • LANDSCAPE ARCHITECTURE • PLANNING

BRYAN REGIONAL PARK

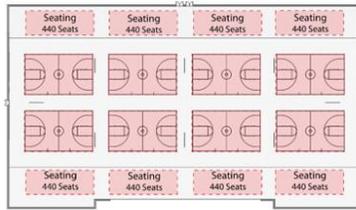


PHASE A | SPORTS & EVENT CENTER

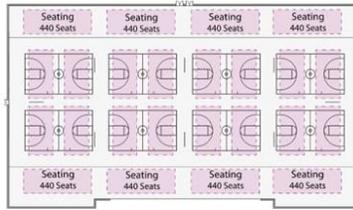


BENEFITS

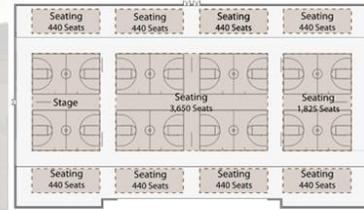
- Tournament Play & Events for Economic Development
- Rental Spaces for Local Teams
- One of only 4 Facilities in 100 miles with more than 2 Courts



Highschool Court Size - 50x84
*Upstairs Seating 2,200 Seats Max



Volleyball Court Size - 30x60
*Upstairs Seating 2,200 Seats Max



Concert Stage
*Upstairs Seating 2,200 Seats Max

PHASE A | SPORTS & EVENT CENTER



PHASE A | SPORTS & EVENT CENTER



BURDITT
Group | Phase Consultants

ARCHITECTURE • LANDSCAPE ARCHITECTURE • PLANNING

BRYAN REGIONAL PARK

1000 N. 11th St., Suite 1000, Raleigh, NC 27601
919.876.1000
www.burditt.com
f
i

PHASE A | SPORTS & EVENT CENTER



BURDITT
Group | Phase Consultants

ARCHITECTURE • LANDSCAPE ARCHITECTURE • PLANNING

BRYAN REGIONAL PARK

1000 N. 11th St., Suite 1000, Raleigh, NC 27601
919.876.1000
www.burditt.com
f
i

PHASE A | SPORTS & EVENT CENTER



BURDITT
Group II Project Consultants
ARCHITECTURE

ARCHITECTURE • LANDSCAPE ARCHITECTURE • PLANNING

BRYAN REGIONAL PARK

1000 N. 11th St., Suite 200, Tallahassee, FL 32302
904.437.1111
www.burditt.com
f
i

PHASE A | SPORTS & EVENT CENTER



BURDITT
Group II Project Consultants
ARCHITECTURE

ARCHITECTURE • LANDSCAPE ARCHITECTURE • PLANNING

BRYAN REGIONAL PARK

1000 N. 11th St., Suite 200, Tallahassee, FL 32302
904.437.1111
www.burditt.com
f
i

PHASE A | CAPITAL COSTS

	<u>LOW</u>	<u>HIGH</u>
Infrastructure & Sitework (incl road development)	\$ 3,322,883	\$ 3,562,622
Lake Improvements	\$ 5,531,385	\$ 5,571,277
Family Recreation	\$ 5,310,934	\$ 6,077,437
Subtotal General Park Development	\$ 14,165,202	\$ 15,211,336
Sports and Event Center	\$37,668,910	\$47,999,984
Travis Park Fields	\$ 6,424,092	\$ 9,707,947
Amphitheater & Grand Lawn	\$ 1,712,130	\$ 2,080,733
Subtotal Major Park Amenities	\$ 45,805,132	\$ 59,788,664
Total Capital Cost-Phase A	\$ 59,970,334	\$ 75,000,000

Costs include Contractor Profit & Overhead, Contingency of 5%, and soft costs (incl. Design costs) of 8.55%

PHASE A | OPERATING COSTS

	<u>LOW</u>	<u>HIGH</u>
Personnel	\$312,000	\$ 510,000
Operations	\$406,500	\$ 684,000
Capital Costs	<u>\$ 40,000</u>	<u>\$ 80,000</u>
Total Base Operating Costs	<u>\$758,800</u>	<u>\$1,274,000</u>

PHASE A | ACTIVITY

Annual Tournament-Event & Rental Activity

	<u>Events & Tournaments</u>	<u>Rental</u>
Baseball	8-32 tournaments	20 hours weekly
Amphitheater	5-18 events	
Trails	3-12 events	
Basketball/Other Court	28-56 tournaments	8 hours weekly
Free Span Sports & Events	4-14 events/tournaments	
	1-3 events or tournaments per week	

Annual Attendee & Visitor Activity (Tournaments)

	<u>Attendees</u>	<u>Out of Town Visitors</u>
Total	48,735 – 277,971	33,297 – 192,325
	937 – 5,346 attendees per week	
	640 – 3,699 out of town visitors per week	

PHASE A | FINANCIAL & ECONOMIC IMPACT

	<u>LOW</u>	<u>HIGH</u>
Operating Revenues	\$2,246,651	\$6,491,465
Finance Costs	\$3,901,156	\$4,878,858
Operating Costs	<u>\$ 758,500</u>	<u>\$1,274,000</u>
Total Annual Costs	<u>\$4,659,656</u>	<u>\$6,152,858</u>
Revenues minus Cost	– \$2,413,005	\$ 338,607
+ Public Revenues	\$ 69,055	\$ 395,971

PHASE A PLAN | OVERVIEW



- PHASE A**
- 1 SPORTS & EVENT CENTER**
 - SPORTS AND EVENT CENTER
 - PARKING (+ 800 SP)
 - SIDEWALKS
 - LANDSCAPE
 - 2 AMPHITHEATER & GRAND LAWN**
 - AMPHITHEATER
 - GRAND LAWN
 - RESTROOMS/CONCESSION
 - GATHERING NODES
 - SIDEWALKS
 - WATER FEATURE
 - PLAY AREA
 - 3 TRAVIS PARK DIAMOND FIELDS**
 - 200' LITTLE LEAGUE FIELDS (5)
 - RESTROOMS/CONCESSIONS
 - BATTING CAGES (2)
 - LARGE MAINTENANCE YARD
 - NEW PARKING (+ 80 SP)
 - 4 LAKE IMPROVEMENTS**
 - 5 PARK INFRASTRUCTURE**
 - ENTRANCE ROAD
- PHASE B**
- 6 DIAMOND FIELDS**
 - 325' FLEX FIELDS (3)
 - 345' FLEX FIELD (1)
 - RESTAURANT/RESTROOMS/CONCESSIONS
 - PLAYGROUNDS
 - BATTING CAGES (10)
 - SIDEWALKS
 - GATHERING NODES
 - PARKING
 - LANDSCAPE
 - ROADWAY ENTRANCE

ARCHITECTURE • LANDSCAPE ARCHITECTURE • PLANNING
 BRYAN REGIONAL PARK

3000 S. 17th St., Suite 100, Oklahoma City, OK 73109
 (405) 241-1111 • info@burditt.com • burditt.com • burditt.com



ARCHITECTURE • LANDSCAPE ARCHITECTURE • PLANNING
 BRYAN REGIONAL PARK

3000 S. 17th St., Suite 100, Oklahoma City, OK 73109
 (405) 241-1111 • info@burditt.com • burditt.com • burditt.com



BURDITT ARCHITECTURE • LANDSCAPE ARCHITECTURE • PLANNING **BRYAN REGIONAL PARK**

Phone: 903.639.1100 | Email: info@burditt.com | Website: www.burditt.com



BURDITT ARCHITECTURE • LANDSCAPE ARCHITECTURE • PLANNING **BRYAN REGIONAL PARK**

Phone: 903.639.1100 | Email: info@burditt.com | Website: www.burditt.com



EXHIBIT D

**CITY OF BRYAN
STANDARD FORM OF AGREEMENT CONTRACT**

**CONTRACT
FOR**

This Contract, dated _____, 2020, is between the **City of Bryan**, a Texas home-rule municipal corporation, (the City) and _____ (the FIRM), whereby the FIRM agrees to provide the City with certain services as described herein and the City agrees to pay the FIRM for those services.

1. Scope of Services

In consideration of the compensation stated in **Paragraph 2**, the FIRM agrees to provide the City with the services as described in **Exhibit A – RFQ # _____** and **Exhibit B – Insert Firms Name - Submittals to the City of Bryan** which is incorporated herein by reference for all purposes, and which services may be more generally described as follows:

“ ”

2. Payment

In consideration of the FIRM’s provision of the services in compliance with all terms and conditions of this Contract, the City shall pay the FIRM according to the terms set forth in **Exhibit A and Exhibit B**. Except in the event of a duly authorized change order, approved by the City in writing, the total cost of all professional services and expenses provided under this Contract may not exceed \$ _____.

3. Time of Performance

A. All work and services provided under this Contract must be completed as outlined in **Exhibit A and Exhibit B**.

B. **Time is of the essence of this Contract.** The FIRM shall be prepared to provide the professional services in the most expedient and efficient manner possible in order to complete the work by the Project timeline specified in **Exhibit A and Exhibit B**.

4. Warranty, Indemnification, & Release

A. As an experienced and qualified FIRM, the FIRM warrants that the information provided by the FIRM reflects high professional and industry standards, procedures, and performances. The FIRM warrants that the performance of all services under this Contract will be pursuant to a high standard of performance in the profession. The FIRM warrants that the FIRM will exercise diligence and due care and perform in a good and workmanlike manner all of the services pursuant to this Contract. Approval of the City shall not constitute, or be deemed, a release of the responsibility and liability of the FIRM, its employees, agents, or associates for the exercise of skill and diligence to promote the accuracy and competency of their services, or any document, nor shall the City's approval be deemed to be the assumption of responsibility by the City for any defect or error in the aforesaid documents prepared by the FIRM, its employees, associates, agents, or subcontractors.

B. The FIRM shall promptly correct any defective services or documents furnished by the FIRM at no cost to the City. The City's approval, acceptance, use of, or payment for, all or any part of the

FIRM's services hereunder or of the scope of work itself shall in no way alter the FIRM's obligations or the City's rights hereunder.

C. In all activities or services performed hereunder, the FIRM is an independent contractor and not an agent or employee of the City. The FIRM and its employees are not the agents, servants, or employees of the City. As an independent contractor, the FIRM shall be responsible for the professional services and the final work product contemplated under this Contract. Except for materials furnished by the City, the FIRM shall supply all materials, equipment, and labor required for the professional services to be provided under this Contract. The FIRM shall have ultimate control over the execution of the professional services. The FIRM shall have the sole obligation to employ, direct, control, supervise, manage, discharge, and compensate all of its employees or subcontractors, and the City shall have no control of or supervision over the employees of the FIRM or any of the FIRM's subcontractors.

D. The FIRM must at all times exercise reasonable precautions on behalf of, and be solely responsible for, the safety of its officers, employees, agents, subcontractors, licensees, and other persons, as well as their personal property, while in the vicinity of the Project or any of the work being done on or for the Project. It is expressly understood and agreed that the City shall not be liable or responsible for the negligence of the FIRM, its officers, employees, agents, subcontractors, invitees, licensees, and other persons.

E. Responsibility for damage claims (indemnification): FIRM shall defend, indemnify and save harmless the City and all its officers, agents, and employees from all suits, actions, or claims of any character, name and description brought for or on account of any injuries or damages received or sustained by any person or persons or property resulting from the FIRM's negligent performance of the work, or by or on account of any claims or amounts recovered under the Worker's Compensation Law or any other law, ordinance, order or decree, and his sureties shall be held until such suit or suits, action or actions, claim or claims for injury or damages as aforesaid shall have been settled and satisfactory evidence to the effect furnished the City. The FIRM shall defend, indemnify and save harmless the City, its officers, agents and employees in accordance with this indemnification clause only for that portion of the damage caused by FIRM's negligence.

F. Release. The FIRM releases, relinquishes, and discharges the City, its officers, agents, and employees from all claims, demands, and causes of action of every kind and character, including the cost of defense thereof, for any injury to, sickness or death of the FIRM or its employees and any loss of or damage to any property of the FIRM or its employees that is caused by or alleged to be caused by, arises out of, or is in connection with the FIRM's negligent performance of the work. Both the City and the FIRM expressly intend that this release shall apply regardless of whether said claims, demands, and causes of action are covered, in whole or in part, by insurance.

5. FIRM's Insurance

The Contractor agrees to maintain the minimum insurance coverage and comply with each condition set forth below during the duration of this contract with the City. All parties to this contract hereby agree that the Contractor's coverage will be primary in the event of a loss, regardless of the application of any other insurance or self-insurance.

Contractor must deliver to City a certificate(s) of insurance evidencing such policies are in full force and effect within ten (10) business days of notification of the City's intent to award a Contract. No contract

shall be effective until the required certificate(s) have been received and approved by the City. Failure to meet the insurance requirements and provide the required certificate(s) and any necessary endorsements within ten (10) business days **may cause the contract to be rejected.**

The City reserves the right to review these requirements and to modify insurance coverage and their limits when deemed necessary and prudent.

- A. **Workers' Compensation Insurance & Employers' Liability Insurance** - Contractor shall maintain Workers' Compensation insurance for statutory limits and Employers' Liability insurance with limits not less than \$500,000 each accident for bodily injury by accident or \$500,000 each employee for bodily injury by disease. Contractor shall provide Waiver of Subrogation in favor of the City and its agents, officers, officials, and employees.
- B. **Commercial General Liability Insurance** - Contractor shall maintain Commercial General Liability (CGL) with a limit of not less than \$1,000,000 per occurrence and an annual aggregate of at least \$2,000,000 during the design phase. During the construction phase, limits of not less than \$5,000,000 per occurrence/\$5,000,000 annual aggregate are required. CGL shall be written on a standard ISO "occurrence" form (or a substitute form providing equivalent coverage) and shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal and advertising injury, and liability assumed under an insured contract including the tort liability of another assumed in a business contract. No coverage shall be deleted from the standard policy without notification of individual exclusions and acceptance by the City. The City and its agents, officers, officials, and employee shall be listed as an additional insured.
- C. **Business Automobile Liability Insurance** - Contractor shall maintain Business Automobile Liability insurance with a limit of not less than \$1,000,000 each accident. Business Auto Liability shall be written on a standard ISO version Business Automobile Liability, or its equivalent, providing coverage for all owned, non-owned and hired automobiles. Contractor shall provide Waiver of Subrogation in favor of the City and its agents, officers, officials, and employees.
- D. **Professional Liability Insurance** - Contractor shall maintain Professional Liability (errors & omissions) insurance with a limit of not less than \$2,000,000 per occurrence or claim, and \$2,000,000 policy aggregate. If written on a "Claims-Made" form, Contractor agrees to maintain a retroactive date equivalent to the inception date of the contract (or earlier) and maintain continuous coverage or a supplemental extended reporting period for a minimum of two years after the completion of this contract. Contractor will be responsible for furnishing certification of coverage for two (2) years following contract completion.
- E. **Contractor's Pollution Legal Liability Insurance** - Contractor shall maintain Contractor's Pollution Legal Liability with limits not less than \$2,000,000 per occurrence or claim, and \$2,000,000 policy aggregate. The City and its agents, officers, officials, and employees shall be listed as an additional insured.
- F. **Policy Limits** - Required limits may be satisfied by a combination of primary and umbrella or excess liability policies. Contractor agrees to endorse City and its agents, officers, officials, and employees as an additional insured, unless the Certificate states the Umbrella or Excess Liability provides coverage on a pure "True Follow Form" basis.
- G. **Deductibles, Coinsurance Penalties & Self-Insured Retention** - Contractor may maintain

reasonable and customary deductibles, subject to approval by the City. Contractor shall agree to be fully and solely responsible for any costs or expenses as a result of a coverage deductible, coinsurance penalty, or self-insured retention.

- H. **Subcontractors** - If the Contractor's insurance does not afford coverage on behalf of any Subcontractor(s) hired by the Contractor, the Subcontractor(s) shall maintain insurance coverage equal to that required of the Contractor. It is the responsibility of the Contractor to assure compliance with this provision. The City accepts no responsibility arising from the conduct, or lack of conduct, of the Subcontractor.
- I. **Builders' Risk** - Contractor agrees to maintain Builder's Risk insurance providing coverage to protect the interests of the City, contractor, and/or sub-contractors that shall become a part of the building or project. Coverage shall be written on an All-Risk, Replacement Cost, and Completed Value Form basis in an amount not less than 100% of the total projected construction value at completion of the project. The policy must provide transit and off-premises coverage if the builder makes the City responsible for materials. City is to be listed as Loss Payee.
- J. **Acceptability of Insurers** - Insurance coverage shall be provided by companies admitted to do business in Texas and rated A-:VI or better by AM Best Insurance Rating.
- K. **Evidence of Insurance** - A valid certificate of insurance verifying each of the coverages required shall be issued directly to the City within ten (10) business days by the successful Contractor's insurance agent or insurance company after contract award. Endorsements must be submitted with the certificate. No contract shall be effective until the required certificates have been received and approved by the City.

Renewal certificates shall be sent a minimum of ten (10) days prior to coverage expiration. Upon request, Contractor shall furnish the City with certified copies of all insurance policies. The certificate of insurance and all notices shall be sent to:

City of Bryan
Risk
Management PO
Box 1000
Bryan, TX 77805
Emailed to: mquirola@bryantx.gov

Failure of the City to demand evidence of full compliance with these insurance requirements or failure of the City to identify a deficiency shall not be construed as a waiver of Contractor's obligation to maintain such insurance.

- L. **Notice of Cancellation, Non-renewal, Material Change, Exhaustion of limits** - Contractor must provide minimum thirty (30) days prior written notice to the City of policy cancellation, material change, exhaustion of aggregate limits, or intent not to renew insurance coverage. If City is notified a required insurance coverage will cancel or non-renew during the contract period, the Contractor shall agree to furnish prior to the expiration of such insurance, a new or revised certificate(s) as proof that equal and like coverage is in effect. The City reserves the right to withhold payment to Contractor until coverage is reinstated.
- M. **Contractor's Failure to Maintain Insurance** - If the Contractor fails to maintain the required

insurance, the City shall have the right, but not the obligation, to withhold payment to Contractor until coverage is reinstated or to terminate the Contract.

L. No Representation of Coverage Adequacy - The requirements as to types and limits, as well as the City's review or acceptance of insurance coverage to be maintained by Contractor, is not intended to nor shall in any manner limit or qualify the liabilities and obligations assumed by the Contractor under the Contract.

6. Termination

A. The City may terminate this Contract at any time upon **thirty (30)** calendar day's written notice. Upon the FIRM's receipt of such notice, the FIRM shall cease work immediately. The FIRM shall be compensated for the services satisfactorily performed prior to the termination date.

B. If, through any cause, the FIRM fails to fulfill its obligations under this Contract, or if the FIRM violates any of the agreements of this Contract, the City has the right to terminate this Contract by giving the FIRM **five (5)** calendar days written notice. The FIRM will be compensated for the services satisfactorily performed before the termination date.

C. No term or provision of this Contract shall be construed to relieve the FIRM of liability to the City for damages sustained by the City because of any breach of contract by the FIRM. The City may withhold payments to the FIRM for the purpose of setoff until the exact amount of damages due the City from the FIRM is determined and paid.

7. Miscellaneous Terms

A. This Contract has been made under and shall be governed by the laws of the State of Texas. The parties agree that performance and all matters related thereto shall be in Brazos County, Texas.

B. Notices shall be mailed to the addresses designated herein or as may be designated in writing by the parties from time to time and shall be deemed received when sent postage prepaid U.S. Mail to the following addresses:

The City of Bryan:
Attn:
P.O. Box 1000
Bryan, Texas 77805

The FIRM:

C. No waiver by either party hereto of any term or condition of this Contract shall be deemed or construed to be a waiver of any other term or condition or subsequent waiver of the same term or condition.

D. This Contract represents the entire and integrated agreement between the City and the FIRM and supersedes all prior contracts, negotiations, representations, or agreements, either written or oral. This Contract may only be amended by written instrument approved and executed by the parties.

E. This Contract and all rights and obligations contained herein may not be assigned by the FIRM without the prior written approval of the City.

F. The FIRM, its agents, employees, and subcontractors must comply with all applicable federal and state laws, the charter and ordinances of the City of Bryan, and with all applicable rules and regulations promulgated by local, state, and national boards, bureaus, and agencies. The FIRM must obtain all necessary permits and licenses required in completing the work and providing the services required by this Contract.

G. Reimbursable or other miscellaneous expenses incurred by the FIRM shall be included in the contract price; additional payment for such expenses will not be considered.

H. The parties acknowledge that they have read, understood, and intend to be bound by the terms and conditions of this Contract.

I. Pursuant to Texas Government Code 2270.002, a governmental entity may not enter into a contract with a company for goods or services unless the contract contains written verification the company that it:

- (1) does not boycott Israel: and
- (2) will not boycott Israel during the term of the contract

J. Basic Safeguarding Of Contractor Information Systems

K. The Contractor shall apply basic safeguarding requirements and procedures to protect the Contractor's information systems whenever the information systems store, process or transmit any information, not intended for public release, which is provided by or generated for the City. This requirement does not include information provided by the City to the public or simple transactional information, such as that necessary to process payments. These requirements and procedures shall include, at a minimum, the security control requirements "reflective of actions a prudent business person would employ" which are outlined in the Federal Acquisition Regulations FAR 52.204-21(b) and codified in the Code of Federal Regulations at 48 C.F.R. § 52.204-21(b) (2016).

L. Contactor shall include the substance of this clause in subcontracts under this contract (including subcontracts for the acquisition of commercial items other than commercially available off-the-shelf items) in which the subcontractor may have City contract information residing in or transiting through its information system.

APPROVED AS TO FORM:

Janis K. Hampton, City Attorney
Date: _____

CITY OF BRYAN:

APPROVED FOR COUNCIL:

Kean Register, City Manager
Date: _____

APPROVED:

Andrew Nelson, Mayor
Date: _____

ATTEST:

Mary L. Stratta, City Secretary
Date: _____

FIRM:

(FIRMs – Corporate Seal)

By: _____

Printed Name: _____

Title: _____

Date: _____

STATE OF _____ §

COUNTY OF _____ §

ACKNOWLEDGEMENT

This instrument was acknowledged before me on the _____ day of _____, 2020, by _____ on behalf of _____.

Notary Public in and for the State of Texas

EXHIBIT A

City of Bryan - Request for Qualifications #

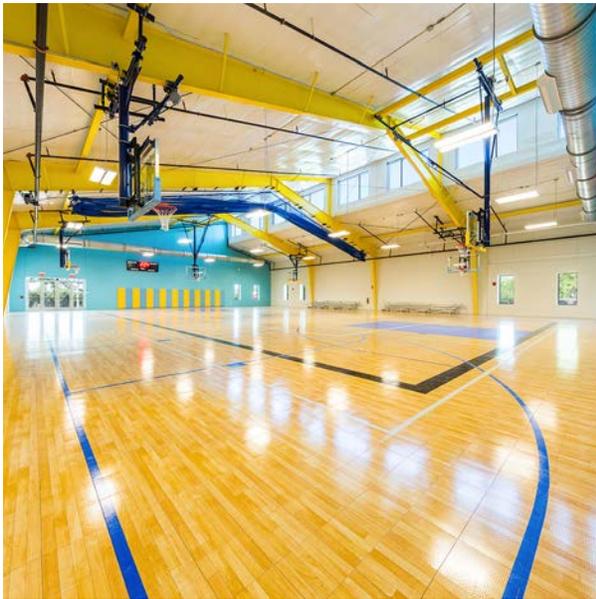
EXHIBIT B

Firms Name - Proposal to the City of Bryan

EXHIBIT
“J”
SPAWGLASS DESIGN-BUILD QUALIFICATIONS RESPONSE



**City of Bryan Sports and Event Center,
Parking, Related Infrastructure,
Amphitheater, Grand Lawn and Other
Possible Facilities and Park Amenities**
Bryan, Texas



SpawGlass
4030 SH-6 S., Ste. 300
College Station, TX 77845
979-401-3270

Mr. Brandon Meyers, LEED AP, AC
President, Houston Division
Brandon.Meyers@SpawGlass.com
c/o Mr. Garrett Wheaton
Regional Operations Manager
Garrett.Wheaton@SpawGlass.com

SpawGlass.com

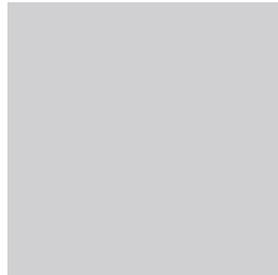
Design-Build Qualifications Response

RFQ No.: 20-020

February 27, 2020 at 2:00 p.m.

City of Bryan – Purchasing Department
Attn: Ms. Karen Sonley, Purchasing Supervisor
205 E. 28th Street
Bryan, TX 77803
ksonley@bryantx.gov

C Contents



	Cover Letter	PAGE 1
A	Tab A Competence and Qualifications of the Individual Who Will Be Directly Responsible for the Management and Delivery of the Proposed Work	PAGE 4
B	Tab B Technical Adequacy of the Personnel and Subconsultants to Be Utilized for the Proposed Work	PAGE 16
C	Tab C Experience of the Firm and Subconsultants Based Upon Previous Work Similar to that of the Type Considered	PAGE 19
D	Tab D Workload Capability and History of Performing Work Within a Specified Schedule and Budget	PAGE 36
E	Tab E Proposed Approach for the Design-Build Project	PAGE 38
F	Tab F Proposed Cost, Fees, Rates, Etc.	PAGE 44
G	Tab G Knowledge of City of Bryan Criteria and Specifications and Local Site Conditions	PAGE 49
H	Tab H Consideration for the Utilization of a Prime Firm or Individuals that Have Prior Experience with the Project	PAGE 51
I	Tab I References	PAGE 52
J	Tab J Certification and Authorization Page, Acknowledgement of Any Addenda Issued and a Statement of Willingness to Sign the City's Standard Form of Agreement	PAGE 53



February 27, 2020

Ms. Karen Sonley
Purchasing Supervisor
City of Bryan – Purchasing Department
205 E. 28th Street
Bryan, TX 77803

RE: Design and Construction of a Sports and Event Center, Parking, Related Infrastructure, Amphitheater, Grand Lawn, and other Possible Facilities and Park Amenities – RFQ #20-020

Dear Ms. Sonley,

The SpawGlass/PBK Sports team is proud to present our qualifications for design-build delivery of the Sports and Event Center project for the City of Bryan. SpawGlass and PBK have worked on **14 projects together in the last 27 years**, including the Berry Center, West Texas A&M University Renovation of Athletic/Intramural Facilities, and Tuloso-Midway ISD Athletic Complex projects.

Since our first project together in 1993, our firms have collaborated on **two basketball courts**, two softball fields, two baseball fields, two football/soccer practice fields, one soccer/track field, three softball/flag football facilities, two tennis courts, two volleyball courts, **one grand lawn**, one jogging trail, one stadium, four gymnasiums, one auditorium, two conference centers, **three concession/food services areas**, and more than **4,000 parking spaces**.

SpawGlass has been performing construction services, including building first-tier athletic facilities, in the Bryan-College Station area **since 1972**, and **SpawGlass' Brazos Valley office** has worked on **nine local projects in the last three years**. PBK also has a strong history of work in the Brazos Valley, and the firm's athletic facility division, **PBK Sports**, specializes in designing the types of facilities the City of Bryan seeks to bring to your growing community.



Firm Introduction

1. BRIEFLY INTRODUCE YOUR FIRM, PROVIDING A SUMMARY OF THE ADMINISTRATION, ORGANIZATION, AND STAFFING OF YOUR FIRM, INCLUDING MULTIPLE OFFICES, IF APPLICABLE.

Founded in 1953 by Louis Spaw and Frank Glass, SpawGlass is a 100-percent employee-owned and operated construction services provider headquartered in Selma, Texas with more than 750 employees statewide. Our Brazos Valley office is part of our Houston Division, which was incorporated under SpawGlass Construction Corp. in the State of Texas in 1993. SpawGlass Construction Corp. is a wholly-owned subsidiary of SpawGlass Holding, L.P., which is owned by more than 370 employee shareholders and led by a board of directors. Our employee owners range from administrative staff and field laborers to executive management. All of our proposed team members are employee owners with a personal investment in your project and your success.



The following is a complete list of all SpawGlass office locations:

Austin 1111 Smith Road Austin, TX 78721	Golden Triangle 350 Pine Street, Ste. 310 Beaumont, TX 77701	North Texas 1000 W. Magnolia Avenue Fort Worth, TX 76104
Brazos Valley 4030 SH-6 S., Ste. 300 College Station, TX 77845	Houston 13800 West Road Houston, TX 77041	San Antonio 9331 Corporate Drive Selma, TX 78154
Corpus Christi 2209 N. Padre Island Dr., Unit Y Corpus Christi, TX 78408	New Braunfels Creekside Professional Plaza 2 475 Oxford Drive, Suite 101 New Braunfels, TX 78130	South Texas 3008 W. Spur 54 Harlingen, TX 78552

2. PROVIDE AN ORGANIZATIONAL CHART INDICATING THE POSITIONS AND NAMES OF THE CORE MANAGEMENT TEAM THAT WILL UNDERTAKE THIS ENGAGEMENT.

Under the leadership of myself, Houston Division President **Brandon Meyers**, and Brazos Valley Regional Operations Manager **Garett Wheaton**, SpawGlass will be the prime firm responsible for the overall management and direction of the work throughout design/preconstruction and construction. Our design-build team will work closely with the City of Bryan and key stakeholders to ensure a high level of communication, quality and satisfaction on your project.

Please see the organizational chart for our core management team for your project on the following page.

3. IF YOUR FIRM HAS MULTIPLE OFFICE LOCATIONS AND/OR MULTIPLE FIRMS INVOLVED, SPECIFY WHICH LOCATION(S) YOU PROPOSE TO SERVICE THE CITY OF BRYAN.

SpawGlass will provide service to the City of Bryan from our local office in College Station:

Brazos Valley
4030 SH-6 S., Ste. 300
College Station, TX 77845

After reviewing our enclosed qualifications, I hope you will conclude that SpawGlass/PBK Sports is the design-build team of choice. We look forward to sharing our thoughts and expertise about the design and construction of your Sports and Event Center project. If I can provide any clarification for you about our qualifications, please do not hesitate to contact me on my cell phone (281-960-5145) or by email (Brandon.Meyers@SpawGlass.com). Thank you for the opportunity to build our relationship with the City of Bryan.

Sincerely,

Brandon Meyers
President, Houston Division

Organizational Chart – Core Management Team

SpawGlass

City of Bryan

SpawGlass

Management Support

**SpawGlass
Division President**
Brandon Meyers

**SpawGlass Regional
Operations Manager**
Garett Wheaton

Architect

**PBK
Sports**

**PBK Sports
Principal-in-Charge**
Trey Schneider

**PBK Sports Designer/
Architect**
Juan Lopez

**PBK Sports Design
Project Manager**
Michael Hessert



**SpawGlass
Project Manager/
Team Leader**
Chris Rhoden



**SpawGlass
Assistant Project
Manager**
Gary Powell



**SpawGlass
Superintendent**
Wade Lollar



**SpawGlass
Superintendent**
Zack Krus

 Onsite Management Team

Tab A

Competence and Qualifications of the Individual Who Will Be Directly Responsible for the Management and Delivery of the Proposed Work

SpawGlass



Demonstrate the Competence and Qualifications of the Individual Who Will Be Directly Responsible for the Management and Delivery of the Proposed Work.

1. IDENTIFY THE PROJECT MANAGER AND EACH INDIVIDUAL WHO WILL WORK AS PART OF THIS ENGAGEMENT. INCLUDE RESUMES FOR EACH PERSON TO BE ASSIGNED. INCLUDE ANY PROFESSIONAL DESIGNATIONS AND AFFILIATIONS, CERTIFICATIONS AND LICENSES, ETC.

SpawGlass/PBK Sports has assembled an experienced design-build team of qualified and accredited professionals for your Sports and Event Center project. Each firm and individual has relevant experience with sports and athletic facilities as well as associated infrastructure, parking and exterior amenities. Our team includes:

SpawGlass

- Houston Division President **Brandon Meyers**
- Regional Operations Manager **Garett Wheaton**
- Project Manager **Chris Rhoden**
- Superintendent **Wade Lollar**
- Assistant Project Manager **Gary Powell**
- Assistant Superintendent **Zack Krus**
- Preconstruction Services Manager **Aaron Bradford**
- Senior Estimator **Kan Phaobunjong**

SpawGlass Consultants

- Waterproofing Consultant – **Price Consulting**
- Safety – **Engineering Safety Consultants (ESC)**

PBK Sports

- President/Principal-in-Charge **Trey Schneider**
- Designer Principal **Juan Lopez**
- Design Project Manager **Michael Hessert**

Subconsultants

- *Structural*: **AG&E Structural Engenuity**
 - Principal-in-Charge **John Kubala**
- *MEP*: **Cleary Zimmermann Engineers**
 - Principal-in-Charge **Wade Cleary**
 - Project Manager/Lead Electrical Engineer **Randy Rogers**
 - Lead Mechanical and Plumbing Engineer **Trey McDougall**
- *Civil*: **Mitchell & Morgan**
 - Managing Partner/Project Manager **Veronica J.B. Morgan**
 - Junior Partner/Project Engineer **James Batenhorst**
- *AV/IT*: **Technical Design Group (TDG)**
 - Vice President/Primary Designer **John R. Miller**
- *Geotechnical/Surveying*: **Gessner Engineering**
 - Geotechnical Project Manager **Kristina Surber**
 - Survey Project Manager **Michael Evans**
- *Landscape Architect*: **Kudela & Weinheimer**
 - Design Principal **Thad Kudela**
 - Production/Construction Principal **Darin Weinheimer**

Please see résumés for each of these design-build team members on the following pages.



Brandon Meyers, LEED AP

President, Houston Division

Employee Owner

SpawGlass

As president of the Houston Division, Brandon ensures compliance with contract responsibilities, reviews and approves management and resource commitments and gives final negotiating and approval authority on behalf of the SpawGlass team. He is available at any time to discuss the project direction, schedule and performance of our staff.

Years in Industry: 26 Years
Years with SpawGlass: 18 Years

Education/Training
M.B.A.,
University of Houston

B.S. Construction Science,
Texas A&M University

American Institute of Constructors
Associate Constructor (AC)
Certification (Level 1)

LEED AP

Representative Project Experience

- **Texas A&M University Corps Dorm Renovation,** College Station, TX; 306,000 SF dorm renovation, 64,000 SF learning centers addition, 350,000 SF quad/plaza area renovation, Contract: \$126,119,921 *Design-Build*
- **Texas A&M University Basketball Locker Room,** College Station, TX; 4,900 SF renovation including state-of-the-art audiovisual systems throughout the player areas, custom lockers with HVAC supply inside each individual locker, custom seating and metal ceilings, Contract: \$2,194,134
- **The James and Nancy Gaertner Performing Arts Center,** Huntsville, TX; 101,945 SF facility featuring concert hall, dance studios, performers' lounges and VIP lounge, Contract: \$31,835,126



Garrett Wheaton, AC, LEED AP

Regional Operations Manager

Employee Owner

SpawGlass

As operations manager of our Brazos Valley office, Garrett has worked on some of our largest and most complex construction projects. His experience, attention to detail, communication skills and dedication to quality construction will offer the best leadership to ensure the success of your Sports and Event Center project.

Years in Industry: 17 Years
Years with SpawGlass: 17 Years

Education/Training
B.S. Agricultural Systems
Management,
Texas A&M University

LEED AP

American Institute of Constructors
Associate Constructor (AC)
Certification (Level 1)

OSHA 30-Hour

Representative Project Experience

- **Cypress-Fairbanks ISD The Berry Center,** Cypress, TX; new 320,000 SF facility on 65-acre site featuring 11,000-seat athletic stadium, 16,000 SF conference center, 456-seat theater, 4,000-space parking lot and administrative offices, Contract: \$72,897,808 *Project with PBK*
- **Texas A&M University McFerrin Athletic Center and Rhonda and Frosty Gilliam Jr. '80 Indoor Track Stadium,** College Station, TX; 75,636 SF indoor football practice facility and 115,440 SF fully enclosed and conditioned indoor track, Contract: \$31,665,656
- **Texas A&M University Corps Dorm Renovation,** College Station, TX; 306,000 SF dorm renovation, 64,000 SF learning centers addition, 350,000 SF quad/plaza area renovation, Contract: \$126,119,921 *Design-Build*



Chris Rhoden

Project Manager
Employee Owner

SpawGlass

As project manager, Chris will be responsible for overall construction management of the project. His responsibilities also will include specialty contractor coordination, jobsite organization, contract administration and construction operations.

Years in Industry: 11 Years
Years with SpawGlass: 5 Years

Education/Training
M.S. Construction Management
and Technology,
B.S. Architectural Engineering
and Technology,
The University of Southern
Mississippi
OSHA 30-Hour
Fall Protection
First Aid/CPR/AED

Representative Project Experience

- **Texas A&M University Polo Garage**, College Station, TX; new 546,000 SF parking structure with 1,685-car capacity and attached building that includes 23,277 SF recreational sports facility, 18,883 SF transportation services offices and 10,389 SF dining services area, Contract: \$63,294,705 *Design-Build*
- **Texas A&M University Corps Dorm Renovation**, College Station, TX; 306,000 SF dorm renovation, 64,000 SF learning centers addition, 350,000 SF quad/plaza area renovation, Contract: \$126,119,921 *Design-Build*
- **Texas A&M University Plant Pathology and Microbiology**, College Station, TX; 82,895 SF laboratory and teaching facility, Contract: \$39,749,796



Wade Lollar

Superintendent
Employee Owner

SpawGlass

As superintendent, Wade will be responsible for the day-to-day operation of the project. His duties will include contract administration, subcontractor coordination, owner billing, jobsite organization and project closeout.

Years in Industry: 24 Years
Years with SpawGlass: 19 Years

Education/Training
General Studies,
Blinn College
OSHA 30-Hour
ASHE Healthcare Construction
Certificate (HCC)
Confined Space Entry
First Aid/CPR/AED
Bilingual – English and Spanish

Representative Project Experience

- **Texas A&M University Polo Garage**, College Station, TX; new 546,000 SF parking structure with 1,685-car capacity and attached building that includes 23,277 SF recreational sports facility, 18,883 SF transportation services offices and 10,389 SF dining services area, Contract: \$63,294,705 *Design-Build*
- **Texas A&M University Chemistry Building 1972 Wing 1st and 2nd Floor Renovation**, College Station, TX; 40,000 SF renovation including upgrades to MEP infrastructure, replacement of chilled water system and new lab casework, fume hoods and architectural finishes, Contract: \$11,507,554
- **McAllen Performing Arts Center**, McAllen, TX; new four-level, 93,471 SF auditorium facility with seating for 1,800 people, including lobby, dressing rooms and tower lounge, Contract: \$45,449,266



Gary Powell, AC
Assistant Project Manager
Employee Owner



As assistant project manager, Gary will support Chris and the project team in all construction management activities, including meeting coordination, cost control, change management, submittal oversight and administrative requirements.

Years in Industry: 12 Years
Years with SpawGlass: 12 Years

Education/Training
B.S. in Construction Science,
Texas A&M University

OSHA 30-Hour

American Institute of Constructors
Associate Constructor (AC)
Certification (Level 1)

Representative Project Experience

- **Texas A&M University Polo Garage**, College Station, TX; new 546,000 SF parking structure with 1,685-car capacity and attached building that includes 23,277 SF recreational sports facility, 18,883 SF transportation services offices and 10,389 SF dining services area, Contract: \$63,294,705 *Design-Build*
- **Texas A&M University Corps Dorm Renovation**, College Station, TX; 306,000 SF dorm renovation, 64,000 SF learning centers addition, 350,000 SF quad/plaza area renovation, Contract: \$126,119,921 *Design-Build*
- **The University of Texas Rio Grande Valley Academic and Performing Arts Center**, Edinburg, TX; two-level auditorium and 36,000 SF renovation, Contract: \$31,631,342



Zack Krus
Assistant Superintendent
Employee Owner



As assistant superintendent, Zack will assist the project team in the field through the supervision, inspection, coordination and control of construction activities. His responsibilities will include documentation of daily activities, maintaining the project schedule and monitoring the project safety plan.

Years in Industry: 5 Years
Years with SpawGlass: 3 Years

Education/Training
B.S. Construction Management,
Sam Houston State University

OSHA 30-Hour

Confined Space Entry

Fall Protection

Overhead and Gantry Crane
Safety

First Aid/CPR/AED

Representative Project Experience

- **Texas A&M University Polo Garage**, College Station, TX; new 546,000 SF parking structure with 1,685-car capacity and attached building that includes 23,277 SF recreational sports facility, 18,883 SF transportation services offices and 10,389 SF dining services area, Contract: \$63,294,705 *Design-Build*
- **Sam Houston State University Piney Woods Hall**, Huntsville, TX; new six-level, 232,000 SF residence hall with lounges, multipurpose room and learning center, featuring large courtyard with amphitheater seating and pedestrian walkways, Contract: \$58,447,106
- **Sam Houston State University Thomason Building Re-Purpose**, Huntsville, TX; 33,423 SF renovation to convert an academic facility into an administrative facility, Contract: \$5,738,552 *Project with PBK*



Aaron Bradford

Preconstruction Services Manager

Employee Owner

SpawGlass

Aaron has proven his capabilities in preconstruction services, handling hundreds of projects over the past five years. His experience with the procurement and buy-out process will be utilized to ensure the project is priced in the most cost-effective manner possible.

Years in Industry: 16 Years
Years with SpawGlass: 14 Years

Education/Training

B.S., Construction Science,
Texas A&M University

American Institute of Constructors
Associate Constructor (AC)
Certification (Level 1)

LEED Green Associate

Representative Project Experience

- **Texas A&M University Polo Garage**, College Station, TX; new 546,000 SF parking structure with 1,685-car capacity and attached building that includes 23,277 SF recreational sports facility, 18,883 SF transportation services offices and 10,389 SF dining services area, Contract: \$63,294,705 *Design-Build*
- **Texas A&M University Corps Dorm Renovation**, College Station, TX; 306,000 SF dorm renovation, 64,000 SF learning centers addition, 350,000 SF quad/plaza area renovation, Contract: \$126,119,921 *Design-Build*
- **Texas A&M University John D. White '70 – Robert L. Walker '58 Music Activities Center**, College Station, TX; 70,733 SF facility with rehearsal halls, soundproof practice rooms, lounge and offices, Contract: \$32,160,114



Kan Phaobunjong

Senior Estimator

Employee Owner

SpawGlass

As lead estimator, Kan will provide budgets and GMP pricing, solicit bids from subcontractors and assist in constructability reviews and value analysis. He will work cohesively with the preconstruction team to ensure all budgeting needs are met.

Years in Industry: 24 Years
Years with SpawGlass: 14 Years

Education/Training

PhD Civil Engineering,
The University of Texas at Austin

M.S. Construction Engineering
and Project Management,
The University of Texas at Austin

LEED AP

Co-Author of
Estimating Building Costs

Representative Project Experience

- **Texas A&M University McFerrin Athletic Center and Rhonda and Frosty Gilliam Jr. '80 Indoor Track Stadium**, College Station, TX; 75,636 SF indoor football practice facility and 115,440 SF fully enclosed and conditioned indoor track, Contract: \$31,665,656
- **Texas A&M University Cox-McFerrin Center for Aggie Basketball**, College Station, TX; 67,000 SF, Contract: \$18,469,142
- **Texas A&M University Bright Football Complex**, College Station, TX; 125,000 SF, Contract: \$18,290,300
- **Texas A&M University Corps Dorm Renovation**, College Station, TX; 306,000 SF dorm renovation, 64,000 SF learning centers addition, 350,000 SF quad/plaza area renovation, Contract: \$126,119,921 *Design-Build*



Trey Schneider, PE
President/Principal-in-Charge



As president of PBK Sports, Trey leads a team of architects and engineers who are experts in the design of all athletic and recreational venues. He is responsible for ensuring quality of work, meeting deadlines and maintaining client relations.

Years in Industry: 36 Years
Years with PBK: 19 Years

Education/Training
B.S. Civil Engineering,
Texas A&M University

Professional Engineer
Texas #69402

Representative Project Experience

- **Cypress-Fairbanks ISD The Berry Center**, Cypress, TX; new 320,000 SF facility on 65-acre site featuring 11,000-seat athletic stadium, 16,000 SF conference center, 456-seat theater, 4,000-space parking lot and administrative offices, Contract: \$72,897,808
Project with SpawGlass
- **Delmar Fieldhouse**, Houston, TX; 139,874 SF, Contract: \$35,000,000
- **E.B. Cushing Stadium**, College Station, TX; 196,996 SF, Contract: \$31,000,000
- **Panther Stadium and Athletic Building**, Prairie View, TX; 237,181 SF, Contract \$41,466,000



Juan Lopez
Design Principal



Juan has an extensive background in leading, creating and achieving a dynamic and comprehensive design experience for our sports clients. He is involved from the initial conceptual design phase through completion to ensure all client objectives are realized.

Years in Industry: 28 Years
Years with PBK: 24 Years

Education/Training
Bachelor of Architecture
University of Houston

Representative Project Experience

- **Cypress-Fairbanks ISD The Berry Center**, Cypress, TX; new 320,000 SF facility on 65-acre site featuring 11,000-seat athletic stadium, 16,000 SF conference center, 456-seat theater, 4,000-space parking lot and administrative offices, Contract: \$72,897,808
Project with SpawGlass
- **Bernard G. Johnson Coliseum Renovation**, Huntsville, TX; 44,362 SF, Contract: \$11,027,667
- **E.B. Cushing Stadium**, College Station, TX; 196,996 SF, Contract: \$31,000,000
- **Panther Stadium and Athletic Building**, Prairie View, TX; 237,181 SF, Contract \$41,466,000



Michael Hessert, RA
Design Project Manager



Michael has experience providing architectural planning, design development and construction management services for various sports facilities. He will be responsible for all phases of your project.

Years in Industry: 29 Years
Years with PBK: 6 Years

Education/Training
B.S. Aviation
Oklahoma State University

Registered Architect
Texas #20483

**work prior to PBK Sports*

Representative Project Experience

- **E.B. Cushing Stadium**, College Station, TX; 196,996 SF, Contract: \$31,000,000
- **Bernard G. Johnson Coliseum Renovation**, Huntsville, TX; 44,362 SF, Contract: \$11,027,667
- **Daniel-Meyer Coliseum Redevelopment**, Fort Worth, TX; Contract: \$80,000,000*
- **Panther Stadium and Athletic Building**, Prairie View, TX; 237,181 SF, Contract \$41,466,000
- **Davis Player Development Remodel**, College Station, TX; 2,100 SF, Contract \$ 3,200,000



Wade Cleary, PE
Principal-in-Charge



Wade is the managing principal at Cleary Zimmermann Engineers. Over the course of his career, Wade has served as a model for the engineering staff and has developed as a leader within the field. He will be responsible for overall success of the contract.

Years with CZ: 14 Years

Education/Training
B.S. Mechanical Engineering,
Texas A&M University

Registered Professional Engineer:
Texas #84606

Representative Project Experience

- **City of Bryan Regional Park**, Bryan, TX
- **City of San Antonio Alamodome Final Four Renovation**, San Antonio, TX
- **Northside ISD Sports Gym**, San Antonio, TX
- **Henry B. Gonzales Convention Center**, San Antonio, TX
- **City of New Braunfels Recreation Center**, New Braunfels, TX
- **Pearl Mixed-Use Development and Parking Garage, Amphitheater**, San Antonio, TX
- **City of San Antonio Hemisfair Civic Park Peer Review**, San Antonio, TX



Randy Rogers, PE, LEED AP

Project Manager/
Lead Electrical Engineer



Randy has over 35 years of experience in the design of electrical systems for municipal, corporate, healthcare, federal and education clients. He will serve as a day-to-day liaison for the design team and the City of Bryan.

Years in the Industry: 35 Years

Education/Training

B.S. Engineering Technology,
Electrical Electronics
Texas Tech University

Registered Professional Engineer
TX #82143

Representative Project Experience

- **Boys & Girls Club of the Brazos Valley New Club Building with Gymnasium**, Bryan, TX
- **City of Bryan Regional Park**, San Antonio, TX
- **City of Hutto Fritz Park Pavillion, Stage, Concession Stand, and Parking Lot**, Hutto, TX
- **Texas A&M University Reed Arena Meeting Room Renovation**, College Station, TX
- **Schertz-Cibolo-Universal City ISD Clemens High School Additions & Renovations**, Schertz, TX
- **Bowie School Remodel**, Bryan, TX
- **Travis Park Fields**, Bryan, TX



Trey McDougall, PE

Lead Mechanical and
Plumbing Engineer



Equally versed in mechanical and plumbing systems, Trey is familiar with all aspects of projects, from initial concept design through building commissioning. He will provide the mechanical and plumbing design for your Sports and Event Center project.

Years with CZ: 13 Years

Education/Training

B.S. Mechanical Engineering
The University of Texas at Austin

Registered Professional Engineer
Texas #94684

Representative Project Experience

- **City of San Antonio Alamodome Final Four Renovation**, San Antonio, TX
- **Northside ISD Sports Gym**, San Antonio, TX
- **City of New Braunfels Recreation Center**, New Braunfels, TX
- **St. Mary's Hall Additions and Renovations to Existing Gym, New Gym, Concession and Dining Facilities**, San Antonio, TX
- **St. Mary's Hall New Gym Addition**, San Antonio, TX
- **Hemisfair Park Master Plan**, San Antonio, TX
- **Texas Parks & Wildlife Department Mission Tejas State Park Visitor Center Replacement**, Grapeland, TX



Thad Kudela, PLA, LEED AP
Design Principal



Thad is a respected leader in landscape architecture in the Houston area and is noted for his creative design, graphic communication and team building capabilities.

Years in Industry: 39 Years
Years with K&W: 29 Years

Education/Training
B.S. Aviation
Oklahoma State University

Registered Landscape Architect
Texas #1718

Representative Project Experience

- **Texas A&M University Corps Dorm Renovation,** College Station, TX; 306,000 SF dorm renovation, 64,000 SF learning centers addition, 350,000 SF quad/plaza area renovation, Contract: \$126,119,921 *Design-Build with SpawGlass*
- **Century Square Mixed-Use Grand Lawn,** College Station, TX
- **Spence Park Master Plan – Amphitheater & Events Lawn,** College Station, TX
- **City of Cibolo Sports Complex,** Cibolo, TX
- **Stephen F. Austin University STEM Building Amphitheater,** Nacogdoches, TX
- **Schreiner University Events Center,** Kerrville, TX



Darin Weinheimer, PLA
Production/Construction Principal



Darin is skilled in effective communication through concise construction documentation & his ability to act as a liaison between the owner & contractor.

Years in Industry: 34 Years
Years with K&W: 29 Years

Education/Training
Master of Landscape Architecture,
Texas A&M University

B.S. Horticulture,
Texas A&M University

Registered Professional Engineer
Texas #1643

Representative Project Experience

- **Texas A&M University Corps Dorm Renovation,** College Station, TX; 306,000 SF dorm renovation, 64,000 SF learning centers addition, 350,000 SF quad/plaza area renovation, Contract: \$126,119,921 *Design-Build with SpawGlass*
- **Century Square Mixed-Use Grand Lawn,** College Station, TX
- **Spence Park Master Plan – Amphitheater & Events Lawn,** College Station, TX
- **City of Cibolo Sports Complex,** Cibolo, TX
- **Stephen F. Austin University STEM Building Amphitheater,** Nacogdoches, TX
- **Schreiner University Events Center,** Kerrville, TX



Veronica J.B. Morgan, PE, CFM
Managing Partner/Project Manager



Veronica has worked in the Bryan-College Station area for the past 33 years and is extremely knowledgeable of all city codes and ordinances as well as the development process in the City of Bryan.

Years in Industry: 35 Years
Years with M&M: 20 Years

Education/Training
M.E. Civil Engineering,
Water Resources,
Texas A&M University

B.S. Civil Engineering,
Texas A&M University

Registered Engineer
Texas #77689

Certified Flood Plain Manager
Texas #0617-04

Representative Project Experience

- **Travis B. Bryan Midtown Park – Infrastructure Improvements Project**, Bryan, TX; multi-phase development project with infrastructure improvements, including rehabilitation of 15-acre lake and 2-mile, 12-foot-wide shared use outer loop trail, and the reconstruction of the Travis Little League Complex, Contract: \$35,000,000
- **Bryan Justice Center**, Bryan, TX; two-level, 62,920 SF building to house police department, jail facilities and municipal courts for the City of Bryan, Contract: \$17,500,000
- **College Station Independent School District, Pecan Trail Intermediate School**, College Station, TX; civil design of 22,600 SF school, Contract: \$38,380,000



James Batenhorst, PE
Jr. Partner/Project Engineer



James has 23 years of experience designing and/or managing projects that included designs for sites, streets, drainage, pavement, utilities and sidewalks. He also has extensive experience with permitting.

Years in Industry: 23 Years
Years with M&M: 18 Years

Education/Training
B.S. Civil Engineering,
Texas A&M University

B.S. Engineering Technology,
West Texas A&M University

Registered Professional Engineer
Texas #93631

Representative Project Experience

- **Travis B. Bryan Midtown Park – Infrastructure Improvements Project**, Bryan, TX; multi-phase development project with infrastructure improvements, including rehabilitation of 15-acre lake and 2-mile, 12-foot-wide shared use outer loop trail, and the reconstruction of the Travis Little League Complex, Contract: \$35,000,000
- **Jones Crossing Development**, College Station, TX; 72-acre site development for retail shopping center, including 356,000 SF parking lot for H-E-B and additional 306,000 SF of pavement, Contract: \$50,000,000
- **Texas A&M University Health Science Center**, Bryan, TX; 261-acre Health Science Center master plan and plans for Phase 1 campus site improvements, Contract: \$95,000,000



John R. Miller
Vice President/Primary Designer



John is a low-voltage system designer focused on NCAA football, baseball, basketball, hockey, and track and field facilities. He will be directly involved in technology consulting, design and project management services for your Sports and Event Center project.

Years with TDG: 7 Years

Education/Training
University of Maryland-U.S. Armed Forces European Campus

Degree of Applied Sciences in Computer Technology, National Education Center San Antonio

Representative Project Experience

- **University of Kentucky Memorial Coliseum**, Lexington, KY
- **University of Houston Indoor Practice Facility**, Houston, TX
- **University of Florida Indoor Practice Facility**, Gainesville, FL
- **University of Alabama-Tuscaloosa Foster Arena**, Tuscaloosa, AL; conversion of auditorium into a multipurpose facility
- **University of Texas at Arlington College Park Center**, Arlington, TX
- **Texas Christian University (TCU)-Schollmaier Arena**, Fort Worth TX
- **Florida A&M Multipurpose Center & Teaching Gym**, Tallahassee, FL



Kristina Surber
Geotechnical Project Manager



As the project manager for geotechnical engineering services, Kristina will be responsible for drilling coordination, sample assignments, analysis of testing results, performance of engineering calculation, and reporting.

Years in Industry: 6 Years
Years with Gessner: 6 Years

Education/Training
M.E. Geotechnical Engineering
Texas A&M University

B.S. Geotechnical Engineering,
Texas A&M University

Professional Engineer
Texas #128636

Representative Project Experience

- **Texas A&M Transportation Institute State Headquarters**, Bryan, TX; 180,000 SF, design-build, Contract: \$56,000,000
- **RELLIS Campus Infrastructure**, Bryan, TX; design-build, Contract: \$45,000,000
- **RELLIS Agriculture & Workforce Education Building Phase I**, Bryan, TX; 36,000 SF, design-build, Contract: \$15,000,000
- **TEEX Administrative & Classroom Building**, College Station, TX; 58,000 SF, design-build, Contract: \$24,000,000
- **Peterson Building Renovation**, College Station, TX; 85,000 SF, design-build, Contract: \$12,000,000



Michael Evans
Survey Project Manager



Mike has nearly 20 years of land surveying experience and has successfully performed hundreds of topographic surveys for drainage studies, new designs and construction. His role in this project will involve supervising survey work and delivery.

Years in Industry: 7 Years
Years with Gessner: 7 Years

Education/Training
Survey I Basic Short Course,
Texas A&M University-Corpus Christi

Remote Pilot Certification

Representative Project Experience

- **Aggie Track & Field Stadium**, College Station, TX; 90,500 SF, performed construction staking, Contract: \$40,000,000
- **Texas A&M Softball Field**, College Station, TX; 84,000 SF, performed construction staking, Contract: \$27,000,000
- **TAMU Recreational Sports Field Expansion**, College Station, TX
- **Texas A&M Transportation Institute State Headquarters**, Bryan, TX; 180,000 SF, design-build, Contract: \$56,000,000
- **RELLIS Campus Infrastructure**, Bryan, TX; 600 AC, design-build project, Contract: \$45,000,000



John Kubala, PE
Principal-in-Charge



John has more than a decade of professional structural engineering experience in collegiate institutional facilities. As the managing principal for AG&E-SE's Houston office, he oversees every project, ensuring that the team has the required resources and that the client's needs and expectations are met within budget and on time.

Years in Industry: 14 Years

Education/Training
B.S. Architectural Engineering
Structural Design of Buildings,
The University of Texas at Austin

Registered Licensing:
Texas #106120

Representative Project Experience

- **Texas A&M University Track & Field Addition and Renovation**
- **Texas A&M University Penberthy Pavilion**
- **Sul Ross State University Football Stadium Renovations**
- **Collin College Preston Ridge Campus Conference Center**
- **Collin College Central Park Campus Conference Center**
- **Collin College Spring Creek Campus Courtyard Renovations**
- **Goose Creek CISD New Early College High School Construction**
- **Houston Community College-Clear Lake Peer Review West Campus Drawings**

Tab B

Technical Adequacy of the Personnel and Subconsultants to Be Utilized for the Proposed Work

SpawGlass



Demonstrate the Technical Adequacy of the Personnel and Subconsultants to Be Utilized for the Proposed Work.

1. DESCRIBE THE ORGANIZATION OF THE PROPOSED TEAM, DETAILING THE LEVEL OF INVOLVEMENT, FIELD OF EXPERTISE, AND ESTIMATED HOURS FOR EACH MEMBER OF THE TEAM.

The SpawGlass/PBK Sports design-build team is committed to serving the City of Bryan, with this specifically selected team, to give you the best services and to ensure your needs and requirements are exceeded. **SpawGlass** will be the prime contracting entity with **PBK Sports** serving as our architectural consultant. The remainder of our engineering and technical design consultant team will report to and have contracts with PBK Sports, who will be responsible for managing the engineers and consultants. PBK Sports will have consultant agreements defining their work as well as quality, delivery and schedule responsibilities.



For this project, **SpawGlass** has selected Project Manager **Chris Rhoden** (pictured, left) and Superintendent **Wade Lollar** (pictured, right), along

with Assistant Project Manager **Gary Powell** and Assistant Superintendent **Zack Krus**, who are **currently working together** as a team on the **design-build** Texas A&M University Polo Garage project in College Station. Attached to the garage is a new building that includes a **23,277-square-foot recreational sports center**. To ensure successful completion of your Sports and Event Center project on time and within budget, the proposed team will have the support of Regional Operations Manager **Garett Wheaton** and Preconstruction Services Manager **Aaron Bradford**, along with our estimating and administrative team.

As designer-of-record for the SpawGlass/PBK Sports design-build team, PBK Sports has committed a team of professionals who are readily available and managing a current workload (in conjunction with assigned consultants') that allows them to commit and provide all necessary time and resources for the successful execution of this project.

For this project, PBK Sports offers the expertise of Design Principal **Juan Lopez** and Project Manager **Michael Hessert**. Juan's résumé showcases more than two decades of professional planning, programming, and high-end design for similar assignments. In addition to numerous design awards, his work has been showcased in national publications that highlight sports and recreation facilities. Michael brings over 20 years of focused expertise in managing the day-to-day project management for similar scopes of work. He serves as the centralized point-of-contact for the design team, managing inter-discipline communication and coordination, and ensuring cost control, schedule management, and overall design integrity.

Juan and Michael work seamlessly with the assigned Principal-in-Charge **Trey Schneider**, president of PBK Sports. SpawGlass recently worked very closely with Trey on the West Texas A&M University Renovation of Athletic/Intramural Facilities project.

As members of the SpawGlass/PBK design-build team, these key individuals are available and committed to your project from the beginning of design and preconstruction through final completion.

SpawGlass Houston Division President **Brandon Meyers** and Regional Operations Manager **Garett Wheaton** and PBK Sports President **Trey Schneider** will ensure this design-build team has the resources needed to successfully achieve the City of Bryan's goals for this project. We fully intend and commit to

keep our team working together for the successful delivery of your design-build project.

Please see our proposed design-build organizational chart for your Sports and Event Center project on the following page.

Firm	Team Member	Role on Your Project	Level of Involvement	Hours Per Week
SpawGlass	Brandon Meyers	President, Houston Division	Executive oversight for entire design-build team	As needed
SpawGlass	Garett Wheaton	Regional Operations Manager	Local oversight and support for entire design-build team	As needed
PBK Sports	Trey Schneider	Principal-in-Charge	Executive oversight of design	12 – Design 8 – Construction
PBK Sports	Michael Hessert	Design Project Manager	Architectural design	14 – Design 8 – Construction
PBK Sports	Juan Lopez	Design Principal	Architectural design	12 – Design 8 – Construction
Mitchell & Morgan	Veronica J.B. Morgan	Project Manager	Civil design elements	10 – Design 2 – Construction
Mitchell & Morgan	James Batenhorst	Project Engineer	Civil design elements	20 – Design 2 – Construction
SpawGlass	Chris Rhoden	Project Manager	Team leader/construction management	20 – Design 40 – Construction
SpawGlass	Gary Powell	Assistant Project Manager	Construction management support	10 – Design 40 – Construction
SpawGlass	Wade Lollar	Superintendent	Onsite management of daily construction activities	20 – Design 40 – Construction
SpawGlass	Zack Krus	Assistant Superintendent	Onsite management support for daily construction activities	10 – Design 40 – Construction
SpawGlass	Aaron Bradford	Preconstruction Services Manager	Preconstruction cost estimating, constructability reviews, value analysis and scheduling support	30 – Design 2 – Construction
SpawGlass	Kan Phaobunjong	Senior Estimator	Continuous cost estimating	30 – Design 2 – Construction
Cleary Zimmermann Engineers	Wade Cleary	Principal-in-Charge	Executive oversight of MEP engineering services	10 – Design 2 – Construction
Cleary Zimmermann Engineers	Randy Rogers	Project Manager/Lead Electrical Engineer	Electrical engineering services	24 – Design 2 – Construction
Cleary Zimmermann Engineers	Trey McDougall	Lead Mechanical and Plumbing Engineer	Mechanical and plumbing engineering services	24 – Design 2 – Construction
Kudela & Weinheimer	Thad Kudela	Design Principal	Landscape architectural design	4 – Design 2 – Construction
Kudela & Weinheimer	Darin Weinheimer	Production/Construction Principal	Landscape architectural design	2 – Design 2 – Construction
Technical Design Group (TDG)	John R. Miller	Primary Designer/Vice President	Audiovisual/IT design services	24 – Design 2 – Construction
AG&E Structural Ingenuity	John Kubala	Principal-in-Charge	Structural engineering services	10 – Design 2 – Construction
Gessner Engineering	Kristina Surber	Geotechnical Project Manager	Geotechnical engineering services	16 – Design
Gessner Engineering	Michael Evans	Survey Project Manager	Surveying services	16 – Design

Organizational Chart – Design-Build Team

City of Bryan

SpawGlass

Management Support

**SpawGlass
Division President**
Brandon Meyers

**SpawGlass
Regional Operations
Manager**
Garrett Wheaton

Architect



**PBK Sports
Principal-in-Charge**
Trey Schneider

**PBK Sports Designer/
Architect**
Juan Lopez

**PBK Sports Design
Project Manager**
Michael Hessert

In-House Support

**SpawGlass
Preconstruction
Services Manager**
Aaron Bradford

**SpawGlass
Project Manager/
Team Leader**
Chris Rhoden

**SpawGlass
Superintendent**
Wade Lollar

**SpawGlass
Assistant Project
Manager**
Gary Powell

**SpawGlass
Assistant
Superintendent**
Zack Krus

Design Consultants

Structural Engineer
AG&E Structural Engenuity
John Kubala

Civil Engineer
Mitchell & Morgan
Veronica Morgan
James Batenhorst

Landscape Architect
Kudela & Weinheimer
Thad Kudela
Darin Weinheimer

MEP Engineer
Cleary Zimmermann Engineers
Wade Cleary
Randy Rogers
Trey McDougall

Geotechnical/Surveying
Gessner Engineering
Kristina Surber
Michael Evans

AV/IT/Security
TDG
John Miller

Tab C

Experience of the Firm and Subconsultants Based Upon Previous Work Similar to that of the Type Considered

SpawGlass



Demonstrate the Experience of the Firm and Subconsultants Based Upon Previous Work Similar to that of the Type Considered.

1. DESCRIBE THE EXPERIENCE OF THE FIRM IN THE LAST THIRTY SIX (36) MONTHS IN PERFORMING SERVICES IN SIMILAR SIZE AND SCOPE. PARTICULAR EMPHASIS WILL BE PLACED ON FIRMS THAT HAVE PERFORMED SIMILAR WORK AND SERVICES FOR MUNICIPALITIES.

SpawGlass and PBK have performed services similar in size and scope in the last three years as well as throughout our firms' histories.

SpawGlass has built more than 50 projects featuring sports facilities and athletic amenities, including multiple basketball courts, gymnasiums, baseball fields, tennis centers, event centers, stadiums and recreational parks. Seven of those projects have been completed in the last 36 months.

Our portfolio includes the original construction of the AT&T Center (formerly the SBC Center), home to the NBA's San Antonio Spurs, for one of our long-time clients, Bexar County. Our experience in Brazos Valley includes **three large athletic facilities for Texas A&M University in College Station**: the Texas A&M University Cox-McFerrin Center for Aggie Basketball, Texas A&M University McFerrin Athletic Center and Rhonda and Frosty Gilliam Jr. '80 Indoor Track Stadium, and Texas A&M University Bright Football Complex.

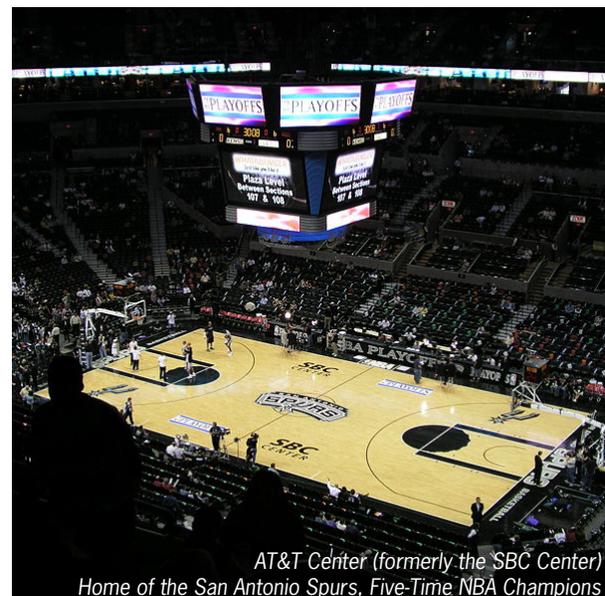
PBK has completed various athletic and recreational projects in the last 36 months. PBK Sports has produced many projects for the Texas A&M University System, such as E.B. Cushing Stadium, Davis

Player Development Center, Return of Penberthy Rec Complex, and Penberthy Rec Complex Expansion, to name a few. The firm's portfolio also includes the University of Houston Indoor Practice Facility, Sam Houston State Coliseum Renovation, Sam Houston State University Beach Volleyball and Tennis Master Plan, and the North East ISD Sports Complex.

Several of our subconsultants have worked with SpawGlass on projects with relevant scope to your Sports and Event Center project as well as projects that included elements similar to the other aspects, facilities and amenities that the City of Bryan envisions as part of this landmark project.

Consultant Firm	Relevant Projects with SpawGlass
Cleary Zimmermann Engineers	City of Kyle Public Works Facility; Frost Bank Citizens Parkway Financial Center; The Rand Building Lobby Renovation
Gessner Engineering	Sam Houston State University South Residential Parking Lot and Associated Infrastructure
Kudela & Weinheimer	Texas A&M University Corps Dorm Renovation; The Warwick Towers Terrace Renovation

Please see project sheets demonstrating our most relevant experience on the following pages.



AT&T Center (formerly the SBC Center)
Home of the San Antonio Spurs, Five-Time NBA Champions

Featured Project

E.B. Cushing Stadium
College Station, Texas



project highlights

- Stadium was designed to complement the existing university architectural requirements
- Programming influenced design to accommodate all users to have access to all spaces
- Proposed team member **Trey Schneider** served on this project



The new Track & Field Stadium at Texas A&M University showcases a 2,800-seat stadium consisting of spectator facilities such as seating, concessions, merchandise sales, restrooms and team facilities such as coaches offices, locker rooms, meeting rooms, training rooms, hospitality areas, weigh-in, impound and storage, broadcast compound, pressbox, interview areas, and collegiate and Olympic qualifier.

<i>Construction Cost:</i>	\$31,000,000
<i>Size of Project:</i>	196,996 SF
<i>Completion Date:</i>	01/2018
<i>Type of Construction:</i>	New
<i>Contract Delivery Method:</i>	Construction Manager-at-Risk

2 Featured Project

Davis Player Development Center College Station, Texas



project highlights

- Renovated space was fully branded with University elements
- End user input early in the design process allowed for accurate programming and design of the state of the art training equipment and nutrition capabilities
- Proposed team member **Michael Hessert** served on this project



Texas A&M University's Davis Player Development Center on the College Station Campus is used by the football team for strength training. The renovations include new weight room flooring and equipment, a 2,100-square-foot addition for nutrition and graduate assistants, updated finishes, branding and thematic elements, and modernization of audiovisual and technology systems, including sports analytic and training equipment. The renovated space will provide state-of-the-art training and nutrition capabilities that will enhance the student athletes performance and experience.

Construction Cost:	\$3,200,000
Size of Project:	2,100 SF
Completion Date:	06/2019
Type of Construction:	Renovation
Contract Delivery Method:	Construction Manager-at-Risk

3 Featured Project

Indoor Football Facility Houston, Texas



- project highlights**
- Under construction during hurricane Harvey but finished ahead of schedule
 - Cooperation between design team and governing bodies was paramount to the successful outcome
 - 120-yard field with 30 yards of additional turf area
 - Proposed team member **Michael Hessert** served on this project



For this new indoor football practice facility, PBK Sports designed a full 120-yard field, 30 yards of additional turf area and the flexibility to adapt or expand. The new facility anchors the northwest corner of the TDECU Stadium site with immediate adjacency to outdoor practice fields, as well as the stadium. The subtle manipulation of architectural details help to create a striking building form while working within a cost-efficient kit of pre-manufactured building parts, ensuring the building is a tremendous addition to the campus athletics precinct.

Construction Cost:	\$20,000,000
Size of Project:	123,197 SF
Completion Date:	12/2017
Type of Construction:	New
Contract Delivery Method:	Construction Manager-at-Risk

4 Featured Project

Bernard G. Johnson Coliseum
Hunsville, Texas



- project highlights**
- PBK worked closely with the construction manager to ensure constructability
 - Scope included basketball courts, locker rooms, restrooms, storage and training rooms
 - Proposed team member **Michael Hessert** served on this project



This project included the addition of space for training rooms and storage as well as various MEP systems, flooring, and seating upgrades. The renovation also included new basketball, volleyball and soccer locker rooms as well as newly constructed areas for home, visitor and coaches. There are onsite showers, restroom, laundry and storage areas. The training rooms contain hydrotherapy, pools, ice machine and medical supplies.

PBK Sports used an interactive quality assurance to plan out the design schedule so that quality was met throughout the duration of the project. Throughout the design process, PBK Sports utilized cross-discipline coordination reviews, in-house peer reviews and constructability reviews with the construction manager.

Construction Cost:	\$11,027,667
Size of Project:	44,362 SF
Completion Date:	09/2016
Type of Construction:	Renovation
Contract Delivery Method:	Construction Manager-at-Risk

5 Featured Project

The Berry Center Cypress, Texas



project highlights

- Project working with **PBK**
- Scope included large **basketball arena, football stadium, auditorium and event space**
- Publicly funded project hosting multi-purpose sports events, community events and activities
- Proposed team member **Garett Wheaton** served on this project



SpawGlass and PBK collaborated closely to bring the Richard E. Berry Educational Support Center to a successful completion for the local community and school districts. Constructed on a 65-acre site, the Berry Center event and sports venue includes an 11,000-seat athletic stadium, 15,333-square-foot staff development/conference center, 456-seat theater, multi-purpose arena with 8,300 fixed seats, administrative office space and full-service kitchen for catering.

The Berry Center is used for district graduation ceremonies, staff development, extracurricular activities and other special events. The facility also is used for non-district events and provides a venue for Northwest Harris County residents to enjoy the arts, conventions, conferences and athletic events in their neighborhood.

Construction Cost:	\$72,897,808
Size of Project:	320,000 SF
Completion Date:	05/2006
Type of Construction:	New
Contract Delivery Method:	Competitive Sealed Proposal

Even though this was a competitive sealed proposal delivery method, the **owner, architect and contractor immediately supported the partnering process** to develop a strategy and project goals the team would commit to ensure the success of the project for all parties... As difficult and challenging as this complex facility was to construct, it was **one of the smoothest construction projects I have had the privilege to oversee** in my professional career. [SpawGlass] managed to complete this project **within our limited budget and construction schedule**, and still managed to deliver a high quality product that meets the rigorous construction standards expected by Cypress-Fairbanks ISD.

– Mr. Roy Sprague, AIA, CSI | Senior Director of Facilities Planning & Construction, Cypress-Fairbanks Independent School District

6 Featured Project

Texas A&M Cox-McFerrin Center for Aggie Basketball

College Station, Texas



project highlights

- Scope included practice gymnasiums for two basketball teams with associated amenities and infrastructure
- New construction project in Brazos Valley



SpawGlass served as the construction manager-at-risk for the three-level, 68,000-square-foot Cox-McFerrin Center for Aggie Basketball. The center is a state-of-the-art, LEED Silver practice facility for both the men’s and women’s basketball teams. The facility features a grand lobby, administrative offices, two separate practice gymnasiums with a weight room, two locker room facilities with multimedia rooms, lounges and a training facility. The ground level and entrance to the building hosts the grand lobby and essential office space for all basketball coaches and staff. Each office area opens up to a balcony that overlooks each practice gym. A modern weight room is shared by the men’s and women’s teams. The lower level, or Competition Level, is comprised of locker rooms for men’s and women’s teams and the coaches, a multimedia room and a training room that contains a Hydroworx therapy pool, a polar plunge pool and thermal plunge pool.

Construction Cost:	\$18,469,142
Size of Project:	68,000 SF
Completion Date:	01/2009
Type of Construction:	New
Contract Delivery Method:	Construction Manager-at-Risk

The Cox-McFerrin Center for Aggie Basketball was **delivered on time and in budget**. The SpawGlass onsite crew **worked very closely with the user** to provide the facility required. The SpawGlass team also made every effort possible to **deliver the project to the user in phases** even though this was not a requirement of the contract documents.

– Mr. René E. Ramirez | Construction Project Manager, Facilities Planning & Construction, Texas A&M University System

Featured Project

Texas A&M University McFerrin Athletic Center and Rhonda and Frosty Gilliam Jr. '80 Indoor Track Stadium

College Station, Texas

SpawGlass



project highlights

- Scope included practice football field and indoor track stadium with concession, press boxes, and associated amenities and infrastructure
- New construction project in Brazos Valley
- Proposed team member **Garett Wheaton** served on this project



With a ceiling height of 79 feet, the 75,636-square-foot McFerrin Athletic Center football training complex houses a regulation-size football field with synthetic turf and four interior structural steel camera platforms. Located a mere 14 feet from this facility, the fully enclosed and air conditioned Rhonda and Frosty Gilliam Jr. '80 Indoor Track Stadium totals 115,440 square feet and features separate sprint lanes for runners, plenty of space for field throwing events and designated areas for other events, including the long jump, triple jump, pole vault and high jump. Two enclosed press boxes, an audiovisual system with ribbon boards for posting times, three camera platforms, an aluminum bleacher system for 5,000 spectators and concession areas also are included. One of the most impressive features of the facility is the Mondotrack FTX surface. A hydraulic banked 200-meter competition track system allows for the turns on the track to rise up from the floor on a series of concealed hydraulic rams. The resulting banks in the track make it easier for athletes to navigate the turns at speed.

Construction Cost:	\$31,665,656
Size of Project:	191,000 SF
Completion Date:	12/2008
Type of Construction:	New
Contract Delivery Method:	Construction Manager-at-Risk

The team from SpawGlass Construction [Corp.] faced many challenges with this **spectacular facility**. Every time we ran into a difficult situation, you all **worked through the issues and met the construction schedule**. This project is truly **an industry leader** with a National Collegiate reputation.

– Mr. Kevin Hurley | Associate Athletic Director for Facilities, Texas A&M Athletics
Texas A&M University System

8 Featured Project

Texas A&M University-Kingsville Student Recreation Center

SpawGlass

Kingsville, Texas



project highlights

- Scope included gymnasium with basketball courts, locker rooms and training space
- Saving of over \$330,000 returned to the owner



The two-level Texas A&M University-Kingsville Student Recreation Center totals 36,000 square feet and houses two multi-purpose gymnasiums, approximately 5,200 square feet of cardio fitness and weight room space, and an elevated jogging track. Other areas include an outdoor basketball court, men's and women's locker rooms, an equipment issue area and laundry room, and administrative offices.

Through value engineering sessions, SpawGlass returned a savings of over \$330,000 to the owner without sacrificing the quality of facility amenities. The owner opted to use the savings for additional scopes of work, including another second-level restroom and upgrades to access control and surveillance systems, fire suppression systems, roofing systems, landscaping and exterior signage.

Construction Cost:	\$9,835,776
Size of Project:	35,000 SF
Completion Date:	03/2010
Type of Construction:	New
Contract Delivery Method:	Construction Manager-at-Risk

Although challenged by schedules and budget, we were able to open this fine facility **on schedule and within budget**. In fact, due to unexpected buyout savings, we were able to add additional scope to the project in features and furnishings/equipment that **provided extra value** to the owner. In addition to a fine facility, SpawGlass provided a **safe work environment during construction** which is highly valued within the Texas A&M University System and its campuses.

– Mr. Charles E. Lampe, AIA | Area Manager – South, Facilities Planning & Construction,
Texas A&M University System

9 Featured Project

Boys & Girls Clubs of the Austin Area Home Club on the Sheth Family Campus Austin, Texas



project highlights

- Scope included new gymnasium, basketball courts, cafeteria/food services, administrative space, and parking
- Exterior work included hardscape and extensive landscaping across 10-acre campus



As construction manager-at-risk, SpawGlass recently completed a new facility for the Boys and Girls Club of Austin and Travis County. The new 32,000-square-foot building houses play and activity space, teen center, library, game room, office space, and conference and break rooms. This flagship development includes a gymnasium, basketball courts, tennis courts, and an athletic field on the 10-acre campus. The scope of work for this project also included services for full mechanical, electrical and plumbing systems; installation of an elevator; driveways and parking areas; and hardscape and landscape.

Construction Cost:	\$10,473,936
Size of Project:	32,000 SF
Completion Date:	03/2019
Type of Construction:	New
Contract Delivery Method:	Construction Manager-at-Risk

Featured Project

Rio Hondo Middle School Rio Hondo, Texas



project highlights

- Project working with **PBK**
- Scope included new gymnasium for competitive basketball, cafeteria/food services, administrative space and parking
- Publicly funded project built within the owner's budget



Serving as construction manager-at-risk, **SpawGlass** worked closely with **PBK** on this new 94,000-square-foot middle school, bringing capacity for up to 650 fifth grade through eighth grade students to Rio Hondo ISD. The facility consists of four wings, two classroom wings with administrative office and support space, competition gymnasium and band hall wing, and the fourth wing houses the cafeteria.

Construction Cost:	\$18,579,439
Size of Project:	94,000 SF
Completion Date:	07/2018
Type of Construction:	New
Contract Delivery Method:	Construction Manager-at-Risk

Featured Project

The University of Texas at Austin Texas Tennis Center Replacement Facility

Austin, Texas

SpawGlass



project highlights

- Sports center project
- Scope included outdoor sports courts, locker rooms, lounge, shade canopies and grandstand
- NCAA sports facility



A two-level foyer with graphics illustrating the history of Texas Tennis greets student-athletes and spectators at the new UT Austin Texas Tennis Center, a 24,000-square-foot outdoor tennis facility consisting of 12 NCAA tennis courts, locker rooms, large weight and fitness room, coaches' work areas, players' lounge, hospitality and grandstand areas, LED sports lighting, and athletic training room complete with a hydrotherapy plunge pool. The grandstand can accommodate up to 1,200 spectators and includes restrooms, a concession area and a press box.

<i>Construction Cost:</i>	\$17,821,479
<i>Size of Project:</i>	24,000 SF
<i>Completion Date:</i>	01/2018
<i>Type of Construction:</i>	New
<i>Contract Delivery Method:</i>	Construction Manager-at-Risk

Featured Project

Lamar State College- Orange Cypress Center Orange, Texas



project highlights

- Project working with **PBK**
- Multipurpose **event center** for use by the students, faculty and the community
- Scope included complex building systems, associated utilities and state-of-the-art technology



Serving as construction manager-at-risk, **SpawGlass** worked closely with **PBK** on this multi-purpose higher educational classroom and event facility. The two-level Lamar State College-Orange Cypress Center features a conference center that can adapt to the needs of the end user, capable of hosting up to 700 people for lectures, graduations, career fairs or community events; catering for up to 400 people in a lunch or banquet-style arrangement; or being divided into three smaller meeting rooms. Classrooms and the conference center include state-of-the-art technology. Despite extensive rain delays and unforeseen conditions during construction on this project, SpawGlass, utilizing lean scheduling tools and methodology, completed the center in time for the college's move-in date and start of the new semester.

Construction Cost:	\$10,362,200
Size of Project:	17,990 SF
Completion Date:	08/2017
Type of Construction:	New
Contract Delivery Method:	Construction Manager-at-Risk

Featured Project

Cane Island Amenity Village Katy, Texas

SpawGlass



project highlights

- **Extensive landscaping** and five small buildings across 4.86-acre site
- Multipurpose **recreation center** for use by the community
- Scope included **event space, pavilions, food services**, fitness center and **restrooms**



Cane Island is being touted as Katy's first master-planned community. Designed to be a family-friendly gathering space for those living in the community, SpawGlass was selected as construction manager-at-risk for Cane Island Amenity Village. The 25,097-square-foot recreation center includes five separate buildings on a 4.86-acre site: a welcome/fitness center, meeting/multi-purpose center with commercial kitchen, bar/café, yoga/dance studio, and pools with equipment/storage/restroom facilities. The pool and water elements include an outdoor family pool, lap pool and play structure water feature. The center also boasts an elevated pedestrian walkway, designed to simulate a treehouse feel, which winds in and out of massive oak trees that were transplanted to the site as part of the project.

Construction Cost:	\$10,755,030
Size of Project:	25,097 SF
Completion Date:	02/2016
Type of Construction:	New
Contract Delivery Method:	Construction Manager-at-Risk

Throughout the construction of the Cane Island Amenity Village, [SpawGlass'] management and onsite construction staff were professional and competent. The close attention to details and collaboration with the architect, consultants, engineers, City of Katy and many others ensured the project be completed to the highest quality and standards. We appreciate their efforts to complete this challenging project and use all their resources to get the numerous buildings completed with superior craftsmanship.

– Mr. Mathew Lawson | Vice President,
Rise Communities

Featured Project

Confluence Park San Antonio, Texas



project highlights

- Winner of the **1st Place Eagle ABC National Excellence in Construction Award** as well as other regional and national awards for design and construction
- **Extensive landscaping** and one small building across 3-acre site
- Park includes multipurpose building for use by the community



Located along the San Antonio River, this new public park includes a primary pavilion constructed of large concrete forms that collect and funnel rainwater; a multi-purpose space with a green roof providing thermal mass for passive heating and cooling; restroom facilities; a site-wide water catchment system to collect rainwater into an underground water storage tank; play areas; and satellite pavilions that mirror the form of the primary pavilion. To preserve the terrain, SpawGlass installed more than 200 COR-TEN steel retaining walls throughout the site. The weathered steel walls were key to the grading and landscape footprint of the site. They protect the new elevations and help add layers to the plant displays. Two-tiered retaining walls along the pathways were designed for a close-up experience, allowing children to touch and feel the native grasses and flowers. Planned as a net-zero energy project, the park features a photovoltaic array that provides 100-percent of its energy on an annual basis.

Construction Cost:	\$8,909,771
Size of Project:	Site – 3 Acres Building – 2,400 SF
Completion Date:	03/2018
Type of Construction:	New
Contract Delivery Method:	Construction Manager-at-Risk

*Confluence Park represented a project where other contractors withdrew during bidding while telling us, “It couldn’t be done.” SpawGlass looked us in the eye in the early stages and said, “We may not know right this instant, because this has never been done before, but we do know that we will figure this out and deliver beyond your expectations.” That they did, time and time again. **On time and under budget** for such an atypical construction is a testament to **their impressive and extended range of abilities.***

– Mr. Robert Amerman | Executive Director,
San Antonio River Foundation

Featured Project

Texas A&M University Physical Education Activity Building College Station, Texas



project highlights

- Facility for over 30 types of exercise and physical activities
- Design team has worked on Texas A&M campus projects together for over a decade and they have adhered to specific criteria for performance, longevity and durability
- Proposed team member **Michael Hessert** served on this project



This facility houses 12 badminton courts, six volleyball courts, four basketball courts, three weight rooms and four special-use rooms. Other features include rooms for fencing, gymnastics, self-defense, dance, modern ballet performance hall, yoga and Pilates, sports conditioning, indoor archery and outdoor boot camp activities. The facility also houses offices for general staff, faculty, and graduate students. Approximately 25,000 students currently receive instruction each semester through the PEAP, and thousands of additional students utilize the current facilities for recreational activities before and after scheduled classes.

Construction Cost:	\$19,120,783
Size of Project:	115,000 SF
Completion Date:	08/2013
Type of Construction:	New
Contract Delivery Method:	Construction Manager-at-Risk

16 Featured Project

Buffalo Sports Complex Master Plan

College Station, Texas



project highlights

- 84.5-acre site with 400-meter track
- NCAA competition soccer facility and practice field, and NCAA competition baseball and softball field
- Tennis complex and athletic fieldhouse
- Proposed team member **Trey Schneider** served on this project



The athletic and intramural fields at West Texas A&M University consists of a comprehensive master plan and design of a new, multi-purpose athletic complex on 84.5 acres of land in Canyon, Texas. The complex is used by athletes for practice and competition as well as university students for physical fitness and intramural sports. All sports fields are constructed of a synthetic turf system. The complex includes: NCAA competition soccer facility and practice field; NCAA 400-meter, eight-lane track and field facility; NCAA competition baseball and softball facility; football practice field; tennis complex; four intramural fields; and athletic fieldhouse.

Construction Cost:	\$17,793,000
Size of Project:	771,243 SF
Completion Date:	12/2010
Type of Construction:	New
Contract Delivery Method:	Construction Manager-at-Risk

Tab D

Workload Capability and History of Performing Work Within a Specified Schedule and Budget

SpawGlass

Workload Capability and History of Performing Work Within a Specified Schedule and Budget.

1. IDENTIFY THE NUMBER AND TYPE OF WORK AND SERVICES PRESENTLY BEING CONDUCTED BY THE FIRM.

88 Projects Currently Under Construction Companywide

Projects Currently in Preconstruction Companywide **25**



2. PROVIDE EXAMPLES OF SIMILAR PROJECTS WITH ACTUAL TIMELINES DEMONSTRATING THE ABILITY TO ABIDE BY SCHEDULES, MEET MILESTONES, AND COMPLETE PROJECTS ON TIME AND WITHIN BUDGET.

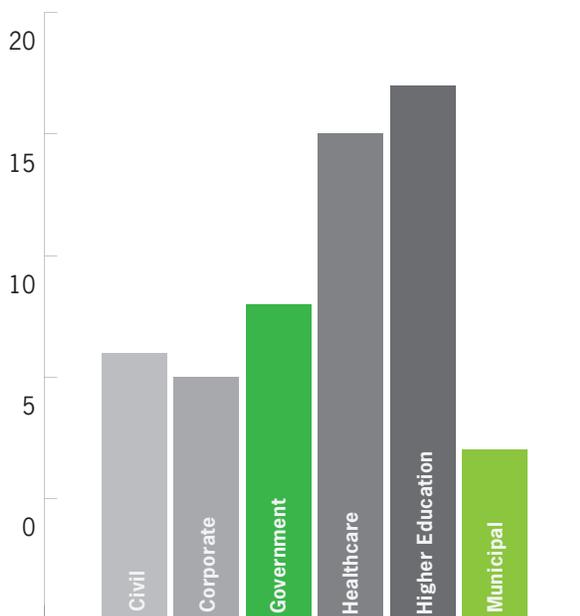
As design-build contractor, SpawGlass' responsibility is to provide leadership to meet the program within the City of Bryan's desired budget and schedule. Our commitment is to perform in accordance with the provisions of the contract and act in the best interest of the City of Bryan from the beginning of the design/preconstruction phase to project completion.

Our philosophy regarding timely completion is built upon "Beginning with the End in Mind." SpawGlass consistently achieves timely completion by implementing lean construction practices and The Last Planner® System to enhance the efficiency of our projects. Lean scheduling is based on maximizing production to keep projects on track, emphasizes respect for all project team members and promotes true collaboration throughout the design/preconstruction and construction phases.

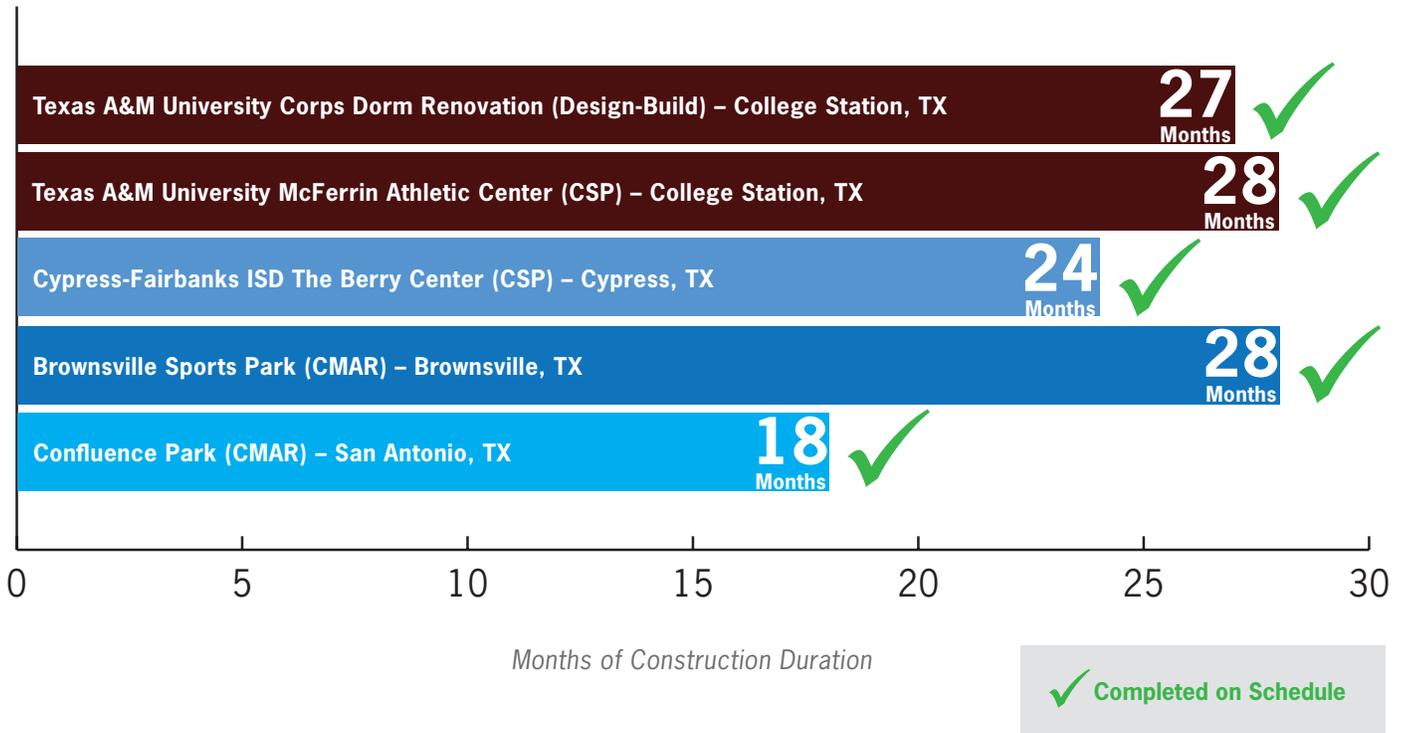
SpawGlass will provide budgetary controls by keeping the City of Bryan and PBK Sports apprised of the costs that accompany programming and design decisions. If, during the design/preconstruction phase, those costs begin to reach or exceed the construction budget, we will provide suggestions and/or recommendations for options and alternates for the city's consideration and approval.

Please see relevant examples of our ability to complete projects within the owner's schedule and budget on the following page.

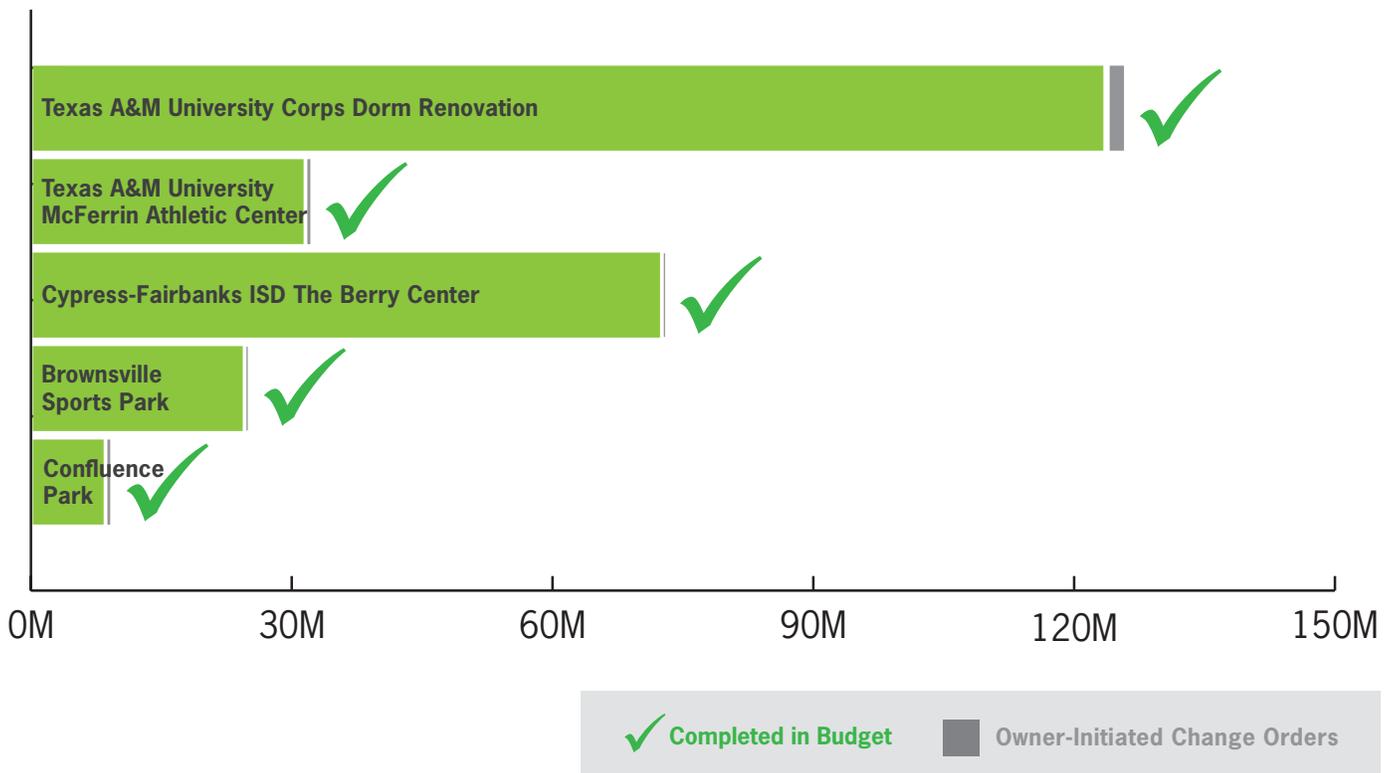
Current No. of Projects in Major Market Sectors



Relevant Projects – Delivery Within Owner’s Schedule



Relevant Projects – Delivery Within Owner’s Budget



Tab E

Proposed Approach for the Design-Build Project



Proposed Approach for the Design-Build Project.

1. METHODOLOGY INCLUDING TECHNICAL APPROACH AND UNDERSTANDING OF THE SCOPE OF THE PROJECT.

The SpawGlass management philosophy for design-build projects can be summarized in two words – **teamwork** and **trust**. SpawGlass, PBK and the City of Bryan must be committed to working together as a team in the spirit of support and cooperation. All members of the team must trust that each will, individually and together, apply their expertise to ensure the project meets the goals established for budget, schedule and constructability.

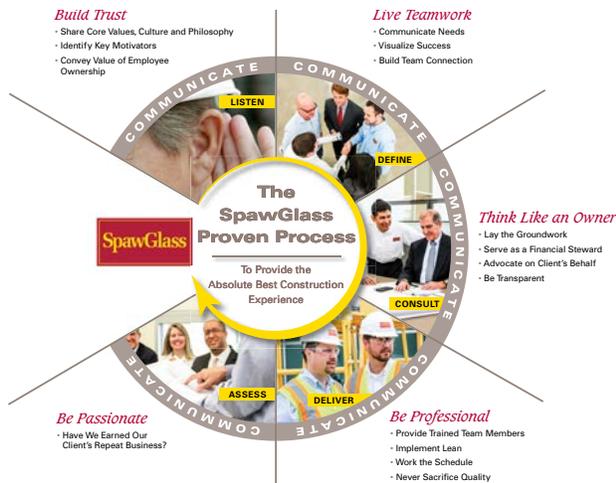
SpawGlass and PBK will work together to design, schedule and budget the Sports and Event Center project during the design/preconstruction phase. We will collaborate to provide cost estimating and construction consultation, while maintaining focus on the City of Bryan's objectives and goals, as well as meeting design and construction milestones.

During design, Project Manager **Chris Rhoden** will take a hands-on, proactive approach, by meeting weekly with the project team to review and discuss progress and consider options, as appropriate, for cost control. Any recommendations that affect the design will be presented and approached as a team, where the options and costs will be analyzed. Every effort will be made to present alternatives that meet budget and program requirements without diminishing the design intent. Options will be discussed with PBK and the rest of the design team prior to any formal presentation.

The following values embody our philosophy for delivering exceptional design-build services:

- **Responsibility** – We take personal responsibility for the success of the project, the client, each project team member and for everything that happens on the project.
- **Responsiveness** – We are responsive to the needs and requirements of the client. By anticipating, listening to, understanding and meeting or exceeding our clients' needs, we build long-term relationships with them.
- **Honesty** – Our ability to be honest and open in all aspects of the project determines the quality and effectiveness of our communication. We believe your trust in us is paramount and begins with absolute honesty in everything we say and do.
- **Resourcefulness** – Solutions are the services we provide. Our purpose is to identify potential problems, communicate with the team, find alternatives and implement the solutions before problems ever reach the budget, schedule or construction site.
- **Excellence** – We are committed to providing the highest standards of quality. This means completing the project on time, within budget and in a safe manner, while delivering high-quality work and exceeding the City of Bryan's standards and requirements.
- **Fairness** – We believe fairness is vital to the quality, continuation and success of the relationships between SpawGlass and each of the design-build team members, including specialty contractors and suppliers. Successful relationships deliver successful projects.
- **Proactive** – We work to identify issues before they can affect the budget or schedule throughout the design and construction phases.
- **Transparency** – Providing complete transparency in our processes, documentation, accounting and recordkeeping is essential for continued success in an open book environment.

- **Practical Implementation** – Continuous practical implementation of best practices and leading-edge technologies in construction and construction management is essential to providing our clients with the best services in our industry.
- **Lean** – SpawGlass is a learning organization. We are continually evaluating how we can improve the efficiency of our projects at every level within our organization, thereby improving the efficiency of our activities and operations on our projects.
- **Warranty Call-Backs** – Although our onsite presence may end once the project is completed, we continue working with our clients, should a problem arise after completion. Our goal is to resolve all warranty issues timely, effectively and without disruption to the end user. With our local presence, SpawGlass has the ability to provide a quick response even after substantial completion.



SpawGlass Proven Process

Our ultimate goal is to provide our clients with the absolute best construction experience, resulting in long-term relationships with clients, architects and specialty contractors. To achieve this goal, SpawGlass has developed a corporate Proven Process, based on elements of The SpawGlass Way: build trust, live teamwork, think like an owner, be professional, and be passionate. Centered on effective, active communication in all we do, this process is the foundation for our corporate culture and philosophy; this process also is the key to ensuring the success of our clients in all their project goals and needs.

Client Satisfaction Assessments

We will utilize our Client Satisfaction Assessment Process to fully understand the scope of work in the Sports and Event Center RFQ and the City of Bryan's goals and needs for this project. During our design/preconstruction kickoff meeting, Project Manager **Chris Rhoden** will introduce and explain our client satisfaction assessment program, which includes various milestones throughout the design and construction process. We will reach out to the City of Bryan and any other key stakeholders to determine your project goals, which will be communicated to all team members on your project. Subsequently, we will regularly assess how the project is meeting your expectations. Throughout construction, SpawGlass will collect your feedback. We will create a metric from the results, share our findings with the project team, fundamentally benchmarking and improving our performance to ensure you are receiving the absolute best construction experience.

Below is our project goals poster based on Texas A&M University's goals for success on the new Plant Pathology and Microbiology Building on their College Station Campus. A&M System utilized savings on this project to add to a rooftop greenhouse to the project scope. Proposed Project Manager **Chris Rhoden** served in the same role on this project.

Sample Project Goals Poster



PBK Sports' Approach to Design

PBK Sports firmly believes that the best design solutions come from collaborative efforts. A partnership on a project enhances creativity, which can result in the creation of a sports facility that is enjoyed by spectators and is functional and supports administration, faculty and athletes. PBK Sports implements a core set of procedures that serve as the foundation for their approach to working with consultants.

Our chosen team of subconsultants for the City of Bryan Sports and Event Center has years of experience designing various sport venues. PBK Sports has designed multiple projects with similar size and scope. They believe that the ultimate success of a project resides in strong team leadership, experience, commitment and cooperation of all team members to work together. Their subconsultant team is based on proven experience in working together on similar assignments. This collaborative approach is the hallmark of commitment to serving the City of Bryan, and is the way by which PBK Sports measures their success. Their goal is to link team members in real-time to create effective interactive work tools that leverage individuals and enhance overall efficiency of the project.

PBK Sports also brings our design-build team the following benefits in their design approach:

- **One-Stop Shop Capabilities** – A unique advantage that PBK Sports is able to offer is not only their ability to provide the best and brightest talents in athletic and recreation master planning, design, architectural planning/design, and engineering design, but their ability to offer all of these services under one roof. The benefit of having their team housed in one centralized location enhances the firm's capacity and capability to provide fully coordinated, seamless project delivery. In their desire to better serve their clients, they recognize the importance of safety and security in today's world and offer expertise in all areas of safety and security design.
- **Design Philosophy** – PBK Sports is committed to creating performance inspired design solutions that make a positive impact on people's lives and embraces sustainable design, innovation and building performance. Each project is approached individually, without preconceptions, and designed to accommodate

the needs and objectives for each client they serve, always with the goal of achieving design excellence. They listen carefully to the client's needs, to articulate existing variables, and to use the potential of those variables to arrive at the appropriate design solution. They believe that truly listening to clients and responding to their needs — instead of to their own preconceptions — leads to performance-inspired design.

2. SUBMITTALS MUST INDICATE A CLEAR UNDERSTANDING OF THE SCOPE OF THE WORK, INCLUDING A DETAILED PROJECT PLAN FOR THIS ENGAGEMENT OUTLYING MAJOR TASKS AND RESPONSIBILITIES, TIME FRAMES, AND STAFF ASSIGNED FOR EACH CATEGORY OF THE SCOPE OF WORK IDENTIFIED ABOVE.

The scope of work consists of design and construction of a multi-facility Sports and Event Center that is inclusive of parking, infrastructure (water, sewer, electric, gas, fiber, WiFi, communications, lighting, etc.) and ideally, an amphitheater, a grand lawn and other ancillary facilities. The current site is comprised of 148 acres that includes two existing parks, a plugged/abandoned oil pad site, the Bryan Municipal Lake and the former municipal golf course. There is also a third park, Travis Park, that is 27 acres and is not included in the 148 acres, which the city may potentially use for specific development or other uses. We understand that the city is looking for a general contractor with previous design and build experience of similar facilities that offer turn-key design and construction budgets that will not exceed combined amount of \$40,000,000.

As a design-build contractor, SpawGlass will provide the leadership to the meet the program within the city's desired budget and schedule. We understand and respect our fiduciary responsibility to the city, a responsibility we do not take lightly, providing complete transparency in our accounting and record keeping of your project. SpawGlass will make all cost information accessible to the city's representatives. All project estimates will have detailed and verifiable quantities that all team members can review. Additionally, all construction funds not used in the project will be returned to the city or used for upgrades approved by the city during construction.

By competitively bidding clear and precise documents and then providing experienced and detailed evaluation of the subcontract proposals, we

can ensure the most appropriate expenditures for this project. We will work closely with PBK Sports to ensure all design services deliverables are produced in a timely and professional manner. We will draw on the skills and experience of our team to produce a high-quality Sports and Event Center complex that will exceed the expectations of the city. Ultimately, our goal is to provide the city with the absolute best construction experience.

Of critical importance to the project will be designing our project with the greater regional park components in mind to create a well planned and integrated regional park experience. This will take into consideration both the ongoing and planned projects to follow as well as projects that may be much further in the future. Our team has significant experience with many types of sports complexes, parks, roadways and unique amenities. Our combinations of team experience and previous lessons learned will be invaluable in providing a well-designed and forward-thinking project.

Please reference the preliminary schedule attached at the end of this section and our resource assignment chart under Tab C for additional information regarding tasks, timeframes and assigned team member resources.

3. SUBMITTALS SHALL IDENTIFY PROGRESS REPORTS THAT WILL BE MADE AVAILABLE DURING THE PROCESS AND KEY DECISION POINTS.

SpawGlass' philosophy is firmly rooted in our corporate policy of open-book management. This transparency allows the City of Bryan access, at any time, to review all costs associated with the construction of your Sports and Event Center project. Contract cost is reported on a monthly basis and compared to committed and anticipated GMP scopes. This ensures that all forecasted costs are included in our reporting system.

Our goal throughout all phases of your project will be to keep the City of Bryan informed. We understand that current and accurate information will be required for the city to make good, informed decisions concerning the project.

During the design/preconstruction phase, the project team will review the documents to identify any concerns that may lead to inefficiency, high maintenance costs, poor quality or costly construction. Our team will make recommendations

on construction methods, constructability, materials, equipment, special material handling requirements and specification clarification. A written constructability report with cost savings and constructability recommendations will be submitted and reviewed with the City of Bryan, PBK and our subconsultants.

During the construction phase, we will include the following reports in our monthly request for payment:

- **Executive Summary** – A multi-page recap of important construction activities that occurred during the past month, goals for the month ahead and a discussion of any key issues the project is facing that may affect schedule, budget or quality.
- **Schedule Reports** – Generated by selecting activities from our CPM schedule and displaying them in a clear, concise format. Such reports will include owner activities, critical activities, milestone activities, submittal log and RFI log.
- **Cost Control Log** – We will monitor all project costs and potential change items by providing regular reports, which consist of a subcontractor/supplier buyout log, substantiated subcontractor invoices for billings, accounting cost reports by phase codes, change item logs, contingency expenditure request logs and an updated cash flow curve on a monthly basis.



4. SUBMITTALS SHALL CLEARLY DISTINGUISH THE OFFEROR'S DUTIES AND RESPONSIBILITIES AND THOSE OF THE CITY. ABSENCE OF THIS DISTINCTION SHALL MEAN THE OFFEROR IS ASSUMING FULL RESPONSIBILITY FOR ALL TASKS. DESCRIBE WHAT MUNICIPAL STAFF SUPPORT YOU ANTICIPATE FOR THE PROJECT.

Owner involvement is critical to the project success, and regular weekly – and at times daily – involvement is strongly encouraged. Understanding the lines of authority for owner approval, defined at project kick-

off enables the team to proceed with confidence in decisions made by the owner. Owner engagement at each step of project development facilitates decision making that may affect scope, cost and budget.

The construction industry is evolving at a rapid pace; preconstruction processes and virtual technology are very much a part of this evolution. Our clients are looking for us to lead the design/preconstruction processes and apply the latest in technology throughout project delivery and post-completion.

While SpawGlass leads the successful design and construction of your Sports and Event Center, we are available at any time to discuss your project, and we will provide you with any information you need to make the best decisions for your new facility. As an employee-owned company, transparency with our clients comes naturally for us. We provide complete transparency in our processes, documentation, accounting and record-keeping throughout each project. This brings trust and accountability to our relationship with every client.

5. SUBMITTALS MUST INCLUDE A TIME-LINE THAT INCLUDES AS A MINIMUM, EACH DECISION POINT AND MILESTONES FOR EACH STEP OF THE PROCESS, INCLUDING DESIGN AND BUILD.

Please see our proposed schedule included on the following page.

6. SUBMITTALS MUST PROVIDE CHRONOLOGICAL TIME-LINE OF EACH TASK OR EVENT AND THE ESTIMATED TIME REQUIRED TO COMPLETE THE ENGAGEMENT, INCLUDING DESIGN AND BUILD.

Please see our proposed schedule included on the following page.



Activity ID	Activity Name	Rem Dur	Start	Finish	Dur % Comp	2020	2021	2022
						Feb	Mar	Apr
Bryan Regional Park								
Preconstruction Phase								
A.1000	RFP Submission Due	1	17-Feb-20*	27-Feb-20	0%			
A.1020	Execute D/B Agreement	0	24-Mar-20*		0%			
A.1030	Design Kick-Off Meeting	1	02-Apr-20	02-Apr-20	0%			
Programming								
A.4130	Mtg. #1 - Data Collection (Site & Arch.)	1	09-Apr-20	09-Apr-20	0%			
A.4230	Mtg. #2 - Follow Up & Verification	1	16-Apr-20	16-Apr-20	0%			
A.4310	Mtg. #3 - Data Collection (Site & Arch.)	1	23-Apr-20	23-Apr-20	0%			
A.4300	Mtg. #4 - Follow Up & Verification	1	30-Apr-20	30-Apr-20	0%			
A.4350	Conceptual Estimate	22	03-Apr-20	04-May-20	0%			
A.4340	City Review & Approval	5	01-May-20	07-May-20	0%			
Schematic Design								
A.4120	Survey Completed	13	03-Apr-20	21-Apr-20	0%			
A.4320	SD Charrette #1	1	07-May-20	07-May-20	0%			
A.4330	SD Charrette #2	1	28-May-20	28-May-20	0%			
A.4110	SD Document Submission	34	01-May-20	18-Jun-20	0%			
A.4150	City Review and Approval	5	19-Jun-20	25-Jun-20	0%			
A.4140	SD Cost Estimate	13	19-Jun-20	08-Jul-20	0%			
Design Development								
A.4360	DD Mtg. #1	1	09-Jul-20	09-Jul-20	0%			
A.4160	50% DD Pricing Documents	18	19-Jun-20	15-Jul-20	0%			
A.4370	DD Mtg. #2	1	23-Jul-20	23-Jul-20	0%			
A.4170	50% DD Cost Estimate	14	16-Jul-20	04-Aug-20	0%			
A.4380	DD Mtg. #3	1	06-Aug-20	06-Aug-20	0%			
A.4250	100% DD Documents	39	19-Jun-20	13-Aug-20	0%			
A.4180	City Review Meeting & Approval	5	14-Aug-20	20-Aug-20	0%			
A.4190	GMP From DB Team	20	14-Aug-20	11-Sep-20	0%			
Construction Documents								
A.4260	100% CD - Early Site Package	16	14-Aug-20	04-Sep-20	0%			
A.4390	City Review & Approval	5	05-Sep-20	10-Sep-20	0%			
A.4280	Pre Bid/ Sub Outreach Event	1	11-Sep-20	11-Sep-20	0%			
A.4400	City Permitting - Early Site Package	10	11-Sep-20	22-Sep-20	0%			
A.4270	Solicit/ Receive Bids - Early Site Pkg	16	08-Sep-20	29-Sep-20	0%			
A.4420	City Approval of Buyout Recommendations	5	30-Sep-20	05-Oct-20	0%			
A.4200	95% CD Documents/For Bidding	65	14-Aug-20	13-Nov-20	0%			
A.4290	Pre Bid/ Sub Outreach Event	1	23-Nov-20	23-Nov-20	0%			
A.4410	City Permitting - CDs	10	14-Nov-20	25-Nov-20	0%			
A.4210	Final Owner Design Review Meeting	1	01-Dec-20	01-Dec-20	0%			
A.4240	Issue 100% CD (Addendum Update)	1	09-Dec-20	09-Dec-20	0%			
A.4220	Solicit/ Receive Bids - Pkg 2	19	16-Nov-20	14-Dec-20	0%			
Milestone Dates								
M.1060	NTP Construction	0	14-Oct-20		0%			
M.1080	Substantial Completion	0		17-Dec-21*	0%			
M.1000	User Occupancy/ Move-in	0		07-Jan-22*	0%			

TASK filter: Remaining Activities.
Data Date: 21-Feb-20
Run Date: 25-Feb-20

Construction Schedule
Page 1 of 1

Remaining Level of Effort

Actual Level of Effort

Actual Work

Tab F**Proposed Cost, Fees, Rates, Etc.****Proposed Cost, Fees, Rates, Etc.**

1. AS A DESIGN/BUILD PROJECT, COSTS WILL BE NEGOTIATED, HOWEVER PROPOSALS SHOULD TAKE INTO CONSIDERATION THE CONSTRUCTION BUDGET. A FIRM SHOULD NOT REPLY IF MINIMALLY THE CONSTRUCTION BUDGET AMOUNT CANNOT BE THE INITIAL TARGET.

SpawGlass has worked in the Bryan-College Station area for more than 40 years. With our local office in College Station focusing on work in the greater Brazos Valley, we are uniquely equipped to understand the market trends that will make the City of Bryan's Sports and Event Center project, which includes other park amenities, a success.

Our team has a reputation for delivering quality projects on time, in budget and with an excellent level of client satisfaction. Our commitment is to make every dollar count, while building a high-quality facility that will be a source of pride for the City of Bryan for generations of residents, visitors and guests. With complete financial transparency, our team will collaborate with your staff to create a rewarding project experience for everyone involved.

Our team will provide budgeting services for all elements outlined in the project scope document with itemized cost. Your project team will use this to assess options and select the most impactful features to be brought into the construction budget limitation and ensure the end result transforms the existing golf course facility into a regional park that will be exceptional and affordable. Through our relevant experience, we are well-versed in working on projects with multiple shareholders and key aspects, and we appreciate the property will serve multiple

uses and will attract out-of-town visitors as well as create amenities serving the local community and appealing to all age groups.

Our estimating efforts evolve from programming to final construction documents. In the early stages, our team will focus on understanding and conceptualizing your vision and program for the City of Bryan's new regional park. As a design-builder, we will open continuous dialogue with both designer and the City of Bryan to supplement the program documents produced by the design team, where we will apply our historical cost data. As the design team continues to progress, we invariably update our estimates, while maintaining the ongoing scope dialogue. Through continual updating, we ensure the design remains within the budget goals.

The platforms we use to communicate also develop with the progression of design. In addition to two-dimensional drawings, we now can collaborate with the design team by sharing three-dimensional models. The SpawGlass team can verify changes made to the model and extract new quantities each time they change, instantaneously providing feedback on cost impacts born out of scope modifications as they develop.

Please see samples of our detailed cost estimating reports attached at the end of this section.

Operational Technology

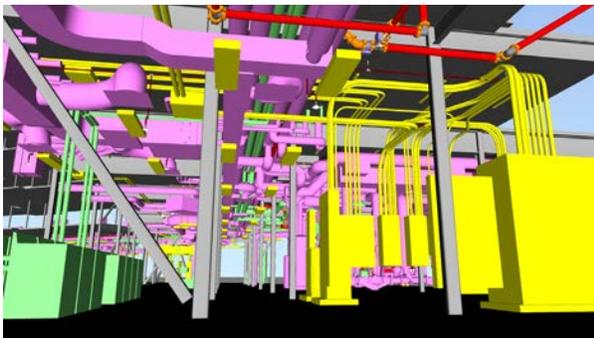
SpawGlass has the technical capabilities to bring added value through cost and quality control, clash detection and constructability to the design and construction of your Sports and Event Center project, including:

- **Building Information Modeling (BIM)/Virtual Design and Construction (VDC)** – Beginning with our Project Progression Plan (PPP) meeting, once design development is complete, SpawGlass, PBK Sports, our subconsultants and the City of Bryan will work together to establish a design schedule that considers constraints and bid package strategy, develops design guidelines and establishes BIM/VDC expectations. BIM models produced by the design team through

this collaborative process will be used to assist in developing project estimates, schedules and quality controls.

SpawGlass will begin clash detection exercises as the design progresses and in conjunction with our constructability reviews. One of our main focuses in utilizing VDC processes prior to construction is to eliminate any errors or omissions, therein preventing rework, cost impact and delays. Once our major subcontractors have been selected, we will begin the integration of the subcontractor shop drawings into the BIM design model. When shop drawings are complete, we will host virtual inspections of the shop drawings with end users to ensure ease of maintenance and compliance with City of Bryan standards.

VDC has proved a valuable quality control tool, and SpawGlass uses it to coordinate field construction, eliminate errors, improve quality and minimize construction impacts. Our comprehensive use of BIM/VDC and tablet technology creates a smooth transition between design, construction and project completion. Past experience with BIM/VDC efforts has eliminated duplicate work through the complete collaboration of the design team and construction trade contractors throughout both the preconstruction and construction phases of a project.



2. SUBMITTALS SHOULD ADDRESS COSTS FOR TYPES AND QUALITY OF MATERIALS, BUILDING CONSTRUCTION TYPES, ETC.

Tab C of our RFQ response outlines only some of our experience with parks, fields, sports complexes and amenities centers throughout Texas. The outlined cost information for a few of these projects are:

**Texas A&M University
Cox-McFerrin Center for Aggie Basketball**

Project Completion: 2009

Building Cost Range: \$272/SF

**Texas A&M University-Kingsville
Student Recreation Center**

Project Completion: 2010

Building Cost Range: \$281/SF

**University of Texas at Austin
Whitaker Fields Complex Renovation**

Project Completion: 2017

Build Cost Range: \$318/SF

**Boys & Girls Clubs of the Austin Area
Home Club on Sheth Family Campus**

Project Completion: 2019

Building Cost Range: \$327/SF

Additionally, SpawGlass Construction Corp., in conjunction with our dedicated civil construction group, has completed numerous park and trail projects across the Houston and Brazos Valley regions. Our firm completed the first LEED-certified park for Harris County (Gene Green Beltway 8 Sports Park), the first “living bridge” at Memorial Park, and the Hike and Bike Enhancement project for TxDOT, which included four bridges over Brays Bayou at Bob White, Atwell, Hermann Park and Tierwester.



The combination of our commercial and civil experience will help us understand and provide accurate budgets for the proposed unique aspects of this project, including:

- Habitat restoration and revitalization of the natural spaces including sustainable walks and paths throughout the existing park
- Preservation and enhancement of key landscaping elements
- Outdoor and indoor courts and implementation of associated sporting equipment
- Grass and artificial turf fields



- New pavilions and playground equipment
- Onsite water detention and expansion of the lake
- Grand lawn and amphitheater features
- Water features
- Spectator seating

- Administration spaces
- Concessions
- Parking

With vigilant design and preconstruction assistance a potential Cost Summary could be:

Scope	Est. Qty	Unit of Measure	Unit Cost	PotentialCost
Sports & Event Center	110,000	SF	330	\$ 36,300,000
Parking	70,000	SF	8.5	\$ 595,000
Infrastructure	110,000	SF	11	\$ 1,210,000
Ampitheater	25,000	LS	65	\$ 1,625,000
Grand Lawn	10,000	SQ	10	\$ 100,000
Park Amenities	1	ALLOWANCE	50,000	\$ 50,000
Other				
				\$ 39,880,000



Detail Report
(Direct Costs Only)

SD

Estimate Date: 11/22/2019	Documents Date: 10/30/2019	
Project Size (SF): 40,366	Project #: 4019043	
Project Location: Pearland, Texas	Lead Estimator: Kan Phaobunjong	

ITEM	QUANTITY UM	UNIT COST	TOTAL COST
Div. 01 - General Requirements			
General Requirements			
Construction Documents (Blueprints)			
As-Built Documents			
Provigil Site Security System			
Engineering Safety Consultant			
Portable Toilets - Rental			
Misc. Small Tools			
Traffic Control & Street Closures			
Temp. Fencing - Rental			
Vertical & Horizontal Control			
Daily Celan Up			
Street Sweeper			
Final Cleaning - Buildings			
Final Cleaning - Window Glass			
Trash Dumpsters (40 Yd.) - Rental			
Allowances			
Electric Power Consumption Allowance			
Meter & Tap Allowance			
Water Consumption Allowance			
Miscellaneous			
BIM/VDC - Subcontractor Coordination			
Div. 02 - Existing Conditions			
Demolition			
Median Demo Allowance			

Pearland Shadow Creek Library
SD

ITEM	COST	COST SF	% OF TOTAL
Indirect Costs	2,647,551	65.59	14.78 %
General Conditions	█	█	█
Builder's Risk Insurance	█	█	█
General Liability Insurance	█	█	█
Payment and Performance Bonds	█	█	█
Subcontractor Default Insurance	█	█	█
Warranty	█	█	█
Contractor's Contingency	█	█	█
Overhead and Profit	█	█	█
Total Cost	█	█	█



Recap Report

SD

Estimate Date: 11/22/2019	Documents Date: 10/30/2019	
Project Size (SF): 40,366	Project #: 4019043	
Project Location: Pearland, Texas	Lead Estimator: Kan Phaobunjong	

ITEM	COST	COST SF	% OF TOTAL
Direct Costs	█	█	█
Div. 01 - General Requirements	326,565	8.09	1.82 %
Div. 02 - Existing Conditions	20,000	0.50	0.11 %
Div. 03 - Concrete	570,023	14.12	3.18 %
Div. 04 - Masonry	435,285	10.78	2.43 %
Div. 05 - Metals	1,453,239	36.00	8.11 %
Div. 06 - Wood, Plastics & Composites	708,346	17.55	3.95 %
Div. 07 - Thermal & Moisture Protection	1,999,011	49.52	11.16 %
Div. 08 - Openings	1,562,590	38.71	8.72 %
Div. 09 - Finishes	1,690,746	41.89	9.44 %
Div. 10 - Specialties	103,835	2.57	0.58 %
Div. 11 - Equipment	12,029	0.30	0.07 %
Div. 12 - Furnishings	80,048	1.98	0.45 %
Div. 14 - Conveying Equipment	235,000	5.82	1.31 %
Div. 21 - Fire Suppression	276,002	6.84	1.54 %
Div. 22 - Plumbing	623,416	15.44	3.48 %
Div. 23 - Heating, Ventilating & Air Conditioning	1,301,794	32.25	7.26 %
Div. 26 - Electrical	1,718,560	42.57	9.59 %
Div. 27 - Communications	80,732	2.00	0.45 %
Div. 28 - Electronic Safety & Security	105,732	2.62	0.59 %
Div. 31 - Earthwork	483,205	11.97	2.70 %
Div. 32 - Exterior Improvements	1,089,166	26.98	6.08 %
Div. 33 - Utilities	396,245	9.82	2.21 %

Pearland Shadow Creek Library
SD

Page 1 of 2

Estimate Date: 11/22/2019
Documents Date: 10/30/2019

SpawGlass

December 4, 2019

VIA EMAIL

100% SD Estimate

SpawGlass and our preconstruction team are pleased to submit the SD review. This estimate Schematic Design Drawings dated 10/30/19 and the correspondence between Design Team over the last few weeks. PGAL and SpawGlass reviewed 11/22/19 and we have made the revisions discussed in that meeting attached table below outlines our understanding of the construction Estimate:

Total Amount Available for Construction
100% SD Estimate
Difference BASE Over / (Under) AACC

Following this letter you will find the following items contained within our estimate:

- 1) Divisional Breakdown of Estimate with Indirect Costs
- 2) Estimate Detail Report
- 3) Qualifications and Assumptions
- 4) Preliminary Proposed Construction Schedule
- 5) Takeoff of SD design documents

Upon your team's review of this estimate package, we would welcome further detail, either in person or via conference call, any questions the estimate structure and scope is fully understood. Please let us know what be to schedule this or if you would prefer us send the hard copies prior

Thank you for your team's input and assistance over the last few weeks

Sincerely,

 Aaron Bradford
 SpawGlass Construction Corp.
 Preconstruction Services Manager

CC: R. Berry, J. Nowak, B. Meyers, M. Cardona, K. Phaobunjong, PGAL

Providing the Absolute Best Construction Experience 13800 West R
 SpawGlass.com HOUSTON | DALLAS VALLEY | CORPUS CHRISTI | GOLDBAY TRIANGLE | HOUSTON | NEW BRANFELLS

SpawGlass

**SPAWGLASS
 100% SCHEMATIC DESIGN –
 ASSUMPTIONS & CLARIFICATIONS**

Pearland, TX
 12/04/19

GENERAL QUALIFICATIONS

1. No handling of or removal of Hazardous Soils or Hazardous Materials has been included in the Proposal.
2. This SD Estimate contains a Construction Contingency of 5%.
3. Subcontractor Default Insurance is included at 1.50% the amount of all subcontracts issued.
4. The SD Estimate assumes that the Owner will contract with the Testing Agency to conduct any and all special inspections that may be required by the local code authorities.
5. The following project costs are **EXCLUDED** from SpawGlass's SD ESTIMATE:
 - a. Material Testing
 - b. Commissioning
 - c. Sales tax
 - d. A/E Fees or Consultants
 - e. Surveys, Testing & Inspection and Soil Borings
 - f. Fixtures, Furniture & Equipment
 - g. Moving & Storage
 - h. Municipal/MUD Impact fees.
 - i. Permitting Fees per contract paragraph 1.5.8.4 are waived.

Division 01 – General Requirements and General Conditions

1. General Requirements items not outlined in Attachment 1 General Conditions Amendment have been included in the General Requirements section of the estimate detail.
2. Pricing includes a \$25,000 Allowance for traffic control.
3. Pricing includes the following utility consumption allowances: (Electrical Power - \$45,000, Tap & Meter - \$5,000, Water Consumption - \$5,000)

Division 02 – Existing Conditions

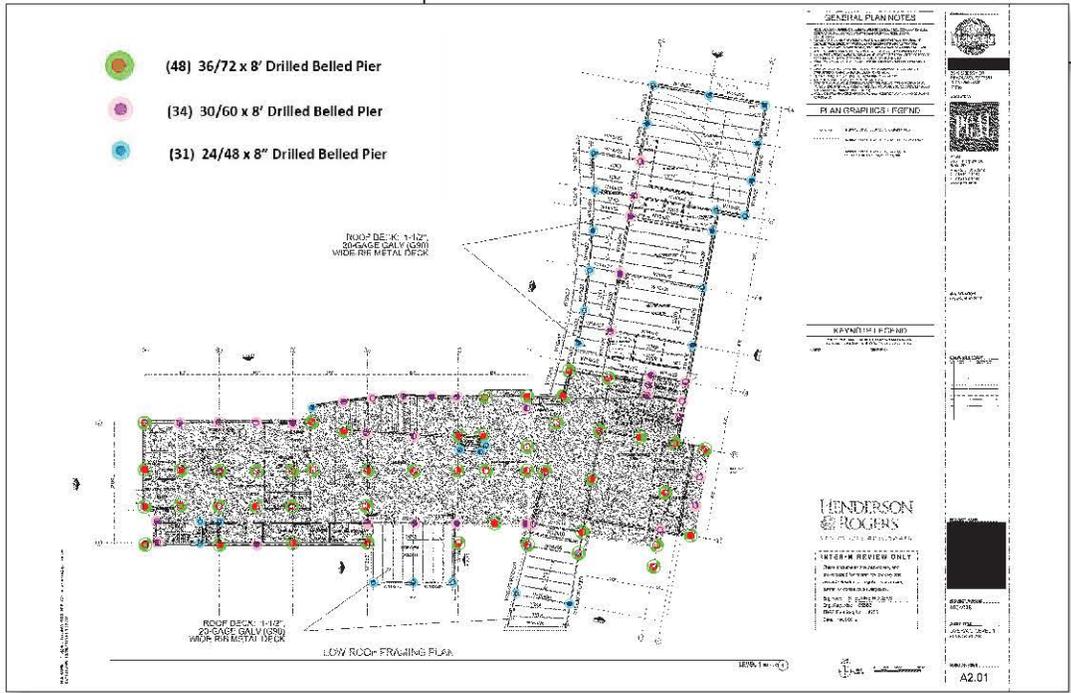
1. Pricing includes a \$20,000 Allowance for the Shadow Creek Parkway median demolition.

Division 03 – Concrete

1. Building foundation has been assumed to be drilled belled piers in the layout and sizing per the attached takeoff. Pricing assumes 113 x 8' piers.
2. Grade beams are assumed to be earth-formed.
3. The Auditorium subfloor is priced as a 5" concrete tier slab on Geofoam.
4. South Elevation Entry canopy columns have been included with an architecturally finished 12" high concrete plinth (8).
5. Second Floor Balcony has been included as a split slab with waterproofing membrane and regular grey concrete topping. No specialty floor finish is assumed.

Division 04 – Masonry

1. Pricing includes the Interior and Exterior Masonry as a standard Arriscraft Product @ \$32.50/SF.
2. Pricing includes 8,786 SF of exterior masonry and 1,200 SF of interior wall finish masonry.



Tab G

Knowledge of City of Bryan Criteria and Specifications and Local Site Conditions

SpawGlass



Knowledge of City of Bryan Criteria and Specifications and Local Site Conditions.

SpawGlass has been building in the Brazos Valley since 1972, and over the past five years, SpawGlass has put in place over \$256 million worth of work in the Bryan-College Station area alone. Our team has extensive project experience working with local municipalities and entities.

PBK Sports' project team has been associated with relative work in the region, with the City of Bryan, Bryan ISD, City of College Station and Texas A&M University. PBK has worked with Bryan ISD close to 20 years and has collaborated in the planning and permitting process with the City of Bryan and has adhered to the criteria and required specifications. The firm has completed similar projects as identified in the RFQ for Texas A&M University for the Recreational Sports Department, Athletics Department, and Health and Kinesiology Department. Their design team has worked on Texas A&M campus projects together for over a decade and they have adhered to meeting specific criteria for performance, longevity and durability.

Mitchell & Morgan, our civil engineer, is based in College Station, and Managing Partner **Veronica J.B. Morgan**, who will serve as the project manager on your Sports and Event Center project, has worked in the Bryan-College Station area for the past 33 years and is extremely knowledgeable of all city codes and ordinances as well as the development process in the City of Bryan.

Gessner Engineering, our geotechnical/surveying consultant, is prequalified for the Civil Engineering Rotation List for the City of Bryan and currently serves on your IDIQ for Geotechnical Engineering and Construction Materials Testing for Capital Projects. The firm has worked on projects ranging from major infrastructure to gateway signage. Gessner and another contractor are currently redeveloping an old school property in Downtown Bryan through their College Station offices and will be within 3 miles of the project site for your Sports and Event Center.

Regardless of their level of involvement on a project, Gessner enjoys the opportunity to serve as a resource for their clients. On previous projects, they have been available to City of Bryan staff to answer questions related to failed materials testing results or provide guidance from a structural or geotechnical engineering perspective. For your Sports and Event Center project, they look forward to bringing out local knowledge and experience with the City of Bryan and their approach to project management to the SpawGlass/PBK Sports design-build team.

Gessner understands the City of Bryan local site conditions as well as those specifically for the project site. The park property was previously operated as a municipal golf course and the city desired to redevelop the park as a regional park for the community. Through process of public engagement, a vision for the development of the park property was established. The master plan identified an opportunity for the City of Bryan to develop an indoor recreation facility to complement existing sports tourism facilities in the Bryan-College Station area and provide an anchor structure and site to host large-scale community events. The Sports and Event center will not only provide an opportunity for indoor recreation and host large-scale tournaments and community events; the facility also will demonstrate a commitment to the redevelopment of the regional park property and the Midtown Corridor, around the park district.

Local Subcontractor Market

SpawGlass' work in the area has led to building strong relationships with local subcontractors. The

Bryan-College Station area is fortunate to have some exceptional local specialty and trade contractors, particularly in the MEP trades. We believe utilizing local trade partners is very beneficial to every project and the community when possible. Before signing subcontractors for a job, we review multiple criteria, including their current manpower, workload and timing of the work to ensure they will have the internal resources necessary to be successful on the project.

Construction on Texas A&M University's College Station Campus has been booming over the past five years, and depending on when a project is bid, the workload on campus can affect local construction prices and manpower availability.

SpawGlass' presence, both locally and statewide, means that we have the relationships and the ability to engage contractors from major markets across Texas. Our presence in these markets provides us with a large pool of trade contractors with whom we have experience, allowing us to broadly solicit quality subcontractors to ensure that the owner is getting the best value for the work and that we can provide the necessary workforce to complete the project at times when a local trade may be at capacity.



Tab H

Consideration for the Utilization of a Prime Firm or Individuals that Have Prior Experience with the Project

SpawGlass



Consideration for the Utilization of a Prime Firm or Individuals that Have Prior Experience with the Project.

As the Sports and Event Center will be the anchor project for the Greater Bryan Regional Park and Sports Corridor, understanding the project history and the greater vision of the surrounding and adjacent project sites is necessary. For that reason, in addition to their relevant qualifications, we brought on design-build team member **Mitchell & Morgan, LLP** (M&M) as our civil engineer. M&M's experience and knowledge of the City of Bryan Travis B. Midtown Park project will be invaluable to our team and give us a running start into design.

In Spring 2019, M&M joined the project team while the city was exploring private financing options via a public-private partnership (P3). M&M's primary role at that time was to provide hydrologic and hydraulic design services and set the stage for an expedient design/construction project by vetting critical path items for the project. The firm has background and supplemental knowledge from meetings with the U.S. Army Corps of Engineers (USACE), Twin Oaks Landfill and prior Country Club Lake remediation consultants. In this capacity, M&M played a crucial role in providing cost analysis, financial pro forma, and cost estimates based on developer direction for the park. They also assisted with the development of a detailed scope and program for the complex and varied permitting, design, environmental planning, engineering, and landscape architectural elements of the lake revitalization mission.

In November 2019, M&M was awarded a contract by the City of Bryan to provide core infrastructure improvements that include:

- The extension of Bomber Drive from Williamson Drive to West Villa Maria Drive
- Multiple utility extensions for water, sewer, gas, telecom, electrical and city fiber
- A new traffic signal and median improvements within West Villa Maria Drive
- The rehabilitation of a 15-acre lake
- A 2-mile, 12-foot-wide, shared-use outer loop trail with multiple pedestrian bridges
- Sedimentation and detention ponds
- The reconstruction of the Travis Little League Complex
- Gateway signage and landscaping

M&M's previous work on the City of Bryan Travis B. Midtown Park project provides our team with prior knowledge and work product performed during the investigation of the P3 approach and the existing and planned infrastructure design. This includes:

- The Preliminary Jurisdiction Report performed by Plummer Associates
- Terracon's supplemental soil testing on Country Club lake sediments
- Bypass channel design and soil testing
- Lake dredging methodology discussions with USACE
- Bomber Drive geometric layouts and design
- Utility layouts and design

Tab I
References



References.

PROVIDE REFERENCES FOR SIMILARLY SUCCESSFUL PROJECTS FROM THREE GOVERNMENT AGENCIES, INCLUDING THE NAME OF THE AGENCY, CONTACT NAME, TELEPHONE, FAX AND EMAIL ADDRESS.

SpawGlass welcomes the City of Bryan to contact the following references regarding our services:

Cypress-Fairbanks ISD

The Berry Center

Mr. Roy Sprague

Assistant Superintendent

Facilities, Construction and Support Services

281-897-4057 | roy.sprague@cfisd.net

Texas A&M University System

Bright Football Complex

Mr. Kevin Hurley

Associate Athletic Director for Facilities

Texas A&M University Athletic Department

979-862-2575 | khurley@athletics.tamu.edu

Texas A&M University System

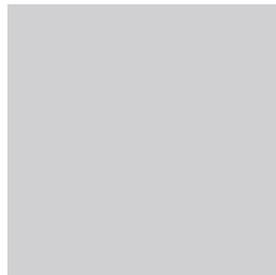
Music Activities Center | Corps Dorm Renovation

Mr. Tom Reber

Associate Vice President

Texas A&M Division of Student Affairs

979-845-4728 | treber@tamu.edu



Tab J

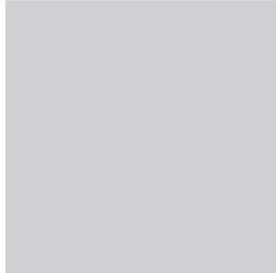
Certification and Authorization Page,
Acknowledgement of Any Addenda Issued
and a Statement of Willingness to Sign
the City's Standard Form of Agreement

SpawGlass



**Certification and Authorization Page,
Acknowledgement of Any Addenda
Issued and a Statement of Willingness
to Sign the City's Standard Form
of Agreement. (Note: Use the form
attached as part of this document.)**

Please see our signed Certification and Authorization Page, acknowledgement of addenda, and Statement of Willingness to sign the City of Bryan's Standard Form of Agreement attached on the following pages.



CERTIFICATION AND AUTHORIZATION

CERTIFICATION and AUTHORIZATION

The undersigned certifies that he has fully read and understands this "Statement of Qualifications" and has full knowledge of the scope, quantity, and quality of the services and materials to be furnished *including the Texas Ethics Commission Certificate of Interested Parties Form 1295* and intends to adhere to the provisions described herein. The undersigned also affirms that they are duly authorized to submit this SOQ, that this SOQ has not been prepared in collusion with any other Vendor, and that the contents of this SOQ have not been communicated to any other Vendor prior to the official opening of this SOQ. Additionally, the undersigned affirms that the Firm is willing to sign the enclosed Standard Form of Agreement (**Exhibit D**, if applicable).

By signing below, the FIRM certifies that neither the signatory, nor any co-owner of the FIRM, is related to a member of the City Council of the City of Bryan within the third degree of consanguinity (blood) or within the second degree of affinity (marriage).

Signed By: Brandi Meyers Title: President, Houston Division Date: 02/27/2020

Typed Name: Brandon Meyers Company Name: SpawGlass Construction Corp.

Phone No.: 281-970-5300 Fax No.: 281-970-5305

Bid Address: 13800 West Road Houston, Texas 77041
P.O. Box or Street City State Zip

Order Address: 13800 West Road Houston, Texas 77041
P.O. Box or Street City State Zip

Remit Address: 13800 West Road Houston, Texas 77041
P.O. Box or Street City State Zip

Email: Brandon.Meyers@SpawGlass.com Federal Tax ID No.: 76-0398989

END OF RFQ # 20-020



PURCHASING DEPARTMENT

January 23, 2020

ADDENDUM NO. 1

Addendum to City of Bryan Request for Qualifications No. 20-020

**Design – Build Services for
Design and Construction of a Sports and Event Center, Parking, Related Infrastructure, Amphitheater,
Grand Lawn, and other Possible Facilities and Park Amenities**

Please be advised of the following clarifications, additions, deletions and/or changes to RFQ No. 20-020 are hereby made a part of the bid documents for the above referenced project as full and as completely as though the same were included therein.

ATTACHMENTS: RFQ 20-020 Pre-SOQ Conference Sign-In Sheets & the Power Point Presentation from the meeting.

END OF ADDENDUM

This addendum shall be signed and included with your response package as acknowledgement of the addendum. Failure to acknowledge and submit any addenda may be cause for the bid to be rejected. The City's decision to accept or reject a bid due to a failure to acknowledge and submit addenda shall be final.

Vendor Acknowledgement Signature
Brandon Meyers
President, Houston Division
SpawGlass Construction Corp.

Karen Sonley, Buyer
City of Bryan - Purchasing

205 E. 28th St. • Bryan, TX 77803
(979) 209-5500

<http://www.bryantx.gov/departments/?name=purchasing>



PURCHASING DEPARTMENT

February 13, 2020

ADDENDUM NO. 2

Addendum to City of Bryan Request for Qualification No. 20-020

Design – Build Services for Design and Construction of a Sports and Event Center, Parking, Related Infrastructure, Amphitheater, Grand Lawn, and other Possible Facilities and Park Amenities

Please be advised of the following clarifications, additions, deletions and/or changes to RFQ No. 20-020 are hereby made a part of the bid documents for the above referenced project as full and as completely as though the same were included therein.

Q & A:

Q: Please forward the list of similar facilities that city staff has visited. A facility in Alabama and a facility in Arlington Texas were mentioned in the Pre-SOQ meeting.

A: City representatives, not necessarily the same individuals, have visited the Hoover Met Complex in Hoover, Alabama, the Esports Stadium in Arlington, Texas, and the Round Rock Sports Center in Round Rock, Texas.

Q: Are there other facilities would city staff like to visit?

A: The City is open to visit other facilities that a firm may propose or recommend. City representatives visited the Hoover Met Complex in Hoover, Alabama, and a few City staff members have visited other facilities.

Q: Can you elaborate on the Section Tab H: “Consideration for the Utilization of a Prime Firm or Individuals that have Prior Experience with the Project”.

A: For capital projects, frequently municipalities consider experience that firms have with the organization and with the specific project. A firm may be familiar with a particular project or have sub-contractors who have experience with the project. For this Request of Qualifications, Prior Experience is weighted at five percent (5%).

205 E. 28th St. • Bryan, TX 77803
(979) 209-5500 • Fax: (979) 821-5798

<http://www.bryantx.gov/departments/?name=purchasing>

END OF ADDENDUM

This addendum shall be signed and included with your response package as acknowledgement of the addendum.
Failure to acknowledge and submit any addenda may be cause for the bid to be rejected. The City's decision to accept or reject a bid due to a failure to acknowledge and submit addenda shall be final.

Brandon Meyers

Vendor Acknowledgement Signature
Brandon Meyers
President, Houston Division
SpawGlass Construction Corp.

Karen Sonley

Karen Sonley, Purchasing Supervisor
City of Bryan - Purchasing

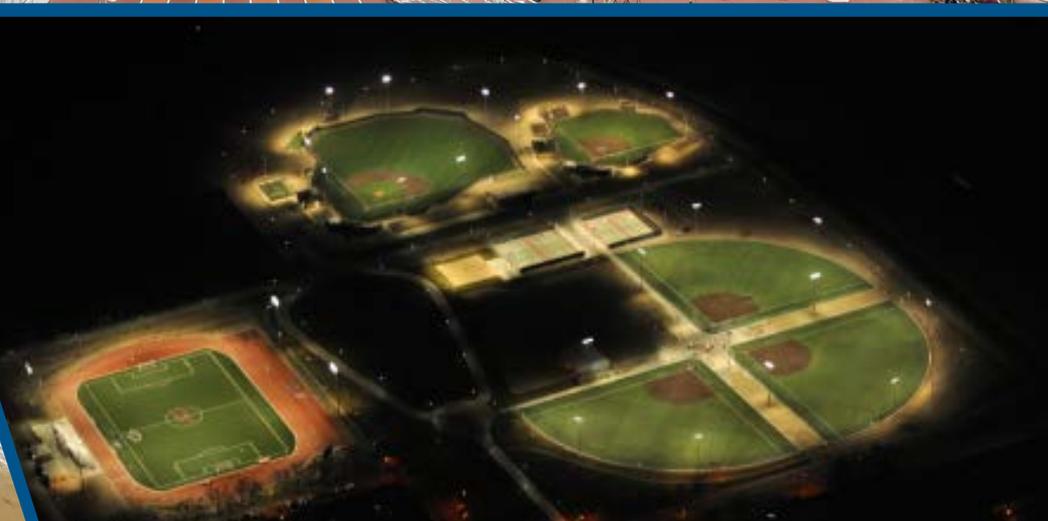
205 E. 28th St. • Bryan, TX 77803
(979) 209-5500 • Fax: (979) 821-5798

<http://www.bryantx.gov/departments/?name=purchasing>



CITY OF BRYAN

The Good Life, Texas Style.™



SPORTS + EVENT CENTER, PARKING, RELATED INFRASTRUCTURE, AMPHITHEATER, GRAND LAWN + OTHER AMENITIES

CITY OF BRYAN ■ INTERVIEW PRESENTATION ■ MARCH 31, 2020

- **SpawGlass and PBK have worked on 14 projects together in the last 27 years**
- **Recreation Experience – SpawGlass has completed over 430,000 SF of recreation and athletic spaces for Texas A&M University System**
- **Employee Owners – on every project, because it's not just our job; it's our company**
- **Local Team and Office – Our onsite teams live and work here in town; we are physically here to serve you even after the project is completed**



- **Knowledge of the Local Subcontractor Market – Over the past five years, we have completed over \$256 million of work in Bryan-College Station**
- **Dedicated and Integrated Preconstruction Team – Our preconstruction team provides estimate guidance and constructability reviews throughout design**

“The team from SpawGlass Construction [Corp.] faced many challenges with this spectacular facility. Every time we ran into a difficult situation, you all worked through the issues and met the construction schedule. This project is truly an industry leader with a National Collegiate reputation.”

Mr. Kevin Hurley
Associate Athletic Director for Facilities,
Texas A&M Athletics, Texas A&M University System



PROJECT TEAM



ANDREW KERBOW
SENIOR PROJECT MANAGER
SPAWGLASS



AARON BRADFORD
PRECONSTRUCTION
SERVICES MANAGER
SPAWGLASS



TREY SCHNEIDER
PARTNER
PBK SPORTS



JUAN LÓPEZ
DESIGN DIRECTOR
PBK SPORTS



JOHN KUBALA
STRUCTURAL ENGINEER
AG&E STRUCTURAL ENGENUITY



VANCE SHERROD
SENIOR SUPERINTENDENT
SPAWGLASS



GARETT WHEATON
REGIONAL OPERATIONS MANAGER
SPAWGLASS



MICHAEL HESSERT
PRINCIPAL
PBK SPORTS

- **Schedule Validation / Approval & Review Timelines**
- **Proper Lines of Communication / Approvals**
- **Validation of Scope**
- **Defining Project Success through Client Assessment Process**
- **Transparency**

Detail Report (Direct Costs Only)

Estimate Date: 11/22/2019 | Documents Date: 10/30/2019
 Project Size (SP): 40,366 | Project #: 4019043
 Project Location: Pearland, Texas | Lead Estimator: Ken Phadungpong

ITEM	QUANTITY	UNIT	UNIT COST	TOTAL COST
Direct Costs				
			2,845,832	68.5%

Recap Report

Estimate Date: 11/22/2019 | Documents Date: 10/30/2019
 Project Size (SP): 40,366 | Project #: 4019043
 Project Location: Pearland, Texas | Lead Estimator: Ken Phadungpong

ITEM	COST	COST SP	% OF TOTAL
Div. 01 - General Requirements	326,355	8.09	1.82 %
Div. 02 - Existing Conditions	20,000	5.10	0.11 %
Div. 03 - Concrete	570,023	14.12	2.88 %
Div. 04 - Masonry	435,285	10.79	2.43 %
Div. 05 - Metals	1,453,279	36.00	8.11 %
Div. 06 - Wood, Plastics & Composites	708,346	17.55	3.95 %
Div. 07 - Thermal & Moisture Protection	1,993,011	49.52	11.16 %
Div. 08 - Openings	1,642,490	40.71	8.77 %
Div. 09 - Finishes	2,640,746	65.43	5.84 %
Div. 10 - Specialties	133,835	3.32	0.58 %
Div. 11 - Equipment	12,029	0.30	0.07 %
Div. 12 - Furnishings	50,848	1.26	0.45 %
Div. 14 - Conveying Equipment	220,000	5.45	2.45 %
Div. 21 - Fire Suppression	278,952	6.91	1.58 %
Div. 22 - Plumbing	423,435	10.49	2.48 %
Div. 23 - Heating, Ventilating & Air Conditioning	1,301,791	32.25	7.26 %
Div. 66 - Electrical	1,733,540	42.93	3.99 %
Div. 77 - Communications	16,732	0.42	0.45 %
Div. 28 - Electronic Safety & Security	105,712	2.62	0.98 %
Div. 31 - Fireworks	483,235	11.97	2.70 %
Div. 52 - Exterior Improvements	1,040,146	25.76	4.08 %
Div. 53 - Landscaping	95,433	2.36	2.21 %

COMPLETION OF Corps Dorm Renovation

The project is not just bricks and mortar; it's to promote growth and academics for the Corps of Cadets.

CONCERNS
Deal with renovation and unknowns, communication is key to making informed decisions

SITE LOGISTICS
Be aware of risks while working on an active campus

QUALITY
Lessons learned, improve on past design and construction

EXPECTATIONS
Schedule – keep it on track, complete on time

Build Trust | Be Professional | Live Teamwork
Be Passionate | Think Like an Owner

- **Coming To An Agreement With How “Best-Value” Is Determined**
- **Its important that the subcontractors proposing on this project have:**
 - **A competitive price**
 - **A stellar safety culture & record**
 - **The horsepower to build this fast-paced job**
 - **Similar project experience**
 - **Have employees that can seamlessly integrate into the project**
 - **Good references, willing and able to sign our subcontract**



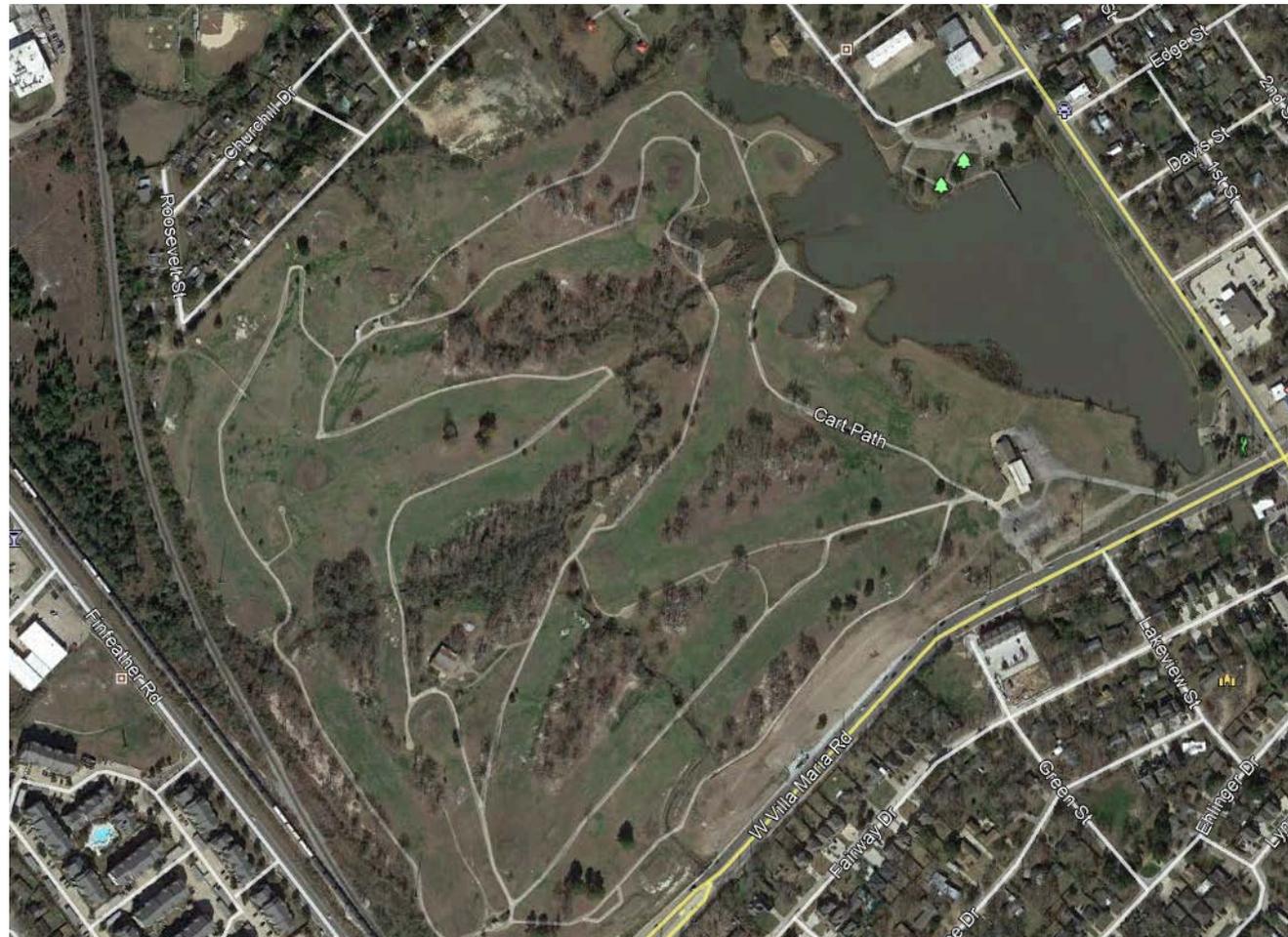
LOCAL USAGE



SELECTION
APPROACH

PROJECT CHALLENGES

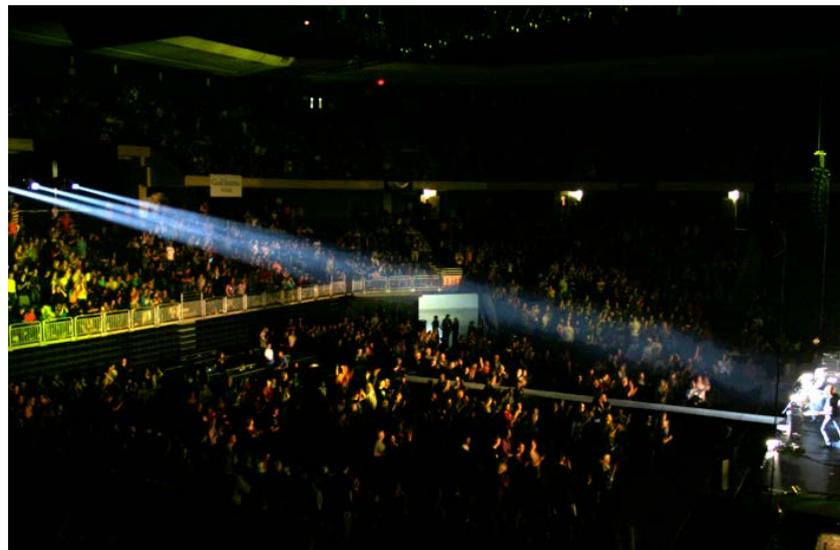
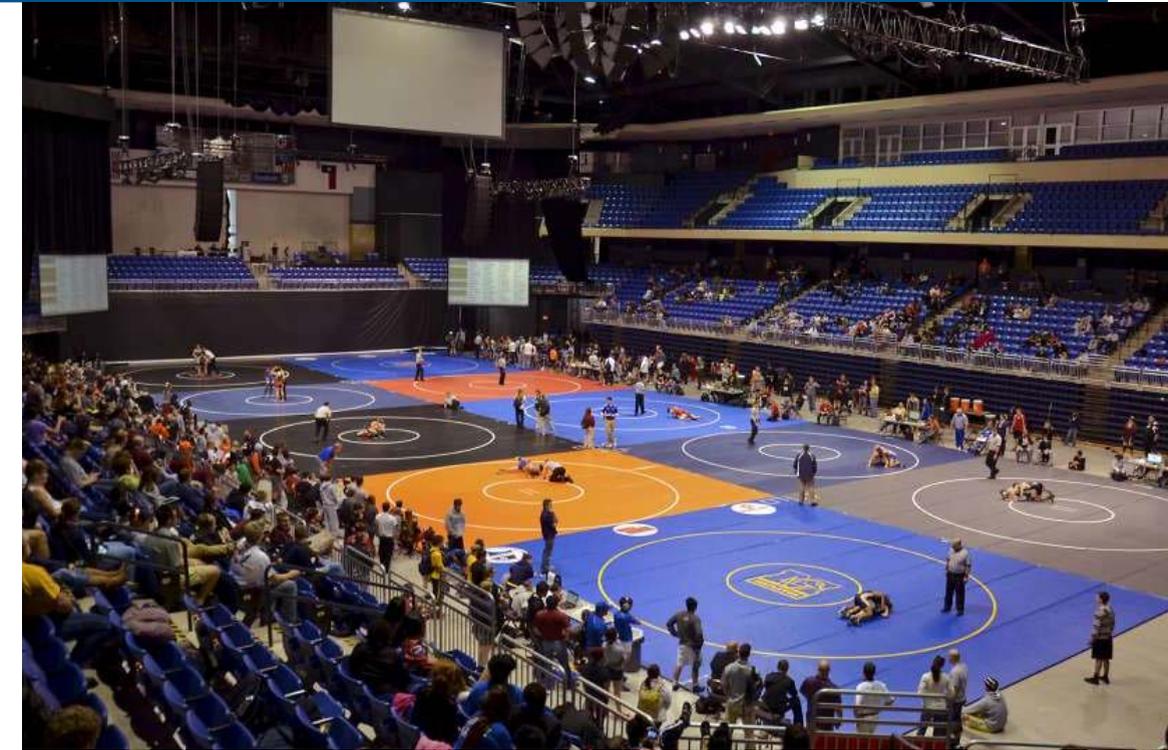
- Program vs. Budget
- Multi-purpose Venue
- Soil Conditions



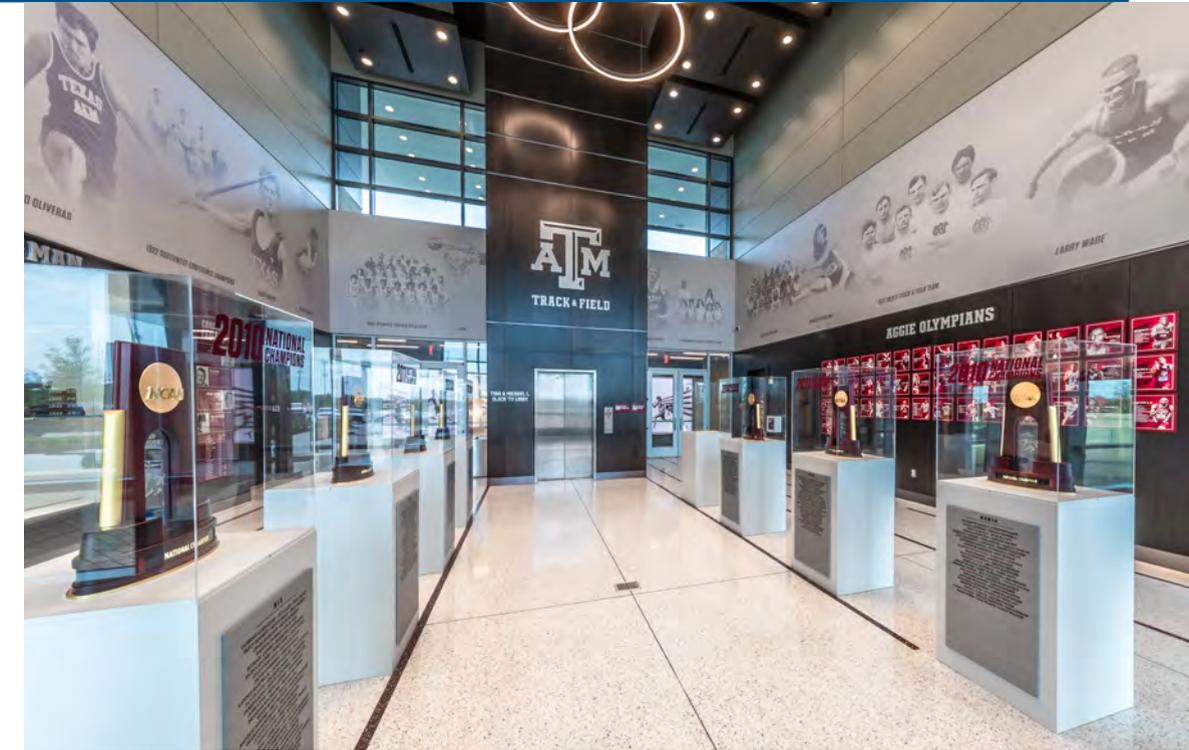
- **Events to be Considered**
- **Facility Adjacencies**
- **Back of House / Loading Dock / Truck Routes**
- **Spectator Access / Flow**
- **Food Service / Restrooms**
- **Staging / Prep. Areas**
- **Media Rooms / Green Rooms**
- **Daylighting / Shading**
- **Lounge**
- **Equipment Storage**
- **Sports Flooring**
- **Sound / Technology**
- **Safety & Security**



- Circulation of Spectators, Teams & Performers
- Back of House Operations / Staging
- Concerts / Special Events
- Spectator Experience
 - Concessions, Restrooms
- Team Facilities



- **Programming & SD Process**
 - Personalized Design
 - Stakeholder / Community Engagement



FEE STRUCTURE

- **DESIGN FEE IS 6.2%**
 - EXCLUDES SURVEY, MATERIALS TESTING AND GEOTECHNICAL ENGINEERING SERVICES
- **CONTRACTOR FEE IS 3.2%**
 - PRECONSTRUCTION PHASE FEE OF \$50K
 - WE WILL AGREE TO LIQUIDATED DAMAGES

"I have worked for Texas A&M for 38 years and have been involved in a few high profile construction projects. I can honestly say hands-down working with Andrew and the SpawGlass team was the most enjoyable experience that I have ever had."

Tom Reber, Associate Vice President
Office of the Vice President, Student Affairs
Texas A&M University



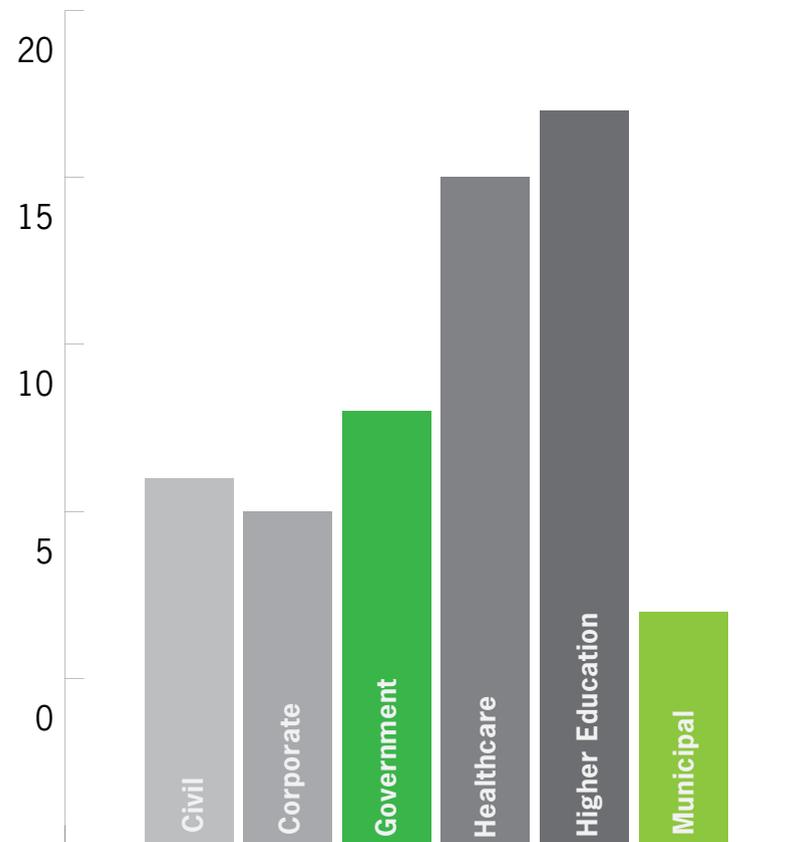
NONE

WORKLOAD CAPACITY

88 Projects Currently Under Construction Companywide

Projects Currently in Preconstruction Companywide **25**

Current No. of Projects in Major Market Sectors



"Since the inception of the project and the decision to bring SpawGlass on as our general contractor, I have been nothing short of amazed by their professionalism, willingness to work with us and responsiveness to our needs to make sure that this research building is a proud addition that the College of Ag and Life Sciences, Texas A&M Agrilife and Texas A&M University can be extremely proud of for many years to come."

Dr. Sandy Pierson, Professor and Head Plant Pathology and Microbiology Bioenvironmental Sciences
Director, Root/Rhizosphere Interface
Texas A&M University



SpawGlass **AUTORIDAD PARA DETENER TAREAS**

Usted tiene la **AUTORIDAD** y **OBLIGACION** de detener cualquier tarea u operación que cause preocupación o inquietud relacionada con la seguridad personal o de la propiedad. No existirá ninguna repercusión para usted. Ese es nuestro compromiso con usted.

Por la presente me comprometo a ejercer mi **Autoridad Para Detener** cualquier tarea u operación que cause preocupación o inquietud relacionada con la seguridad personal o de la propiedad. No existirá ninguna repercusión para usted. Ese es nuestro compromiso con usted.

SpawGlass **STOP WORK AUTHORITY**

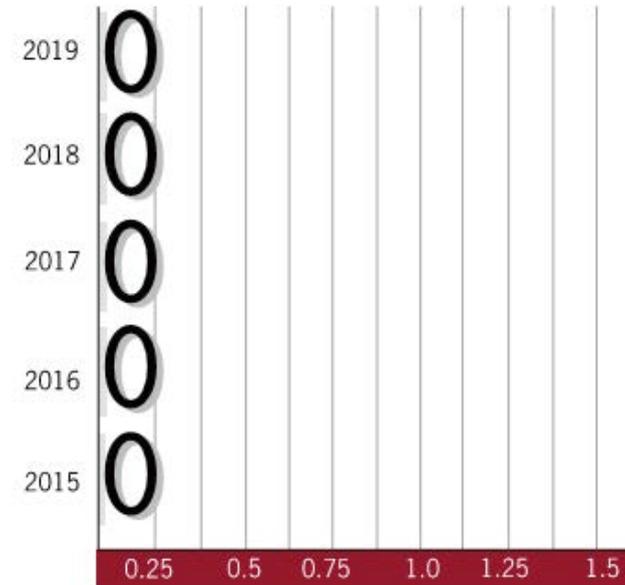
You have the **AUTHORITY** and **OBLIGATION** to stop any task or operation for concerns or questions regarding the safety of personnel or potential damage to property or the environment. There will be no repercussions to you. That is our commitment to you.

I hereby commit to support your **Stop Work Authority** and will ensure there are no repercussions to you for any action you initiate in good faith. *Please contact me anytime you need my assistance in this regard.*

Joel Stone, Chairman/CEO

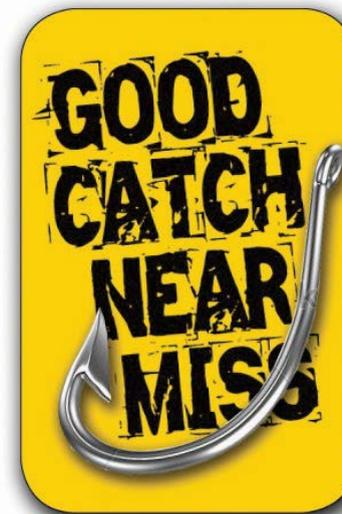
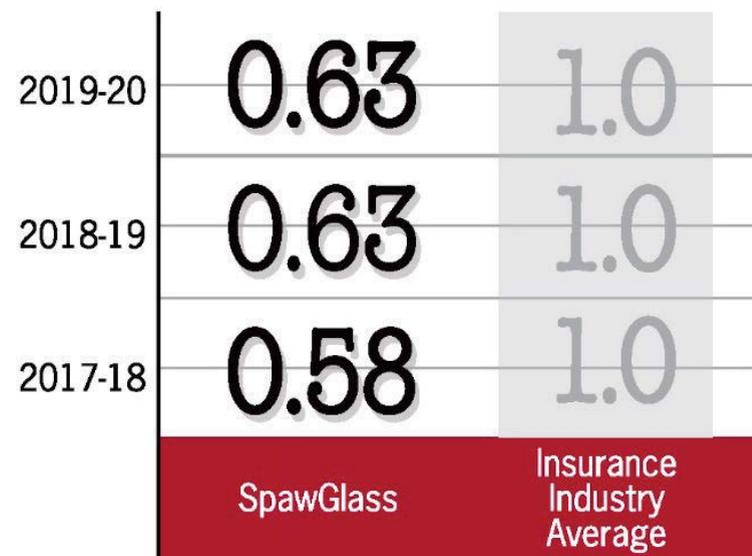
 210-651-9000
 Joel.Stone@SpawGlass.com

[DAFWR] OSHA Days Away From Work Rate
SpawGlass

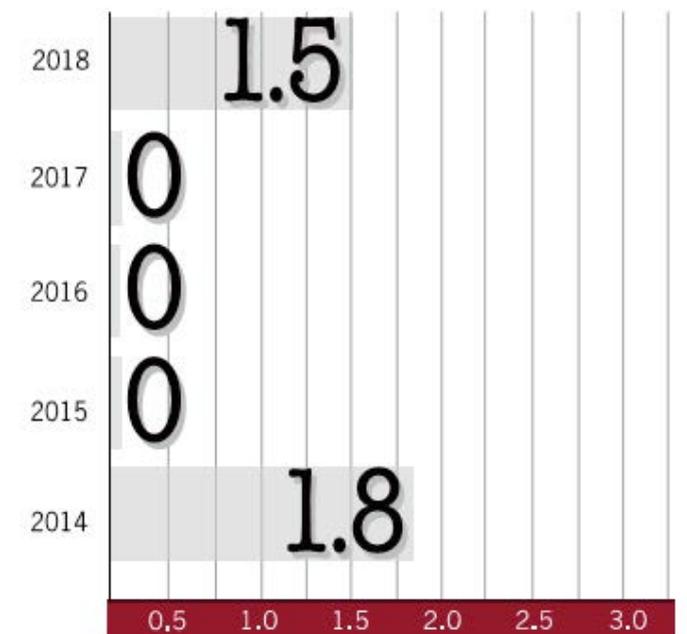


Sub-Zero
IMPACT

[EMR] Experience Modification Rate
SpawGlass



[RIR] OSHA Recordable Incident Rates
SpawGlass Construction Corp.





CELEBRATING
38+
-YEARS
IN SPORTS

320+ ATHLETIC PROGRAMS IMPACTED

\$800-MILLION
IN SPORTS CONSTRUCTION

“unique hybrid”
OF ARCHITECTS & ENGINEERS

90+ MULTI-PURPOSE EVENT CENTERS

355+ SYNTHETIC/NATURAL TURF FIELDS & TRACK SURFACES

2,000+ ADDITIONS & RENOVATIONS

120+ REC SPORTS COMPLEXES

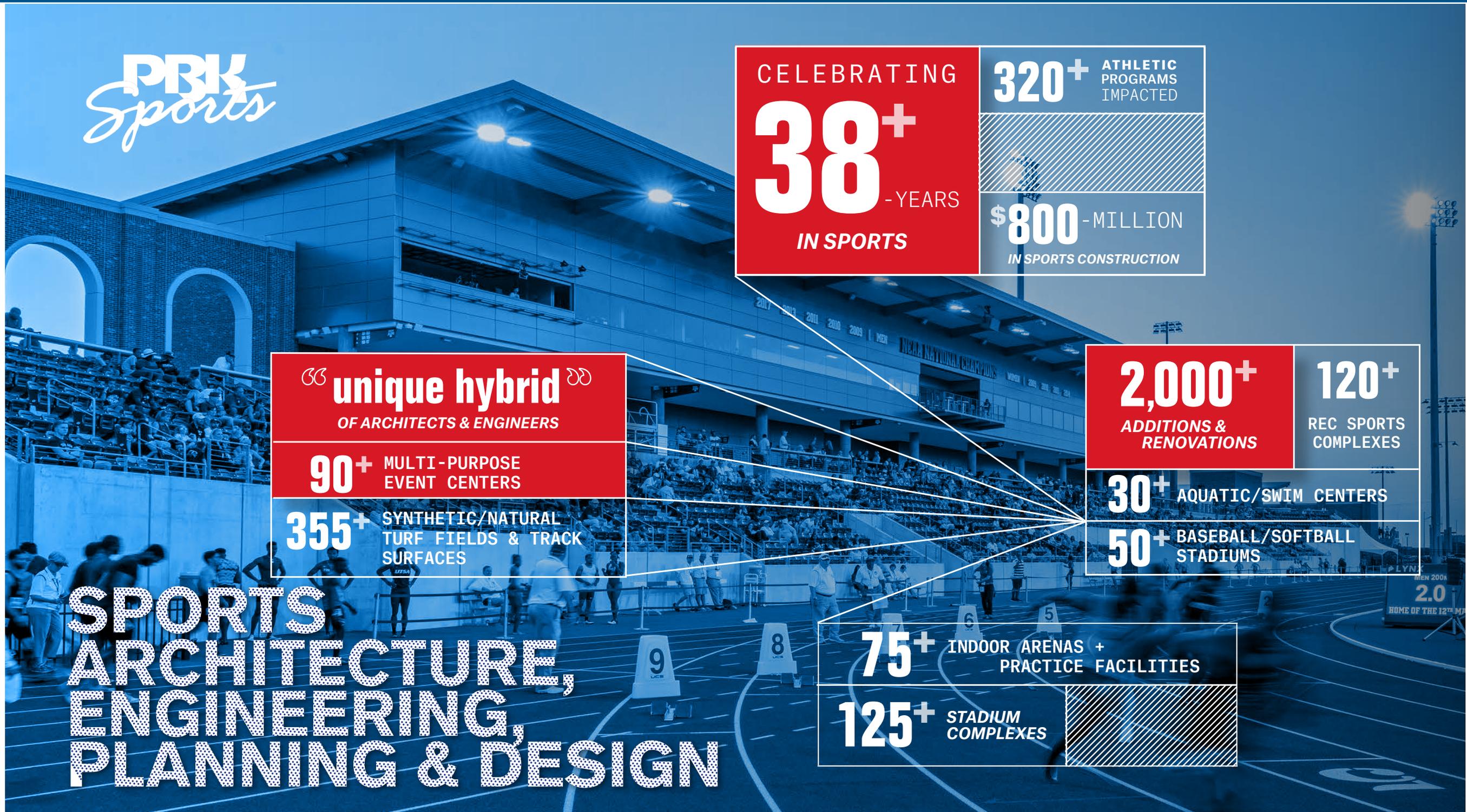
30+ AQUATIC/SWIM CENTERS

50+ BASEBALL/SOFTBALL STADIUMS

75+ INDOOR ARENAS + PRACTICE FACILITIES

125+ STADIUM COMPLEXES

SPORTS ARCHITECTURE, ENGINEERING, PLANNING & DESIGN





CITY OF BRYAN
The Good Life, Texas Style.™

THANK YOU

