

REQUEST FOR PROPOSALS
FOR A GENERAL CONTRACTOR
The University of Texas System
University Lands Re-Roof
704 W Dengar Ave
Midland, TX 79705-5319
RFP No.: UL 2020-1

RFP SUBMITTAL DUE DATE: October 28, 2020

HUB SUBCONTRACTING PLAN SUBMITTAL DUE DATE: October 28, 2020

**RFP PROPOSALS WILL BE PUBLICLY OPENED AND READ (Virtually):
October 29, 2020**

RFP ISSUE DATE: October 1, 2020



Prepared by:
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REQUEST FOR PROPOSALS
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704 W Dengar Ave
Midland, TX 79705-5319
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SECTION 1 – GENERAL INFORMATION AND REQUIREMENTS

- 1.1 **GENERAL INFORMATION:** The University of Texas System, University Lands (“Owner”) is soliciting Competitive Sealed Proposals (“Proposals” or “CSP”) for selection of a General Contractor firm for UL 2020-1 (“Project”), in accordance with the terms, conditions, and requirements set forth in this Request for Competitive Sealed Proposals.
- 1.1.1 This Request for Proposals (“RFP”) is the only step for selecting a General Contractor for the Project as provided by Texas Education Code §51.783(d). The RFP provides the information necessary to prepare and submit Competitive Sealed Proposals for consideration and ranking by the Owner.
- 1.1.2 The Owner may select the Proposal that offers the “best value” for the institution based on the published selection criteria and on its ranking evaluation. The Owner may first attempt to negotiate a contract with the selected offeror. The Owner may discuss with the selected offeror options for a scope or time modification and any price change associated with the modification. If the Owner is unable to reach a contract with the selected offeror, the Owner may formally end negotiations with that offeror and proceed to the next “best value” offeror in the order of the selection ranking until a contract is reached or all proposals are rejected.
- 1.2 **PUBLIC INFORMATION:** All information, documentation, and other materials submitted in response to this solicitation are considered non-confidential and/or non-proprietary and are subject to public disclosure under the Texas Public Information Act (*Texas Government Code*, Chapter 552.001, *et seq.*) after the solicitation is completed.
- 1.2.1 The Owner strictly complies with all statutes, court decisions, and opinions of the Texas Attorney General with respect to disclosure of RFP information.
- 1.3 **TYPE OF CONTRACT:** Any contract resulting from this solicitation will be in the form of the Owner’s Standard General Contractor Agreement, a copy of which is included in the Bidding Documents.
- 1.3.1 The work will be awarded under as a Lump-Sum contract to the Respondent offering the “best value” to the Owner.
- 1.4 **CLARIFICATIONS AND INTERPRETATIONS:** Any clarifications or interpretations of this RFP that materially affect or change its requirements will be issued by the Owner as an Addendum. It is the responsibility of all respondents to obtain this information in a timely manner. All such Addenda issued by the Owner before the proposals are due as part of the RFP, and respondents shall acknowledge receipt of each Addendum to the RFP and/or the Bid Documents in its Proposal.
- 1.4.1 **ADDENDUM MAY BE ISSUED BY THE POINT-OF-CONTACT FOR THIS RFP VIA THE OCP WEB SITE AT [HTTPS://WWW.UTSYSTEM.EDU/OFFICES/CAPITAL-PROJECTS/BUSINESS-OPPORTUNITIES](https://www.utsystem.edu/offices/capital-projects/business-opportunities).**

- 1.4.2 No oral explanations regarding the meaning of the described scope will be made and no oral instructions will be given before the award of the contract. Discrepancies, omissions or doubts as to the meaning of the described scope of the project shall be communicated in writing to the point of contact for interpretation. Any interpretation made will be in the form of an Addendum, which will be forwarded to all known plan holders and its receipt by the respondent shall be acknowledged on the Pricing and Delivery Proposal Form.
- 1.4.3 Respondents shall consider only those clarifications and interpretations that the point of contact issues by Addenda seven (7) business days prior to the submittal deadline. Interpretations or clarifications in any other form, including oral statements, will not be binding on the Owner and should not be relied on in preparing Proposals.

1.5 SUBMISSION OF PROPOSAL

1.5.1 The University of Texas System Office of Capital Projects (OCP) will only accept Competitive Sealed Proposals (CSP) and HUB Subcontracting Plans (HSPs) electronically.

1.5.2 PROPOSAL (CSP) DEADLINE AND LOCATION: The Owner will receive Proposals at the time and location described below.

1.5.2.1 **PROPOSAL SUBMITTAL DEADLINE**: OCP will receive Proposals and HSPs until **October 28, 2020, 2:00 p.m. local time via One Drive Link below**:

[University Lands Re-Roof Upload Link](#)

- Please limit your file size to 15 GB per file and follow File Naming Protocol as under:
- File Name: **CompanyName_UL_REROOF_CSP_Response**.
- File Name: **CompanyName_UL_REROOF_CSP_Proposal_Form**
- For First Name: First Name of Respondent's Contact Person.
- For Last Name: Last Name of Respondent's Contact Person.

1.5.2.2 Please do not use these characters in the file name ~ " # % & * : < > ? / \ { | }.

1.5.2.3 If any file cannot be successfully uploaded on first try, please try again after some time. If there is a system error on second try, reach out to the Point-of-Contact in Section 1.6 via the following email: rbarrera@utsystem.edu on the same day.

1.5.2.4 Competitive Sealed Proposals shall be addressed to the point-of-contact identified in section 1.6 of the RFP. Any Proposal posted to the link above after the deadline will not be accepted. The Respondents may verify receipt of submissions by reaching out to the Point-of-Contact in Section 1.5 via the following email: rbarrera@utsystem.edu. During these forthcoming electronic RFP submissions, the UT System cannot be held responsible for all possible contingencies. In the event your firm has issues with connectivity and/or technology, the UT System reserves the right to proceed with the selection for a re-roofing provider.

1.5.3 HUB HSP SUBMITTAL DEADLINE AND LOCATION:

1.5.3.1 **HSP SUBMITTAL DEADLINE**: OCP will receive Proposals and HSPs until **October 28, 2020, 2:00 p.m. local time via One Drive Link above, section 1.5.2.1**.

- 1.5.3.2 After the HSPs are received (refer to **Section 1.5.8 and 1.13**) and confirmed by the UT System, then all properly submitted Proposal will be considered.
- 1.5.3.3 Submit one (1) PDF, **via One Drive Link above** (see Section 1.5.2.1), of the HSP as a separate attachment/file to the Proposal as described in **Section 1.13**.
- Please limit your file size to 15 GB per file and follow File Naming Protocol as under:
 - File Name: **CompanyName_UL_REROOF_HSP_Response**.
 - For First Name: First Name of Respondent's Contact Person.
 - For Last Name: Last Name of Respondent's Contact Person.
- 1.5.3.4 Please do not use these characters in the file name ~ " # % & * : < > ? / \ { | }.
- 1.5.3.5 If the file cannot be successfully uploaded on first try, please try again after some time. If there is a system error on second try, reach out to the Point-of-Contact in Section 1.6 via the following email: rbarrera@utsystem.edu on the same business day.
- 1.5.3.6 HUB HSP submissions will be received at the time and location described below

October 28, 2020 at 2:00 pm local time

Via One Drive link described in Section 1.5.2.1

Addressed to:

Kyle Hayes
HUB Coordinator
The University of Texas System
Office of HUB Programs
210 W. 7th Street
Austin, Texas 78701
512-322-3745
khayes@utsystem.edu

- 1.5.3.7 Submit one (1) electronic pdf copy via email to khayes@utsystem.edu of the HUB Subcontracting Plan (HSP) as separate attachments/files to the Proposals as described in Section 1.13.
- 1.5.4 Competitive Sealed Proposals or HUB Subcontracting Plans (HSP) that are received late will be returned to the respondent unopened. The Point-of-Contact identified in Section 1.6 will identify the official time the Proposal and HSP are submitted.
- 1.5.5 The Owner will not acknowledge or receive Proposals or HSPs that are delivered by telephone, facsimile (fax), or electronic mail (e-mail).
- 1.5.6 Properly submitted Proposals or HUB Subcontracting Plans will not be returned to the respondents.
- 1.5.7 After the HUB Subcontracting Plans are received and confirmed by the Owner, all properly submitted Proposals will be publicly opened via virtual meeting and the names of the respondents and any prices required to be submitted in the Proposals will be read aloud. If you

would like to view the public opening, please email the RFP POINT OF CONTACT listed in section 1.6 stating you would like to view the public opening.

- 1.6 **POINT-OF-CONTACTS:** The Owner designates the following persons, as its representative and Point-of-Contacts for this RFP. Respondents shall restrict all contact with the Owner and direct all questions regarding this RFP, including questions regarding terms and conditions, to the RFP Contact person.

RFP Contact

Robert J. Barrera, P.E.
Assistant Director Engineering, Building Envelope
The University of Texas System Administration
Office of Capital Projects
210 W. 7th Street
Austin, Texas 78701
Phone: 512-499-4639
Fax: 512-499-4604
e-mail: rbarrera@utsystem.edu

The Owner designates the following person as the University Lands Contact.

Louisa L. Ball
Sr. Purchasing Agent
University Lands
704 W Dengar Ave
Midland, TX 79705
Phone: 432-686-4724
e-mail: lball@utsystem.edu

- 1.7 **EVALUATION OF PROPOSALS:** The evaluation of the Proposals shall be based on the requirements described in this RFP. The majority of the evaluation will be based on the Respondent's Pricing and Delivery Proposal with evaluation of the Respondent's submitted qualifications also contributing to the overall score. All properly submitted Proposals will be reviewed, evaluated, and ranked by the Owner.
- 1.8 **OWNER'S RESERVATION OF RIGHTS:** The Owner may evaluate the Proposals based on the anticipated completion of all or any portion of the Project. The Owner reserves the right to divide the Project into multiple parts, to reject any and all Proposals and re-solicit for new Proposals, or to reject any and all Proposals and temporarily or permanently abandon the Project. Owner makes no representations, written or oral, that it will enter into any form of agreement with any respondent to this RFP for any project and no such representation is intended or should be construed by the issuance of this RFP.
- 1.9 **ACCEPTANCE OF EVALUATION METHODOLOGY:** By submitting its Proposals in response to this RFP, the Respondent accepts the evaluation process and acknowledges and accepts that determination of the "best value" Respondent will require subjective judgments by the Owner.
- 1.9.1 The Owner reserves the right to consider any Proposal "non-responsive" if the Base Proposal Cost is determined to be unreasonable or irresponsible in relation to the other submitted Proposals and/or the Owner's estimate of the construction cost.

1.10 NO REIMBURSEMENT FOR COSTS: Respondent acknowledges and accepts that any costs incurred from the respondent's participation in this RFP process shall be at the sole risk and responsibility of the respondent. Respondents submit Proposals at their own risk and expense.

1.11 PRE-SUBMITTAL CONFERENCE: A pre-submittal conference will be held at the time and location described below.

October 8, 2020; 2:00 p.m. local time

University Lands
704 W Dengar Ave
Midland, TX 79705-5319

1.11.1 A self-guided tour of the roof to be replaced will be included as a part of the conference agenda. This may be the only opportunity for potential respondents to view the roof before the submittal of Proposals. Please bring your own ladder to access the roof. The building is a two-story building. Attendance at the pre-submittal conference is optional.

1.12 ELIGIBLE RESPONDENTS: Only individual firms or lawfully formed business organizations may apply (This does not preclude a respondent from using consultants.) The Owner will contract only with the individual firm or formal organization that submits a Proposal.

1.13 HISTORICALLY UNDERUTILIZED BUSINESSES SUBMITTAL REQUIREMENTS: It is the policy of The University of Texas System, and each of its component institutions, to promote and encourage contracting and subcontracting opportunities for Historically Underutilized Businesses (HUB) in all contracts. Accordingly, the Office of Capital Projects (OCP) has adopted Exhibit H, Policy on Utilization of Historically Underutilized Businesses (included in the Bidding Documents). The Policy applies to all contracts with an expected value of \$100,000 or more. If OCP determines that subcontracting opportunities are probable, then a HUB Subcontracting Plan is a required element of the Proposals. Failure to submit a required HUB Subcontracting Plan will result in rejection of the Proposals.

1.13.1 STATEMENT OF PROBABILITY

The University of Texas System, Office of Capital Projects (OCP), has determined that subcontracting opportunities are probable in connection with this procurement solicitation. Therefore, a HUB Subcontracting Plan (HSP) is required as a part of the respondent's Qualifications. The respondent shall develop and administer an HSP as a part of the respondent's Qualifications in accordance with the OCP Policy on Utilization of Historically Underutilized Businesses (HUB), Exhibit H.

1.13.2 Refer to Exhibit H, Policy on Utilization, Historically Underutilized Business (attached) and the Summary of Requirements for a detailed list of attachments required with the Qualifications.

1.13.3 The "Statement of Probability" determines the probability for subcontracting opportunities. This determination will clarify which attachments, detailed in Figure 1, will be required to be completed and returned.

1.14 SALES AND USE TAXES: Texas Tax Code Section 151.311 provides that certain tangible personal property incorporated into realty or consumed at the jobsite in the performance of a contract for an improvement to realty for certain exempt entities, including The University of Texas

System, are exempt from state sales tax. Section 150.311 also provides that certain otherwise taxable services performed at the jobsite are exempt from taxes on University of Texas System projects. It is the responsibility of the Respondent to incorporate allowable tax savings into its Proposal.

- 1.15 CERTIFICATION OF FRANCHISE TAX STATUS: Corporate or limited liability company Respondents are advised that if successful it will be required to submit certification that it is not delinquent in the payment of any franchise tax status due under Chapter 171 of the Texas Tax Code, or that it is exempt from the payment of such taxes, or that it is an out-of-state legal entity and not subject to the Texas Franchise Tax, whichever is applicable. The Respondent further agrees that each subcontractor and supplier under contract will also provide an appropriate certification of franchise tax status.
- 1.16 PREVAILING MINIMUM WAGE RATE DETERMINATION: Respondents are advised that the Texas Prevailing Wage Law applies to this Project will be administered in accordance with the University of Texas General Conditions for Building Construction Contracts and the policies and procedures set forth in the U. T. System document, entitled "Prevailing Wage Guidelines." A copy is attached to the Special Conditions.
- 1.17 DELINQUENCY IN PAYING CHILD SUPPORT: Pursuant to Texas Family Code Section 231.006, the vendor or applicant certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the award of or payment for the Project and acknowledges that any agreement may be terminated and payment may be withheld if this certification is inaccurate.
- 1.18 DISCLOSURE OF INTERESTED PARTIES STATUTE. In its proposal, Respondents must agree to comply with Section 2252.908, Texas Government Code ("Disclosure of Interested Parties Statute") and 1 Texas Administration Code Sections 46.1 through 46.3 ("Disclosure of Interested Parties Regulations") as implemented by the Texas Ethics Commission ("TEC"), including, among other things, providing the TEC and University with the information required by the Disclosure of Interested Parties Statute and the Disclosure of Interested Parties Regulations on the form promulgated by the TEC and set forth in APPENDIX EIGHT. The form will be required to be submitted to Owner prior to the countersigning of the final agreement and not submitted with this RFP.

SECTION 2 – EXECUTIVE SUMMARY

2.1 HISTORICAL BACKGROUND:

The University of Texas System is one of the nation's largest systems of public higher education, and, with its eight academic and six health institutions, is a national leader in education, research, health care and service. Each year, our academic institutions account for more than one-third of all undergraduate degrees awarded in Texas, while our health institutions confer nearly three-fourths of all health professional degrees. Additionally, our health professionals are responsible for providing care to millions of patients each year, and our faculty is engaged in cutting-edge research, making significant discoveries to improve the lives of people around the globe.

The U. T. System University Lands Building is an office building in Midland, Texas and is home to the University Lands department. University Lands (UL) manages the surface and mineral interests of 2.1 million acres of land across nineteen counties in West Texas for the benefit of the Permanent University Fund (PUF).

The PUF is one of the largest university endowments in the United States and benefits more than twenty educational and health institutions across both [The University of Texas System](#) and [Texas A&M University System](#).

This solicitation is issued to procure general contractor services to complete the re-roof of the building.

2.2 MISSION STATEMENT:

The University of Texas System Administration exists to support the eight universities and six health institutions that comprise the system. Our mission statement states, “U. T. System Administration leads and serves our academic and health institutions to create and sustain excellence in educational opportunities, research, and health care.”

The University Lands mission statement states: “To maximize the revenue from The Permanent University Fund (PUF) Lands by applying intensive management, accounting, conservation and environmental programs, which improve and sustain the productivity of The PUF Lands, protect the interests of The University of Texas System and promote awareness and sensitivity for the environment.

2.3 PROJECT DESCRIPTION AND SCOPE:

The building roof is a relatively flat roof approximately +/-8,300 square feet. Proposals shall include the following

1. Removal and proper disposal of the existing single-ply roofing system (Duro-Last).
2. Removal and proper disposal of existing insulation to bare metal deck.
3. Replacement of 4.5” (min.) of Poly-Iso insulation over the existing metal deck.
4. Installation of a 5/8” coverboard (Securock Gypsum Fiber or approved equal).
5. Replacement of roofing membrane- hybrid with SBS base and a PVC/KEE Elvaloy cap sheet is preferred. Basis of design a 36 mil FiberTite System or approved equal. Single-ply roofing membranes will be considered; assuming a 60-mil membrane or better is proposed. Roof color shall be white or other reflective color as approved by University Lands.
6. Slope insulation and provide crickets to 6 primary roof drains.
7. Ensure drains are functioning properly. Use of cameras (or other approved means) to verify the drains are free of obstructions is required. Ensure that secondary drains (approximately 2” higher) are functioning as designed. Notify Owner if repairs to the drains are necessary.
8. Replace roof hatch. Hatch outside dimension is approximately 34”W x 41.5”L. Roofing membrane shall be properly flashed at roof hatch. See specification 07 72 00 Roof Hatch for additional requirements.
9. Roof membrane shall extend vertically on the existing parapets (approximately 3’-0” high) and shall be properly flashed over the top of the existing parapets.
10. Provide 24 Ga. coping cap at parapet. Coordinate color with University Lands. Provide proper transition between the existing exterior finish and flashing/coping. Contractor to confirm that the transition will not leak and damage any existing condition.
11. Flash all existing roof top equipment- approximately 11 units. Damaged roof curbs shall be replaced. Coordinate with Owner.
12. Provide all required flashing including but not limited to all pitch pans and plumbing boots.
13. Provide walking paths (walkways) from roof access to existing mechanical units.

14. Contractor shall provide material submittals and shop drawings for University Lands review and comment at least 2 weeks prior to installation. University Lands shall provide comments or approval within 1 week of submission.
15. Contractor shall provide 1 hard copy and 1 electronic (pdf) copy on a flash drive of As-Built drawings to the Owner at the end of the project.
16. Provide a 20-year NDL manufacturer's warranty from date of substantial completion. Installer Warranty- Provide a 5 Year NDL from date of substantial completion.
17. Provided necessary accessories (including but not limited to nailers and cants, curbs, blocking, flashing, etc.) for proper completion of re-roof. Provide submittals as required above.

Conditions:

- Access to building is to be coordinated with University Lands.
- Limited staging will be provided on the north side of the building. This is to be coordinated with University Lands.
- Building shall be occupied during the re-roofing. Coordinate any electrical, AC, or water shut downs with University Lands at least 48 hours in advance of any shut down.
- Insurance requirements - See Uniform General Conditions.
- All work shall be in accordance with manufacturers roofing standards and specifications.
- Roof uplift design shall meet IBC 2018.
- At Owner's discretion- Installation will be observed by a Owner's designated representative (ODR). Reports and recommendations will be shared with the Contractor. ODR may perform uplift testing and leak testing. Contractor will coordinate testing with the ODR. Access to the roof for testing will be provided by the Contractor. Results of testing will be shared with the Contractor. If any test fail, ODR will recommend corrections/repairs. Costs for any re-testing testing will be the responsibility of the Contractor.
- During removal of the existing roof, existing damaged steel deck or damaged parapets shall be reported to University Lands immediately upon discovery. Repair recommendations will be coordinated with the Contractor.
- Contractor shall not damage the existing deck, AC units, pipes, parapets, existing finishes, etc. during removal of the existing roof or during the placement of the new roofing material. Any damage shall be reported to University Lands immediately upon discovery. Cost for the repair shall be the responsibility of the Contractor. Repair shall be coordinated with University Lands.
- Any overnight breaks in roofing during installation shall be properly protected and flashed to ensure moisture will not damage insulation, new work or existing conditions both exterior and interior.

2.4 **PROJECT PLANNING SCHEDULE:**

The following anticipated dates are for planning purposes only (if there is a conflict between the dates below and the Proposal Form, the duration shown on the Proposal Form shall govern). The contractual dates required by the Owner of the "best value" respondent will be identified in the executed agreement.

- | | |
|---|-----------------------|
| ▪ Owner conducts Pre-Submittal Conference | Refer to Section 1.11 |
| ▪ Owner receives Request for Competitive Sealed Proposals | Refer to Section 1.5 |
| ▪ Owner receives Qualifications/HUB Subcontracting Plan | Refer to Section 1.5 |

- | | |
|--|-------------------|
| ▪ Owner executes Agreement | November 13, 2020 |
| ▪ Owner issues Notice to Proceed for Construction | November 27, 2020 |
| ▪ General Contractor achieves Substantial Completion | December 21, 2020 |
| ▪ General Contractor achieves Final Completion | December 30, 2020 |

SECTION 3 – REQUIREMENTS FOR COMPETITIVE SEALED PROPOSALS

Respondents shall carefully read the information contained in the following criteria and submit a complete statement of Proposals to all questions in Section 3 formatted as directed in Section 4. CSP Response shall be submitted as noted in section 1.5. Incomplete Proposals will be considered non-responsive and subject to rejection.

3.1 CRITERIA ONE: RESPONDENT’S SAFETY MANAGEMENT PROGRAM FOR THIS PROJECT

- 3.1.1 The Vision of the University of Texas System Office of Capital Projects is to eliminate workplace injuries on all UT System construction projects. We consider safety a core value within our organization and attach the highest importance to this section in scoring evaluation. NOTE: This section shall be addressed by the corporate safety director and within their response the firm shall provide the signature of the corporate safety director attesting to that fact. The response to Criterion One may be reviewed by the Owner’s safety professional.
- 3.1.2 Identify the proposed Project Safety Coordinator and Assistant(s) for Construction Phase services. Provide details to support time spent in safety positions, primary duties, formal education and continuing education as they relate to construction safety. Provided information shall demonstrate qualifications of each position.
- 3.1.3 Provide details of your corporate safety organizational structure including individuals, titles and corresponding duties and safety resources your firm will bring to the project.
- 3.1.4 Describe the methodology, including any technology or other resources, that your firm intends to use for prevention and/or control of incidents and insurance claims on this Project. Include details regarding your firms’ approach to safety pre-planning, training, implementation, monitoring of results and actions taken to correct process deficiencies. Provide examples of unique safety strategies your firm has used with success on other projects.
- 3.1.5 Provide examples of how your firm recognizes project team members and subcontractors for identifying hazards on projects and your response to those issues.
- 3.1.6 Describe in detail how your firm would provide unique project specific safety orientation training for OCP projects. Provide examples and details.
- 3.1.7 Identify (in separate figures) the percentage of the Construction Cost that is to be included in the Project general conditions for each of the following pieces of the Project Safety Program:
- on-site safety education & training,
 - personal protective equipment, signage, and hardware,
 - first aid and emergency response equipment,
 - safety incentives and recognition,
 - contingency for post incident drug testing and incident management costs
 - Miscellaneous other safety-related expenses (NOTE: DO NOT LIST items that will appear elsewhere in the Project’s General Conditions; office equipment, salaries, etc.)

- 3.1.8 Not used.
- 3.1.9 Describe the level of importance for Enforcement and Support of Project Safety that the firm includes in performance evaluations for Superintendents and Project Managers.
- 3.1.10 Describe the Safety and Insurance/Claims History information and weighting that the firm includes in the submission and award process for “best value” Subcontracts.
- 3.1.11 For all projects that the firm has managed (or co-managed) in the past five (5) years, list and describe all events or incidents that have reached any of the following levels of severity:
- Any occupational illness or injury that resulted in death or total and permanent disability
 - Three occupational illnesses or injuries that resulted in hospital admittances
 - Explosion, fire or water damage that claimed 5% of the project’s construction value
 - Failure, collapse, or overturning of a scaffold, excavation, crane or motorized mobile equipment when workers were present at the project
- 3.1.12 Does the firm or any other company within the same holding group of companies self-perform any work beyond General Conditions?
- 3.1.13 Identify the firm’s Experience Modification Rate (EMR) for the five (5) most recent annual insurance-year ratings and the North American Industry Classification System (NAICS) code used to determine your organization’s EMR.
- 3.1.14 Identify the firm’s annual OSHA Recordable Incident Rates (RIR) for all work performed during the past five (5) calendar years.
- 3.1.14.1 If the firm has performed work for UT System in the past and been enrolled in the Rolling Owner’s Controlled Insurance Program, provide a list of each individual project(s) managed and the overall project RIR for each.
- 3.1.15 Identify the firm’s annual OSHA Days Away From Work Incident Rates (DAFW) for all work performed during the past five (5) calendar years.
- 3.1.15.1 If the firm has performed work for UT System in the past and been enrolled in the Rolling Owner’s Controlled Insurance Program, provide a list of the individual project(s) managed and the overall project DAFW for each.

3.2 CRITERIA TWO: (NOT USED)

3.3 CRITERIA THREE: RESPONDENT’S ABILITY TO PROVIDE CONSTRUCTION SERVICES

- 3.3.1 Provide the following information on your firm for the past **five** (5) fiscal years:

Volume

- Annual number, value and percent change of contracts in Texas per year;
- Annual number, value and percent change of contracts nationally per year;

Revenues

- Annual revenue totals and percent change per year;

Bonding

- Total bonding capacity;
- Available bonding capacity and current backlog;

- 3.3.2 Attach a letter of intent from a surety company indicating your firm's ability to bond for the entire construction cost of the project. The surety shall acknowledge that the firm may be bonded for each stage/phase of the project, with a potential maximum construction cost of **five hundred thousand dollars (\$500,000.00)**. Bonding requirements are set forth in the Agreement and in the Uniform General and Supplementary General Conditions for The University of Texas System Building Construction Contracts.
- 3.3.3 Identify if your firm is currently for sale or involved in any transaction to expand or to become acquired by another business entity? If so, please explain the impact both in organization and company direction.
- 3.3.4 Provide details of any past or pending litigation, or claims filed, against your firm that may affect your performance under a Contract with the Owner.
- 3.3.5 Identify if your firm is currently in default on any loan agreement or financing agreement with any bank, financial institution, or other entity? If so, specify date(s), details, circumstances, and prospects for resolution.
- 3.3.6 Does any relationship exist by relative, business associate, capital funding agreement, or any other such kinship between your firm and any Owner employee, officer or Regent? If so, please explain.

3.4 CRITERIA FOUR: QUALIFICATIONS OF CONSTRUCTION TEAM

- 3.4.1 Provide resumes of the Respondent's team that will be directly involved in the Project, including their experience with similar projects, the number of years with the firm, and their city(s) of residence. Include as applicable; Project Managers, Superintendents, Assistant Project Managers and Superintendents, Expeditors, Quality Control Inspectors, Safety Coordinator / Assistant, Carpenter Forman, and Labor Forman. State years with firm.
- 3.4.2 For each team member identified above, provide his/her current status, and when each team member will be available to provide Construction Services for this Project.
- 3.4.3 Describe, in graphic and written form, the proposed Project assignments and lines of authority and communication for each team member to be directly involved in the Project. Indicate the estimated percent of time these team members will be involved in the Construction Services.

3.5 CRITERIA FIVE: RESPONDENT'S PAST PERFORMANCE ON REPRESENTATIVE PROJECTS

- 3.5.1 Identify and describe the Construction Team's past experience for providing Construction Services that are MOST RELATED TO THIS PROJECT within the last five (5) years. List the projects in order of priority, with the most relevant project listed first. Provide the following information for each project listed:
- Project name, location, contract delivery method, and description
 - Color images (photographic or machine reproductions)
 - Include Initial and Final construction cost, including change orders
 - Final project size in gross square feet
 - Type of construction (new, renovation, or expansion)

- Actual Notice to Proceed, Substantial Completion, and Final Payment dates for Construction Services
- Name of Project Manager (individual responsible to the Owner for the overall success of the project)
- Name of Project Superintendent (individual responsible for coordinating the day to day work)

References (for each project listed above, identify the following):

- The Owner’s representative who served as the day-to-day liaison during construction, including telephone number
- Architect/Engineer’s name and representative who served as the day-to-day liaison during construction, including telephone number
- Length of business relationship with the Owner

References shall be considered relevant based on specific project participation and experience with the respondent. The Owner may contact references during any part of this process. The Owner reserves the right to contact any other references at any time during the RFP process.

- 3.5.2 Identify a maximum of three (3) completed projects, of any type, for which your firm has received an award for construction excellence from a recognized organization and provide descriptive information for each.

3.6 CRITERIA SIX: RESPONDENT’S PAST PERFORMANCE ON U.T. SYSTEM PROJECTS

- 3.6.1 Identify and describe the Construction Team’s past experience for providing Construction Services on University of Texas System projects within the last five (5) years.

If the respondent has not previously provided Construction Services for The University of Texas System, then identify and describe the respondent’s past performance on Construction projects for “major” institutions of higher education or GSA, Public Bond or other State Agencies (or similar) within the last five (5) years. Projects may repeat those listed in Section 3.5 above.

In either case above, provide the following information for each project listed:

- Project name, location, contract delivery method, and description
- Color images (photographic or machine reproductions)
- Include Initial and Final construction cost, including change orders
- Final project size in gross square feet
- Type of construction (new, renovation, or expansion)
- Actual Notice to Proceed, Substantial Completion, and Final Payment dates for Construction Services
- Name of Project Manager (individual responsible to the Owner for the overall success of the project)
- Name of Project Superintendent (individual responsible for coordinating the day to day work)
- Names of Mechanical, Plumbing and Electrical Subcontractors

3.7 CRITERIA SEVEN: RESPONDENT’S PROJECT PLANNING AND SCHEDULING FOR THIS PROJECT

- 3.7.1 Provide an indication of schedule for the project. How will you track production, delay, and schedule? Provide a Primavera CPM Milestone schedule for this Project using the Project Planning Schedule and identify specific critical process, phases, milestones, approvals, and procurements anticipated. Clearly identify the 10% Total Project Float required during the Construction Phase.
- 3.7.2 Describe what you perceive are the critical Construction issues for this Project?
- 3.7.3 Describe your approach to assuring timely completion of this project, including methods for schedule recovery, if necessary. From any three (3) of the projects listed in response to Section 3.5 or 3.6 of this RFP, provide examples of how these techniques were used, including specific scheduling challenges/requirements and actual solutions.
- 3.7.4 This Project is within an existing and active building that will remain occupied during construction, describe your plan to phase construction to minimize impact (Noise, fumes, water infiltration, etc.) to the occupants in the existing building.
- 3.7.5 Describe the anticipated steps necessary to maintain operation of the occupied building during construction.

3.8 CRITERIA EIGHT: RESPONDENT'S QUALITY CONTROL

- 3.8.1 Describe your quality control program. Explain the methods used to ensure quality control during the Construction phase of a project. Provide specific examples of how these techniques or procedures were used from any of three (3) projects listed in response to Section 3.5 or 3.6 of this RFP.
- 3.8.2 Provide a statement indicating the firms ability to assist in testing of the roofing system. Include experience with uplift testing and the ability to meet ASTM standards.
- 3.8.3 Describe how your quality control team will measure the quality of construction performed by trade Subcontractors as required by Owner on this Project, and how will you address non-conforming work.
- 3.8.4 Describe how you have maintained security during the construction of an occupied facility listed in Section 3.5 or 3.6 of this RFP.
- 3.8.5 Provide examples of records, reports, monitoring systems, and information management systems you will use on this Project.

3.9 CRITERIA NINE: RESPONDENT'S WARRANTY AND SERVICE SUPPORT PROGRAM FOR THIS PROJECT

- 3.9.1 Describe your warranty service support philosophy and warranty service implementation plan for this Project.
- 3.9.2 Describe how you will measure the quality of service provided to the Owner for this Project.
- 3.9.3 Provide reference letters from three (3) Owners (other than U.T. System) identified in Section 3.5 or 3.6 of this RFP, that describe your response to, and performance on, warranty services AFTER substantial completion.

3.10 CRITERIA TEN: RESPONDENT'S PRICING AND DELIVERY PROPOSAL

- 3.10.1 Complete the "Respondent's Pricing and Delivery Proposal" included with the Bidding Documents.

SECTION 4 – FORMAT OF PROPOSALS

4.1 GENERAL INSTRUCTIONS

- 4.1.1 Proposals shall be prepared SIMPLY AND ECONOMICALLY, providing a straightforward, CONCISE description of the respondent's ability to meet the requirements of this RFP. Emphasis shall be on the QUALITY, completeness, clarity of content, responsiveness to the requirements, and an understanding of Owner's needs.
- 4.1.2 Proposals shall be a MAXIMUM OF TWENTY-FIVE (25) PRINTED PAGES. The cover, table of contents, divider sheets, HUB Subcontracting Plan (Section 1.13), Pricing and Delivery Proposal, and Execution of Offer do not count as printed pages.
- 4.1.2.1 Proposals shall be submitted as three (3) separate documents 1) Qualifications, 2) Pricing and Delivery Base Proposal with Execution of Offer in a sealed envelope, 3) HUB Subcontracting Plan.
- 4.1.3 Respondents shall carefully read the information contained in this RFP and submit a complete response to all requirements and questions as directed. Incomplete Proposals will be considered non-responsive and subject to rejection.
- 4.1.4 Proposals and any other information submitted by respondents in response to this RFP shall become the property of the Owner.
- 4.1.5 Proposals that are qualified with conditional clauses, alterations, items not called for in the RFP documents, or irregularities of any kind are subject to rejection by the Owner, at its option.
- 4.1.6 The Owner makes no representations of any kind that an award will be made as a result of this RFP. The Owner reserves the right to accept or reject any or all Proposals, waive any formalities or minor technical inconsistencies, or delete any item/requirements from this RFP when deemed to be in Owner's best interest.
- 4.1.7 Proposals shall consist of answers to questions identified in Section 3 of the RFP. It is not necessary to repeat the question in the Proposals; however, it is essential to reference the question number with the corresponding answer.
- 4.1.8 Failure to comply with all requirements contained in this Request for Competitive Sealed Proposals may result in the rejection of the Proposals.

4.2 PAGE SIZE, BINDING, DIVIDERS AND TABS:

- 4.2.1 Proposals shall be printed on letter-size (8-1/2" x 11") paper and assembled with spiral-type bindings or staples. DO NOT USE METAL-RING HARD COVER BINDERS.

4.2.2 Additional attachments shall NOT be included with the Proposals. Only the responses provided by the Respondent to the questions identified in Section 3 of this RFP will be used by the Owner for evaluation.

4.2.3 Separate and identify each criteria response to Section 3 of this RFP by use of a divider sheet with an integral tab for ready reference.

4.3 TABLE OF CONTENTS:

4.3.1 Submittals shall include a “Table of Contents” and give page numbers for each part the Qualifications.

4.4 PAGINATION:

4.4.1 Number all pages of the submittal sequentially using Arabic numerals (1, 2, 3, etc.); the Respondent is not required to number the pages of the HUB Subcontracting Plan.

SECTION 5 - DRAWINGS AND SPECIFICATIONS

5.1 DEFINITION: Bidding Documents include the Bidding Requirements and the proposed Contract Documents. The Bidding Requirements consist of the Advertisement, the Request for Competitive Sealed Proposals, the Proposal Form, and other sample bidding and contract forms. The proposed Contract Documents consist of the Form of Agreement between the Owner and Contractor, Performance and Payment Bonds, Uniform General Conditions for University of Texas System Building Construction Contracts, Special Conditions, Prevailing Wage Rate Determination, HUB Utilization Policy (Exhibit ‘H’), other forms and documents identified in the Agreement, Drawings, Specifications, and all Addenda issued prior to receipt of Proposals, and Change Orders issued after execution of the Contract.

5.2 DISTRIBUTION: The expectation is the firm will produce shop drawings (including plans and details) for review and approval by the Owner or the owners designated representative. The firm will also produce as built drawings at the end of the project and provided to the Owner. As-Built drawings will be in the form of 1 card copy and 1 electronic copy (pdf) on a flash drive.

SECTION 6 - ATTACHMENTS TO THE RFP

6.1 Proposal Form

6.2 CSP Agreement

6.3 Exhibit H: Policy on Utilization Historically Underutilized Businesses

6.4 UTUGC

6.5 07 54 16 - KETONE ETHYLENE ESTER (KEE) ROOFING Specification

6.6 07 72 00 – ROOF ACCESSORIES - Roof Hatch

6.7 Policy of Receiving Benefits, Gifts and Honoraria

RESPONDENT'S PRICING AND DELIVERY PROPOSAL

RFP No.: UL 2020-1

Project Name: University Lands Re-Roof

From: Respondent's Name: _____
Mailing Address: _____
City, State, Zip Code: _____
Phone Number: _____

To: Louisa L. Ball
Sr. Purchasing Agent
University Lands
704 W. Dengar Ave
Midland, Texas 79705

Having carefully examined the Uniform General Conditions for University of Texas System Building Construction Contracts (UGC), the scope of work as described in the RFQ, the specifications attached to the RFQ, as well as the premises and all the conditions affecting the work, the undersigned proposes to furnish all labor, materials, and equipment necessary to achieve Substantial Completion of the work in accordance with the scope of work for the following sum (Amount shall be shown in both written and figure form. In case of discrepancy between the written amount and the figure, the written amount will govern):

1.1 BASE PROPOSAL COST (PVC/KEE Roof – see 2.3.5):

_____ DOLLARS (\$ _____)

1.1.1 OWNER'S SPECIAL CASH ALLOWANCE: (Not used)

1.2 ALTERNATE PROPOSAL COST: (Single Ply Roof- see 2.3.5)

_____ DOLLARS (\$ _____)

1.2.1 OWNER'S SPECIAL CASH ALLOWANCE: (Not used)

1.3 UNIT PRICES FOR GENERAL CONSTRUCTION: The undersigned further agrees that, in case additional work or material is authorized from what is shown in the Contract, unit prices will be established prior to any scheduled work. The unit prices include overhead, profit, taxes, etc. in accordance with the Changes section of the Uniform General Conditions for University of Texas System Building Construction Contracts. Unit prices to be used for adjusting the Contract Price for less work or material will be 75% of these amounts for the net difference of the total quantities for each type of work.

1.4 CONSTRUCTION MILESTONE SCHEDULE: The undersigned agrees, if awarded the contract, to achieve Substantial Completion of the Work as described in the UGC, the plans and specifications and addenda thereto.

1.4.1	Anticipated Notice to Proceed for Construction	November 27, 2020
1.4.2	Anticipated Substantial Completion	December 21, 2020
1.4.3	Anticipated Final Completion	December 30, 2020

1.5 RFP ADDENDA: Receipt is hereby acknowledged of the following addenda issued by the Point-of-Contact to this Request for Proposals - initial if applicable.

RFP No. 1 ____ RFP No. 2 ____ RFP No. 3 ____ RFP No. 4 ____ RFP No. 5 ____

1.6 (Not Used)

1.7 LIQUIDATED DAMAGES: The undersigned agrees that, from the compensation otherwise to be paid, the Owner may retain the sum of **\$0.00** for each calendar day after the Substantial Completion Date that the work remains incomplete, which sum is agreed upon as the proper measure of liquidated damages which the Owner will sustain per diem by the failure of the Undersigned to complete the work at the time stipulated in the Contract. This sum is not construed in any sense as a penalty.

1.8 BID BONDS: (Not Used.)

1.9 PAYMENT AND PERFORMANCE BONDS: The undersigned agrees to execute the Payment and Performance Bonds within ten (10) calendar days, in the amount of one hundred percent (100%) of the contract price, after notification that the offerer has been identified by the Owner as the Respondent with the “best value” Proposal. The bonds shall be in the full contract amount.

1.10 AWARD OF CONTRACT AND COMMENCEMENT OF WORK: The Owner reserves the right to accept or reject and all Proposals and to waive proposal irregularities. Proposals shall be valid and not withdrawn for a period of sixty (60) days from the date of opening thereof. The undersigned agrees the contract to execute the Contract within ten (10) calendar days after notification that the offerer has been identified by the Owner as the Respondent with the “best value” Proposal, and to commence work on or before the commencement date stated by the Owner in a Notice to Proceed; such commencement date shall be ten (10) or more calendar days after the date of the Notice to Proceed. In addition, the undersigned agrees to execute and deliver to the Owner a Certification of Franchise Tax Payment and further agrees to obtain from each subcontractor and supplier and hold for redelivery to the Owner if requested a certification of franchise tax status of such subcontractor or supplier.

1.11 OWNER’S RIGHT: It is understood that the Owner reserves the right to accept or reject any and all Proposals and to waive proposal irregularities. It is further agreed that this Bid shall be valid and not withdrawn for a period of sixty (60) days from the date of opening thereof.

1.12 The Respondent must complete, sign and return this Pricing and Delivery Proposal as part of their submittal response. The Respondent's company official(s) who are authorized to commit to such a submittal must sign submittals. Failure to sign and return this form will subject the submittal to disqualification.

Respondent's Name: _____

Respondent's State of Texas Tax Account No.: _____
(This 11-digit number is mandatory)

If a Corporation:

Respondent's State of Incorporation: _____

Respondent's Charter No: _____

Identify each person who owns at least 25% of the Respondent's business entity by name:

(Name)

(Name)

(Name)

(Name)

Submitted and Certified by:

(Respondent's Name)

(Title)

(Street Address)

(Telephone Number)

(City, State, Zip Code)

(Fax Number)

(Authorized Signature)

(Date)

1.13 RESPONDENT'S EXECUTION OF OFFER
(See additional signature lines at end of this section)

THIS EXECUTION OF OFFER MUST BE COMPLETED, SIGNED, AND RETURNED WITH THE RESPONDENT'S PROPOSALS. FAILURE TO COMPLETE, SIGN AND RETURN THIS EXECUTION OF OFFER WITH THE PROPOSALS WILL RESULT IN REJECTION OF THE PROPOSALS.

SIGNING A FALSE STATEMENT MAY VOID THE SUBMITTED PROPOSALS OR ANY AGREEMENTS OR OTHER CONTRACTUAL ARRANGEMENTS, WHICH MAY RESULT FROM THE SUBMISSION OF RESPONDENT'S PROPOSALS, AND THE RESPONDENT MAY BE REMOVED FROM ALL PROPOSER LISTS. A FALSE CERTIFICATION SHALL BE DEEMED A MATERIAL BREACH OF CONTRACT AND, AT OWNER'S OPTION, MAY RESULT IN TERMINATION OF ANY RESULTING CONTRACT OR PURCHASE ORDER.

- 1.13.1 By signature hereon, Respondent acknowledges and agrees that (1) this Request For Competitive Sealed Proposals is a solicitation for Proposals and is not a contract or an offer to contract; (2) the submission of Proposals by Respondent in response to this Request For Competitive Sealed Proposals will not create a contract between the Owner and Respondent; (3) the Owner has made no representation or warranty, written or oral, that one or more contracts with the Owner will be awarded under this Request For Competitive Sealed Proposals; and (4) Respondent shall bear, as its sole risk and responsibility, any cost which arises from Respondent's preparation of a response to this Request For Competitive Sealed Proposals.
- 1.13.2 By signature hereon, Respondent offers and agrees to furnish to the Owner the products and/or services more particularly described in its Proposals, and to comply with all terms, conditions and requirements set forth in the Request For Competitive Sealed Proposals documents and contained herein.
- 1.13.3 By signature hereon, Respondent affirms that he has not given, nor intends to give at any time hereafter, any economic opportunity, future employment, gift, loan, gratuity, special discount, trip, favor or service to a public servant in connection with the submitted Proposals.
- 1.13.4 By signature hereon, a corporate Respondent certifies that it is not currently delinquent in the payment of any Franchise Taxes due under Chapter 171, Texas Tax Code, or that the corporate Respondent is exempt from the payment of such taxes, or that the corporate Respondent is an out-of-state corporation that is not subject to the Texas Franchise Tax, whichever is applicable.
- 1.13.5 By signature hereon, the Respondent hereby certifies that neither the Respondent nor the firm, corporation, partnership or Owner represented by the Respondent, or anyone acting for such firm, corporation, or institution has violated the antitrust laws of this state, codified in Section 15.01, et. seq., Texas Business and Commerce Code, or the Federal antitrust laws, nor communicated directly or indirectly the Proposals made to any competitor or any other person engaged in such line of business.
- 1.13.6 By signature hereon, Respondent represents and warrants that:
- 1.13.6.1 Respondent is a reputable company regularly engaged in providing products and/or services necessary to meet the terms, conditions and requirements of the Request For Competitive Sealed Proposals;

- 1.13.6.2 Respondent has the necessary experience, knowledge, abilities, skills, and resources to satisfactorily perform the terms, conditions and requirements of the Request For Competitive Sealed Proposals;
 - 1.13.6.3 Respondent is aware of, is fully informed about, and is in full compliance with all applicable federal, state and local laws, rules, regulations and ordinances;
 - 1.13.6.4 Respondent understands (i) the requirements and specifications set forth in this Request for Competitive Sealed Proposals and (ii) the terms and conditions set forth in the Contract under which Respondent will be required to operate;
 - 1.13.6.5 Respondent, if selected by the Owner, will maintain insurance as required by the Contract;
 - 1.13.6.6 All statements, information and representations prepared and submitted in response to this Request for Competitive Sealed Proposals are current, complete, true and accurate. Respondent acknowledges that the Owner will rely on such statements, information and representations in selecting the successful Respondent. If selected by the Owner as the successful Respondent, Respondent will notify the Owner immediately of any material change in any matters with regard to which Respondent has made a statement or representation or provided information.
- 1.13.7 By signature hereon, Respondent certifies that the individual signing this document and the documents made part of the Request For Competitive Sealed Proposals is authorized to sign such documents on behalf of the company and to bind the company under any agreements or other contractual arrangements, which may result from the submission of Respondent's Proposals.
- 1.13.8 (Not Used)
- 1.13.9 By signature hereon, Respondent certifies as follows:
- 1.13.9.1 "Under Section 231.006, Texas Family Code, the vendor or applicant certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate."
 - 1.13.9.2 "Under Section 2155.004, Texas Government Code, the vendor or applicant certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate."
 - 1.13.9.3 "Under Section 2254.004, Texas Government Code, the vendor or applicant certifies that each individual or business entity which is an engineer or architect proposed by Respondent as a member of its team was selected based on demonstrated competence and Proposals only."
- 1.13.10 By signature hereon, Respondent certifies that no relationship, whether by relative, business associate, capital funding agreement or by any other such kinship exist between Respondent and an employee of any member institution of The University of Texas System, or Respondent has not been an employee of any member institution of The University of Texas System within the immediate twelve (12) months prior to your Request For Competitive Sealed Proposals

response. All such disclosures will be subject to administrative review and approval prior to the Owner entering into any contract with Respondent.

- 1.13.11 By signature hereon, Respondent affirms that no compensation has been received for participation in the preparation of the specifications for this Request for Competitive Sealed Proposals (reference Section 2155.004 Texas Government Code).
- 1.13.12 Respondent represents and warrants that all articles and services quoted in response to this Request for Competitive Sealed Proposals meet or exceed the safety standards established and promulgated under the Federal Occupational Safety and Health Law (Public Law 91-596) and its regulations in effect or proposed as of the date of this solicitation.
- 1.13.13 By signature hereon, Respondent signifies his compliance with all federal laws and regulations pertaining to Equal Employment Opportunities and Affirmative Action.
- 1.13.14 By signature hereon, Respondent agrees to defend, indemnify, and hold harmless the State of Texas, all of its officers, agents and employees from and against all claims, actions, suits, demands, proceedings, costs, damages, and liabilities, arising out of, connected with, or resulting from any acts or omissions of Respondent or any agent, employee, subcontractor, or supplier of Respondent in the execution or performance of any agreements or other contractual arrangements which may result from the submission of Respondent's Proposals.
- 1.13.15 By signature hereon, Respondent agrees that any payments that may become due under any agreements or other contractual arrangements, which may result from the submission of Respondent's Proposals, will be applied towards any debt including, but not limited to, delinquent taxes and child support that is owed to the State of Texas.
- 1.13.16 By signature hereon, Respondent agrees that this project will utilize Contractor Provided Insurance and will bind all contractors and subcontractors, and the coverage and certificates will include The University of Texas System, Board of Regents as an Additional Insured.
- 1.13.17 DISCLOSURE OF INTERESTED PARTIES STATUTE. In its proposal, Respondents must agree to comply with Section 2252.908, Texas Government Code ("Disclosure of Interested Parties Statute") and 1 Texas Administration Code Sections 46.1 through 46.3 ("Disclosure of Interested Parties Regulations") as implemented by the Texas Ethics Commission ("TEC"), including, among other things, providing the TEC and University with the information required by the Disclosure of Interested Parties Statute and the Disclosure of Interested Parties Regulations on the form promulgated by the TEC and set forth in APPENDIX EIGHT. The form will be required to be submitted to Owner prior to the countersigning of the final agreement and not submitted with this RFP.

1.13.18 By signature hereon, Respondent certifies that the only member(s) of the Board of Regents of The University of Texas System, or the Executive Officers of The University of Texas System or it's member institutions that has a financial interest, directly or indirectly, in the transaction that is the subject of the contract is identified below. Attach additional pages as necessary.

(Name)

(Firm's Business Title)

(UT System Title)

1.13.19 The Respondent must complete, sign and return this Execution of Offer as part of their submittal response. The Respondent's company official(s) who are authorized to commit to such a submittal must sign submittals. Failure to sign and return this form will subject the submittal to disqualification.

(Respondent's Name)

(Title)

(Authorized Signature)

(Date)



THE UNIVERSITY of TEXAS SYSTEM
FOURTEEN INSTITUTIONS. UNLIMITED POSSIBILITIES.

Office of HUB Programs
512-499-4530
www.utsystem.edu/hub

Exhibit H – Policy on Utilization Historically Underutilized Businesses

Special Trades HUB Subcontracting Plan for RFP issued by:

- UT System Administration Contracts & Procurement
- UT System Office of Capital Projects (OCP)

UT System Administration/ Office of Capital Projects only

For questions or clarifications regarding the HUB Subcontracting Plan, please contact the HUB Coordinator listed in the RFP:

Kyle Hayes
HUB Coordinator
512-322-3745
khayes@utsystem.edu

Cynthia Booker
HUB Coordinator
512-322-3779
cbooker@utsystem.edu

Stephanie Park
HUB Coordinator
972-883-5377
spark@utsystem.edu

**Scope of Work as defined in RFP/ Solicitation*



I.	UT System HUB Policy	Page 3
II.	Instructions to Complete the HSP	Pages 4-5
III.	Letter of Transmittal	Page 6
IV.	HUB Subcontracting Plan (HSP)	Pages 7-12
V.	HUB Subcontracting Opportunity Notification Form	Page 13
VI.	Sample Prime Contractor Progress Assessment Report (PAR)*	Page 14

* **Note 1:** *If awarded a contract, the Prime Contractor Progress Assessment Report (PAR) is a required form with each payment application submitted. This form is a condition of payment.*

The University of Texas System
Office of HUB Programs

**POLICY ON UTILIZATION OF
HISTORICALLY UNDERUTILIZED BUSINESSES (HUBs)**

Introduction

In accordance with the Texas Government Code, Sections 2161.181-182 and Title 34, Rule 20.281 of the Texas Administrative Code (TAC), The Board of Regents of the University of Texas System, acting through the Office of HUB Programs shall make a good faith effort to utilize Historically Underutilized Businesses (HUBs) in contracts for construction services, including professional and consulting services; and commodities contracts. The HUB Rules promulgated by the Texas Comptroller of Public Accounts (the "Texas Comptroller"), set forth in 34 TAC Rules 20.281-20.298, encourage the use of HUBs by implementing these policies through race-, ethnic- and gender-neutral means.

The purpose of the HUB Program is to promote full and equal business opportunities for all businesses in State contracting in accordance with UT System specific or statewide HUB goals as specified in TAC Rule 20.284:

- **11.2% for heavy construction other than building contracts;**
- **21.1% for all building construction, including general contractors and operative builders contracts;**
- **32.9% for all special trade construction contracts;**
- **23.7% for professional services contracts;**
- **26% for all other services contracts, and;**
- **21.1% for commodities contracts.**

The University of Texas System shall make a good faith effort to meet or exceed these goals and/or UT System specific goals to assist HUBs in receiving a portion of the total contract value of all contracts that U. T. System expects to award in a fiscal year. The University of Texas System may achieve the annual program goals by contracting directly with HUBs or indirectly through subcontracting opportunities in accordance with the Texas Government Code, Chapter 2161, Subchapter F.

UT System Administration
Historically Underutilized Subcontracting Plans (HSP)
Special Trades -32.9% of total contract value

Special Trades - Complete a Subcontracting HSP as follows:

Section 1

- Respondent and Requisition Information. Complete as indicated on the form. VID # refers to the tax ID number. Requisition # refers to RFP #. Bid Open Date refers to the date proposals are due.

Section 2A

- Mark the 'YES', I will be subcontracting portions of the contract.

Section 2B

- List all the portions of work you will subcontract, and indicated the percentage of the contract you expect to award to HUB vendors and Non HUB vendors.

Section 2C

- Mark "NO".

Section 2D

- Mark "NO".

Section 4

- Sign the form. Include your e-mail address and contact phone number should UT System HUB have any questions.

Good-Faith Effort (Attachment B)

- Complete this attachment for each subcontracting opportunity listed in Section 2B. Supplemental Attachment B sheets are available at:
<https://www.utsystem.edu/offices/historically-underutilized-business/hub-forms/hub-plan-templates-commodities-services-procurement>

Section B1

- List the name of the subcontracting opportunity listed on the corresponding line in Section 2B.

Section B3

- Subsection (b)- List 3 three HUBs you notified regarding the portion of work indicated in Section B1. **NOTE: Attach addressed and dated supporting documentation in the form of letters, fax transmittals, e-mails etc. demonstrating evidence of the Good Faith Effort performed. Please note that you must give the subcontractor 7 working days to respond to your request. Holidays and skeleton crew days do not count as working days.**

Subsection (d) – Indicate the names of two minority or women's organization you contacted. **NOTE: Include copies of correspondence as well as the date the notice is sent and indicate if the notice was accepted or rejected.** The minority organizations at the link below, have expressed their willingness to accept notices of subcontracting opportunities from vendors to distribute to their minority and woman-owned business members.
<https://www.comptroller.texas.gov/purchasing/vendor/hub/resources.php>

Section B4

List the subcontractor you selected to perform the portion of the work indicated in Section 3. Include the expected percentage of work to be subcontracted, the dollar value and whether company selected is a HUB. If company selected is not a HUB, provide written justification of your selection process in Section B4, sub-section b.

NOTE: RESPONSES THAT DO NOT INCLUDE AN HSP WILL BE REJECTED AS A MATERIAL FAILURE TO COMPLY WITH ADVERTISED SPECIFICATIONS IN ACCORDANCE WITH THE RFP/ RFQ.

(cont.) Special Trades - Complete a Subcontracting HSP as follows:

Determination of Good Faith Effort in developing an HSP for commodities contracts includes but is not limited to the following:

1. Divide the contract work into reasonable lots or portions to the extent consistent with prudent industry practices.
2. The respondent shall notify HUBs of subcontracting opportunities that the respondent intends to subcontract in writing. Notice shall include the following:
 - a. Scope of work
 - b. Specifications
 - c. Identify a contact person with phone number and emailThe respondent shall provide potential HUB subcontractors no less than seven (7) working days from receipt of notice to respond.
3. The respondent shall use the Centralized Master Bidders List (CMBL), HUB Directory, Internet resources, and/or other directories as identified by the agency when searching for HUB subcontractors. Respondents may also rely on the services of minority/ women and community organizations, contractor groups, local, state and federal business assistance offices in identifying qualified HUB subcontractors. Search the CMBL at: <https://mycpa.cpa.state.tx.us/tpasscmlsearch/tpasscmlsearch.do>
An instruction guide can be found here: <https://www.utsystem.edu/offices/historically-underutilized-business>
4. The respondent shall provide notice of subcontracting opportunities to **minority/women trade organizations or development centers** to assist in identifying HUBs by disseminating subcontracting opportunities to their membership. Minority and business contacts may be found at: <https://www.comptroller.texas.gov/purchasing/vendor/hub/resources.php>

Notice must be provided no less than seven (7) working days prior to the submission of the response.

Notice shall include the following:

- a. Scope of work
 - b. Specifications
 - c. Identify a contact person
5. The respondent shall provide notice to three or more HUBs per each subcontracting opportunity that provide the type of work required for each subcontracting opportunity identified in the contract specifications or any other subcontracting opportunity the respondent cannot complete with its own equipment, supplies, materials, and/or employees. The respondent must keep and provide official written documentation (i.e. fax transmittals, email, etc. to demonstrate compliance).
 6. Provide written justification of the selection process if a non HUB subcontractor is selected.
 7. Encourage selected non-certified minority or woman owned business subcontractors to apply for HUB certification. If the minority or woman owned vendor is not a State certified HUB you may refer the firm to the HUB office for additional information on becoming HUB certified or the State HUB website <https://www.comptroller.texas.gov/purchasing/vendor/hub/resources.php>

HUB Subcontracting Plan Required Documents

HUB forms may also be downloaded at: <http://www.utsystem.edu/offices/historically-underutilized-business/hub-forms>

Changes to the Plan

Once the HUB Plan has been submitted any changes to the HSP **must be approved in writing** by the UT System project manager and HUB Coordinator **prior** to any work commencing by the new subcontractor. Once the contract has been awarded the HSP is considered part of the contract. Violations to the HSP can be deemed a breach of contract by UT System.

Reporting – After Award

Prime contractor payment requests shall include: Prime Contractor Progress Assessment Report (PAR) identify all HUB and non-HUB subcontractor payments. PAR form and instructions for completion can be found at: <http://www.utsystem.edu/offices/historically-underutilized-business/hub-forms>

Regional HUB Coordinator
 The University of Texas System
 Office of HUB Programs
 210 W. 7th Street
 Austin, Texas 78701

RE: Historically Underutilized Business Plan for (Project Title): _____
 Project/ RFP/ RFQ Number: _____ - _____

Dear (Please Select)

I am pleased to forward this HUB Subcontracting Plan as an integral part of our response in connection with your invitation for Request for Proposals referencing the above project.

I have read and understand The University of Texas System Policy on Utilization of Historically Underutilized Businesses (HUBs). I also understand the State of Texas Annual Procurement Goal according to 34 Texas Administrative Code Section 20.284, and the goal as stated in the Agency Special Instructions section of the HUB Subcontracting Plan, page 7.

Subcontractors	No. of Subcontractors	Total Subcontract \$ Value	Total Estimated Subcontracting	% Minority Owned	% Woman Owned	% Service Disabled Veteran
HUB			%	%	%	%
NON-HUB			%			
TOTAL			%			

I understand the above HUB percentages must represent Texas Comptroller HUB certification standards. For each of the listed HUB firms, I have attached a Texas Comptroller HUB Certification document.

During the course of this contract should we discover additional subcontractors claiming Historically Underutilized Business status or if for some reason a HUB is unable to fulfill its contractual obligation with us, we will notify you immediately in order to take the appropriate steps to amend this HUB subcontracting Plan.

Sincerely,

 (signature)

 (print name)

Project Executive
 cc: Project Manager



HUB Subcontracting Plan (HSP)

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

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

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

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

- - Agency Special Instructions/Additional Requirements - -

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

In accordance with 34 TAC §20.13(d)(1)(D)(iii), the goals below are the applicable goals for **The University of Texas System Administration only** effective January 1, 2020.

Special Trades- 32.9% (See pages 4-5 for HSP completion instructions)

- Respondents shall submit a completed HUB Subcontracting Plan (HSP) to be considered responsive. Failure to submit a completed HSP shall result in the bid, proposal or other expression of interest to be considered Non-responsive.
- Prime Contractor Progress Assessment Report (PAR) shall be submitted with each request for payment as a condition of payment.
- Please note that phone logs are no longer acceptable documentation of Good Faith Effort. Only fax, email and certified letter are acceptable.

SECTION 1: RESPONDENT AND REQUISITION INFORMATION

a. Respondent (Company) Name: _____ State of Texas VID #: _____
 Point of Contact: _____ Phone #: _____
 E-mail Address: _____ Fax #: _____

b. Is your company a State of Texas certified HUB? - Yes - No

c. Requisition #: _____ Bid Open Date: _____
 (mm/dd/yyyy)

SECTION 2: RESPONDENT'S SUBCONTRACTING INTENTIONS

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

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

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

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

Item #	Subcontracting Opportunity Description	HUBs		Non-HUBs
		Percentage of the contract expected to be subcontracted to HUBs with which you do not have a continuous contract* in place for more than five (5) years .	Percentage of the contract expected to be subcontracted to HUBs with which you have a continuous contract* in place for more than five (5) years .	Percentage of the contract expected to be subcontracted to non-HUBs.
1		%	%	%
2		%	%	%
3		%	%	%
4		%	%	%
5		%	%	%
6		%	%	%
7		%	%	%
8		%	%	%
9		%	%	%
10		%	%	%
11		%	%	%
12		%	%	%
13		%	%	%
14		%	%	%
15		%	%	%
Aggregate percentages of the contract expected to be subcontracted:		0 %	0 %	0 %

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

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

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

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

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

Enter your company's name here: _____

Requisition #: _____

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

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

Item #	Subcontracting Opportunity Description	HUBs		Non-HUBs
		Percentage of the contract expected to be subcontracted to HUBs with which you do not have a continuous contract* in place for more than five (5) years .	Percentage of the contract expected to be subcontracted to HUBs with which you have a continuous contract* in place for more than five (5) years .	Percentage of the contract expected to be subcontracted to non-HUBs.
16		%	%	%
17		%	%	%
18		%	%	%
19		%	%	%
20		%	%	%
21		%	%	%
22		%	%	%
23		%	%	%
24		%	%	%
25		%	%	%
26		%	%	%
27		%	%	%
28		%	%	%
29		%	%	%
30		%	%	%
31		%	%	%
32		%	%	%
33		%	%	%
34		%	%	%
35		%	%	%
36		%	%	%
37		%	%	%
38		%	%	%
39		%	%	%
40		%	%	%
41		%	%	%
42		%	%	%
43		%	%	%
Aggregate percentages of the contract expected to be subcontracted:		0 %	0%	0 %

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

Enter your company's name here: _____

Requisition #: _____

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

NOT APPLICABLE

SECTION 4: AFFIRMATION

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

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

Signature

Printed Name

Title

Date
(mm/dd/yyyy)

email address

Phone Number

Reminder:

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

HSP Good Faith Effort - Method B (Attachment B)

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

IMPORTANT: If you responded “No” to **SECTION 2, Items c and d** of the completed HSP form, you must submit a completed “HSP Good Faith Effort - Method B (Attachment B)” for **each** of the subcontracting opportunities you listed in **SECTION 2, Item b** of the completed HSP form. You may photo-copy this page or download the form at <https://www.comptroller.texas.gov/purchasing/vendor/hub/forms.php>

SECTION B-1: SUBCONTRACTING OPPORTUNITY

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

Item Number: _____ Description: _____

SECTION B-2: MENTOR PROTÉGÉ PROGRAM

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

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

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

SECTION B-3: NOTIFICATION OF SUBCONTRACTING OPPORTUNITY

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

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

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

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

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

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

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

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

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

SECTION B-4: SUBCONTRACTOR SELECTION

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

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

Item Number: _____ Description: _____

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

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

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

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



HUB Subcontracting Opportunity Notification Form

In accordance with Texas Gov't Code, Chapter 2161, each state agency that considers entering into a contract with an expected value of \$100,000 or more shall, before the agency solicits bids, proposals, offers, or other applicable expressions of interest, determine whether subcontracting opportunities are probable under the contract. The state agency I have identified below in **Section B** has determined that subcontracting opportunities are probable under the requisition to which my company will be responding.

34 Texas Administrative Code, §20.285 requires all respondents (prime contractors) bidding on the contract to provide notice of each of their subcontracting opportunities to at least three (3) Texas certified HUBs (who work within the respective industry applicable to the subcontracting opportunity), and allow the HUBs at least seven (7) working days to respond to the notice prior to the respondent submitting its bid response to the contracting agency. In addition, at least seven (7) working days prior to submitting its bid response to the contracting agency, the respondent must provide notice of each of its subcontracting opportunities to two (2) or more trade organizations or development centers (in Texas) that serves members of groups (i.e., Asian Pacific American, Black American, Hispanic American, Native American, Woman, Service Disabled Veteran) identified in Texas Administrative Code, §20.282(19)(C).

We respectfully request that vendors interested in bidding on the subcontracting opportunity scope of work identified in **Section C, Item 2**, reply no later than the date and time identified in **Section C, Item 1**. Submit your response to the point-of-contact referenced in **Section A**.

SECTION A: PRIME CONTRACTOR'S INFORMATION	
Company Name: _____	State of Texas VID #: _____
Point-of-Contact: _____	Phone #: _____
E-mail Address: _____	Fax #: _____

SECTION B: CONTRACTING STATE AGENCY AND REQUISITION INFORMATION	
Agency Name: <u>The University of Texas System Administration</u>	Phone #: _____
Point-of-Contact: _____	Bid Open Date: _____
Requisition #: _____	<small>(mm/dd/yyyy)</small>

SECTION C: SUBCONTRACTING OPPORTUNITY RESPONSE DUE DATE DESCRIPTION REQUIREMENTS AND RELATED INFORMATION	
1. Potential Subcontractor's Bid Response Due Date.	
If you would like for our company to consider your company's bid for the subcontracting opportunity identified below in Item 2, we must receive your bid response no later than _____ on _____ <small>Central Time Date (mm/dd/yyyy)</small>	
<i>In accordance with 34 TAC §20.285, each notice of subcontracting opportunity shall be provided to at least three (3) Texas certified HUBs, and allow the HUBs at least seven (7) working days to respond to the notice prior to submitting our bid response to the contracting agency. In addition, at least seven (7) working days prior to us submitting our bid response to the contracting agency, we must provide notice of each of our subcontracting opportunities to two (2) or more trade organizations or development centers (in Texas) that serves members of groups (i.e., Asian Pacific America n, Black American, Hispanic America n, Native American, Woman, Service Disabled Veteran) identified in Texas Administrative Code, §20.282(19)(C).</i>	
<i>(A working day is considered a normal business day of a state agency, not including weekends, federal or state holidays, or days the agency is declared closed by its executive officer. The initial day the subcontracting opportunity notice is sent/provided to the HUBs and to the trade organizations or development centers is considered to be "day zero" and does not count as one of the seven (7) working days.)</i>	

2. Subcontracting Opportunity Scope of Work:	

3. Required Qualifications:	<input type="checkbox"/> - NotApplicable

4. Bonding/Insurance Requirements:	<input type="checkbox"/> - NotApplicable

5. Location to review plans/specifications:	<input type="checkbox"/> - NotApplicable

**STANDARD AGREEMENT
BETWEEN OWNER AND CONTRACTOR
for
The University of Texas System Construction Projects**

This Agreement is made as of _____, 20____ (the “Effective Date”), by and between

The Owner: The Board of Regents of The University of Texas System
c/o U.T. System Office of Capital Projects
210 West 7t Street
Austin, Texas 78701

and **Contractor:**

Texas Tax Account No. :

for the **Project:** The University of Texas System
University Lands Re-Roof
Midland, Texas

Project Number: UL 2020-1

Contract Number:

UTUGC Version: 2018

**Owner Controlled
Insurance Program (OCIP):** No

**Owner Provided Builder’s
Risk Insurance:** No

The Owner and the Contractor agree as follows:

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ARTICLE

- 1 SCOPE OF WORK
- 2 CONTRACT DOCUMENTS
- 3 THE CONTRACT SUM
- 4 TIME OF COMPLETION
- 5 LIQUIDATED DAMAGES

- 6 HUB SUBCONTRACTING PLAN
- 7 SAFETY
- 8 CERTIFICATION OF NO ASBESTOS
CONTAINING MATERIALS OR WORK

- 9 PRE-EXISTING CONDITIONS
- 10 BONDS AND INSURANCE
- 11 CONTRACTOR PROVIDED
INSURANCE
- 12 CONTRACTOR'S SPECIAL
WARRANTIES AND RESPONSIBILITIES

- 13 INDEMNITY
- 14 PARTY REPRESENTATIVES
- 15 NOTICES
- 16 MISCELLANEOUS PROVISIONS

LIST OF EXHIBITS

The following Exhibits are incorporated into the Agreement as if set out verbatim.

- Ex.A 2013 Uniform General Conditions for The University of Texas System Building Construction Contracts (UTUGCs) By Reference Dated 6-20-18
- Ex.B Owner's Special Conditions and Specifications with the date they were issued By RFP UL 2020-1 Dated October 1, 2020.
- Ex.C Contractor's Proposal (if incorporated into the Project)
- Ex.D Specifications Addenda, details and other documents developed by Owner that describe the Project with the date they were issued.
- Ex.I HUB Subcontracting Plan

ARTICLE 1 SCOPE OF WORK

The Contractor has overall responsibility for and shall provide and furnish all materials, equipment, tools and labor as necessary or reasonably inferable to complete the Work, or any phase of the Work, in accordance with the Owner's requirements and the scope as defined here:

The building roof is a relatively flat roof approximately 8,300 square feet. Bids shall include the following

1. Removal and proper disposal of the existing single-ply roofing system (Duro-Last).
2. Removal and proper disposal of existing insulation to bare metal deck.
3. Replacement of 4.5" (min.) of Poly-Iso insulation over the existing metal deck.
4. Installation of a 5/8" coverboard (Securock Gypsum Fiber).
5. Replacement of roofing membrane- hybrid with SBS base and a PVC/KEE Elvaloy cap sheet is preferred. Basis of design a 36 mil FiberTite System or approved equal. Single-ply roofing membranes will be considered; assuming a 60-mil membrane or better is proposed. Roof color shall be white or other reflective color as approved by University Lands.
6. Slope insulation and provide crickets to 6 primary roof drains.
7. Ensure drains are functioning properly. Use of cameras (or other approved means) to verify the drains are free of obstructions is required. Ensure that secondary drains (approximately 2" higher) are functioning as designed. Notify Owner if repairs to the drains are necessary.
8. Replace roof hatch. Hatch outside dimension is approximately 34"W x 41.5"L. Roofing membrane shall be properly flashed at roof hatch. See specification 07 72 00 Roof Hatch for additional requirements.
9. Roof membrane shall extend vertically on the existing parapets (approximately 3'-0" high) and shall be properly flashed over the top of the existing parapets.
10. Provide 24 Ga. coping cap at parapet. Coordinate color with University Lands. Provide proper transition between the existing exterior finish and flashing/coping. Contractor to confirm that the transition will not leak and damage any existing condition.
11. Flash all existing roof top equipment- approximately 11 units.
12. Provide all required flashing including but not limited to all pitch pans and plumbing boots.
13. Provide walking paths (walkways) from roof access to existing mechanical units.
14. Contractor shall provide material submittals and shop drawings for University Lands review and comment at least 2 weeks prior to installation. University Lands shall provide comments or approval within 1 week of submission.
15. Contractor shall provide 1 hard copy and 1 electronic (pdf) copy on a flash drive of As-Built drawings to the Owner at the end of the project.
16. Provide a 20-year NDL manufacturer's warranty from date of substantial completion. Installer Warranty- Provide a 5 Year NDL from date of substantial completion.
17. Provided necessary accessories (including but not limited to nailers, curbs, blocking, flashing, etc.) for proper completion of re-roof.

Conditions:

- Access to building is to be coordinated with University Lands.
- Limited staging will be provided on the north side of the building. This is to be coordinated with University Lands.
- Building shall be occupied during the re-roofing. Coordinate any electrical, AC, or water shut downs with University Lands at least 48 hours in advance of any shut down.
- See Uniform General Conditions.
- All work shall be in accordance with manufacturers roofing standards and specifications.

- Roof uplift design shall meet IBC 2018.
- At Owner’s discretion- Installation will be observed by a delegated owner’s representative (ODR). Reports and recommendations will be shared with the Contractor. ODR may perform uplift testing and leak testing. Contractor will coordinate testing with the ODR. Access to the roof for testing will be provided by the Contractor. Results of testing will be shared with the Contractor. If any test fail, ODR will recommend corrections/repairs. Costs for any re-testing testing will be the responsibility of the Contractor.
- During removal of the existing roof, existing damaged steel deck or damaged parapets shall be reported to University Lands immediately upon discovery. Repair recommendations will be coordinated with the Contractor.
- Contractor shall not damage the existing deck, AC units, pipes, parapets, existing finishes, etc. during removal of the existing roof or during the placement of the new roofing material. Any damage shall be reported to University Lands immediately upon discovery. Cost for the repair shall be the responsibility of the Contractor. Repair shall be coordinated with University Lands.
- Any overnight breaks in roofing during installation shall be properly protected and flashed to ensure moisture will not damage insulation, new work or existing conditions both exterior and interior.

ARTICLE 2 CONTRACT DOCUMENTS

2.1 The Contract Documents consist of:

- a. This Agreement and all exhibits and attachments listed, contained or referenced in this Agreement;
- b. The Uniform General Conditions for The University of Texas System Building Construction Contracts (UTUGC), applicable version identified, above;
- c. Owner’s Special Conditions and Owner’s Specifications;
- d. All Addenda issued before the Effective Date of this Agreement;
- e. All Alternate Bid Proposals accepted by the Owner before the Effective Date of this Agreement;
- f. All Change Orders issued after the Effective Date of this Agreement;
- g. The Scope of Work, Specifications, details and other documents developed by the Owner to describe the Project and accepted by Owner;
- h. The Specifications developed or prepared by Owner’s other consultants, if any, and accepted by the Owner; and
- i. The HUB Subcontracting plan submitted by the Contractor in response to the Request for Proposals issued by the Owner for this Project.
- j. Contractor’s Proposal if incorporated into the Project. To the extent of any conflict between Contractor’s Proposal and any other Contract Document, the Contract Document shall govern.

2.2 The Contract Documents form the entire and integrated Contract between Owner and Contractor and supersede all prior negotiations, representations or agreements, written or oral.

ARTICLE 3 THE CONTRACT SUM:

3.1 The Owner shall pay the Contractor for performance of the Contract, including the Base Proposal the sum of _____ (\$ _____), and make payment on account as provided in the UTUGCs.

ARTICLE 4 TIME OF COMPLETION:

The Owner shall issue a Notice to Proceed identifying the date for commencement of the Work. The commencement date shall be 10 or more days after the date the notice is issued. The Contractor shall achieve substantial completion of the Work within _____ (____) calendar days after the commencement date, as such completion date may be extended by approved Change Orders. **THE TIME SET FORTH FOR COMPLETION OF THE WORK IS AN ESSENTIAL ELEMENT OF THE CONTRACT.**

ARTICLE 5 LIQUIDATED DAMAGES:

For each consecutive calendar day after the expiration of the substantial completion period set forth in Article 4 that any incomplete Work prevents or impairs the Owner's ability to operate and use the Project for its intended purposes, including the correction of deficiencies found during the final testing and inspection, the amount of _____ \$0 _____ will be deducted from the money due or that becomes due the Contractor, not as a penalty but as liquidated damages representing the parties' estimate at the time of executing this Agreement of the damages that the Owner will sustain for late completion.

ARTICLE 6 HUB SUBCONTRACTING PLAN:

The Owner has adopted Exhibit H, Policy on Utilization of Historically Underutilized Business ("Policy"), which is incorporated herein by reference. Contractor, as a provision of the Agreement must comply with the requirements of the Policy and adhere to the HUB Subcontracting Plan submitted with Contractor's Proposal and attached as **Exhibit I**. No changes to the HUB Subcontracting Plan can be made by the Contractor without the prior written approval of the Owner in accordance with the Policy.

ARTICLE 7 SAFETY

7.1 Contractor is responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. 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.

7.2 Contractor shall provide recommendations and information to Owner 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 within the scope of work.

ARTICLE 8 CERTIFICATION OF NO ASBESTOS CONTAINING MATERIALS OR WORK

8.1 The Contractor shall be responsible for ensuring that no asbestos containing materials or work is included within the scope of the Work. The Contractor shall take whatever measures it deems necessary to ensure that all employees, suppliers, fabricators, material men, subcontractors, or their assigns, comply with this requirement.

8.2 The Contractor shall ensure that Texas Department of Health 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.

8.3 At Substantial Completion and Final Completion the Contractor shall provide a certification letter certifying that the Work does not contain asbestos as required by the UTUGCs.

ARTICLE 9 PRE-EXISTING CONDITIONS

The Contractor acknowledges that it has been provided unrestricted access to the existing improvements and conditions on the Project site and that it has thoroughly investigated those conditions. Contractor's investigation was instrumental in preparing its Proposal to perform the Work. Contractor shall not make or be entitled to any adjustment to the Contract Time or the Contract Sum arising from Project conditions that Contractor discovered or, in the exercise of reasonable care, should have discovered in Contractor's investigation.

ARTICLE 10 BONDS AND INSURANCE

10.1 The Contractor shall provide performance and payment bonds on forms prescribed by Owner and in accordance with the requirements set forth in the UTUGCs. The penal sum of the payment and performance bonds shall be equal to the Contract Sum.

10.2 The Contractor shall not commence work under the Agreement until it has obtained all insurance coverage as required by the UTUGCs and until evidence of the required insurance has been reviewed and approved by the Owner. Owner's review of the insurance shall not relieve nor decrease the liability of the Contractor.

ARTICLE 11 CONTRACTOR PROVIDED INSURANCE

11.1 The Contractor **will be required to provide** the following additional insurance coverage:

11.1.1 Construction Phase: Provide Workers' Compensation, Comprehensive General Liability, Umbrella Liability, Comprehensive Automobile Liability, and Builder's Risk as set forth in the Uniform General Conditions for University of Texas System Building Construction and the Owner's Special Conditions.

11.1.2 Contractor shall not cause or allow any of its required insurance to be canceled nor permit any insurance to lapse during the term of the Agreement or as required in the Agreement. If the Contractor fails to obtain, maintain or renew any insurance required by the Agreement, the Owner may obtain insurance coverage directly and recover the cost of that insurance from the Construction Manager.

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

11.1.4 The Owner 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 the Contractor and not covered by insurance shall be paid by the Contractor.

11.1.5 The cost of premiums for any additional insurance coverage, subcontractor default insurance programs or subcontractor payment and performance bonds, desired by the Contractor in excess of that required by this Agreement, the Uniform General Conditions for University of Texas System Building Construction Contracts, the Owner's Special Conditions, or the Contract Documents shall be borne solely by the Contractor out of its fees and not included in the Cost of Work included in the General Contractor's Lump Sum Construction proposal.

ARTICLE 12 CONTRACTOR'S SPECIAL WARRANTIES AND RESPONSIBILITIES

12.1 Contractor agrees and acknowledges that Owner is entering into this Agreement in reliance on Contractor's represented expertise and ability to provide construction services. Contractor agrees to use its best efforts, skill, judgment, and abilities to perform its obligations and to further the interests of Owner in accordance with Owner's requirements and procedures.

12.2 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 national, federal, state, and municipal, laws, regulations, codes, ordinances, 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 any harm caused by the negligent or improper work or services.

12.3 Contractor's duties shall not be diminished by any approval by Owner nor shall the Contractor be released from any liability by any approval by Owner, it being understood that the Owner is ultimately relying upon the Contractor's skill and knowledge in performing the services required by this Agreement.

12.4 Contractor represents and agrees that all persons connected with the 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 registration is required.

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

12.6 The 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 Owner.

12.7 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.

12.8 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.

12.9 Contractor shall designate a representative authorized to act on Contractor's behalf with respect to the Project.

12.10 Contractor shall establish and maintain a numbering and tracking system for all Project records including, but not limited to, changes, requests for information, submittals, and supplementary instructions and shall provide updated records to the Owner when requested.

12.11 Except for the obligation of Owner to pay Contractor certain fees, costs, and expenses pursuant to the terms of this Agreement, Owner 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 Owner to Contractor, no present or future partner or affiliate of Owner or any agent, officer, director, employee, or regent of Owner, The University of Texas System, or of the components comprising The University of Texas System, or anyone claiming under Owner 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.

ARTICLE 13 INDEMNITY

13.1 SEE ARTICLE 3 OF THE UNIFORM GENERAL CONDITIONS FOR UNIVERSITY OF TEXAS SYSTEM UNIVERSITY LANDS RE-ROOF FOR CONTRACTOR'S GENERAL INDEMNIFICATION OBLIGATIONS.

ARTICLE 14 PARTY REPRESENTATIVES

14.1 The Owner's Designated Representative authorized to act in the Owner's behalf with respect to the Project is:

Louisa L. Ball
Sr. Purchasing Agent
University Lands
704 W Dengar Ave.
Midland, Texas 79705

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

[Name]
[Title]
[Company Name}
[Address]
[City, State, Zip]

14.3 The parties may make reasonable changes in their designated representatives upon advance written notice to the other party.

ARTICLE 15 NOTICES

Notices of claims or disputes or other legal notices required by this Agreement shall be sent to the following persons at the indicated locations.

If to Owner: [Owner's Designated Representative]
Louisa L. Ball
Sr. Purchasing Agent
University Lands
704 W Dengar Ave.
Midland, Texas 79705

With Copies to: Robert J. Barrera, P.E
Assistant Director, Engineering- Building Envelope
U.T. System, OCP
210 West 7th Street
Austin, Texas 78701

If to Contractor: [Name]
[Company Name]
[Street Address]
[City, State, Zip]

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

ARTICLE 16 MISCELLANEOUS PROVISIONS

16.1 Assignment. This Agreement is a personal service contract for the services of Contractor, and Contractor's interest in this Agreement, duties hereunder and/or fees due hereunder may not be assigned or delegated to a third party without the written consent of the Owner.

16.2 Records of expenses pertaining to Additional Services and services performed on the basis of a Worker Wage Rate or Monthly Salary Rate 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 the Owner or the Owner's authorized representative on reasonable notice.

16.3 Family Code Child Support Certification. Pursuant to Section 231.006, Texas Family Code, Service Provider certifies that it is not ineligible to receive the award of or payments under this Agreement and acknowledges that this Agreement may be terminated and payment may be withheld if this certification is inaccurate.

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

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

16.6 Entire Agreement; Modifications. This Agreement supersedes all prior agreements, written or oral, between Contractor and Owner 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 Owner.

16.7 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.

16.8 Governing Law and Venue. This Agreement and all of the rights and obligations of the parties and all of the terms and conditions shall be construed, interpreted and applied in accordance with and governed by and enforced under the laws of the State of Texas without reference to its conflicts of law provisions. Travis County, Texas or the county where the Project is located shall be the sole places of venue for any legal action arising from or related to this Agreement or the Project in which the Owner is a party.

16.9 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 the Agreement.

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

16.11 Appointment. Owner hereby expressly reserves the right from time to time to designate by notice to Contractor a representative(s) to act partially or wholly for Owner in connection with the performance of Owner's obligations. Contractor shall act only upon instructions from the designated representative(s) unless otherwise specifically notified to the contrary.

16.12 Records. Records of Contractor's costs, reimbursable expenses pertaining to the Project and payments shall be available to Owner or its authorized representative during business hours and shall be retained for four (4) years after final Payment or abandonment of the Project, unless Owner otherwise instructs Contractor in writing.

16.13 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 the Contractor or Owner 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.

16.14 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.

16.15 Illegal Dumping. The 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.

16.16 By signature hereon, Contractor certifies that no member of the Board of Regents of The University of Texas System, or Executive Officers, including component institutions, has a financial interest, directly or indirectly, in the transaction that is the subject of this contract.

16.17 Ethics Matters; No Financial Interest. Contractor and its employees, agents, representatives and subcontractors have read and understand University's Conflicts of Interest Policy available at <http://www.utsystem.edu/policy/policies/int160.html>, University's Standards of Conduct Guide available at <http://www.utsystem.edu/systemcompliance/>, and applicable state ethics laws and rules available at

www.utsystem.edu/ogc/ethics. Neither Contractor nor its employees, agents, representatives or subcontractors will assist or cause University employees to violate University's Conflicts of Interest Policy, provisions described by University's Standards of Conduct Guide, or applicable state ethics laws or rules. Contractor represents and warrants that no previously undisclosed member of the The U.T. System Board of Regents, The U.T. System chancellor, any U.T. institution president nor any executive officer of U.T. System or any of its institutions has a financial interest, direct or indirect, in the transaction that is the subject of this Agreement.

16.18 By signature hereon, Contractor agrees that this project will utilize Contractor Provided Insurance. See Article 11 for additional information and requirements.

16.19 Disclosure of Interested Parties. By signature hereon, Contractor certifies that it has complied with Section 2252.908 of the Texas Government Code and 1 Texas Administrative Code Sections 46.1 through 46.3 as implemented by the Texas Ethics Commission (TEC) and has provided the Owner with a fully executed TEC Form 1295, certified by the TEC and signed and notarized by the Contractor.

16.20 Contractor Certification regarding Boycotting Israel. To the extent required by Chapter 2270, Texas Government Code, Contractor certifies Contractor (1) does not currently boycott Israel; and (2) will not boycott Israel during the Term of this Agreement. Contractor acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.

16.21 Contractor Certification regarding Business with Certain Countries and Organizations. Pursuant to Subchapter F, Chapter 2252, Texas Government Code], Contractor certifies Contractor (1) is not engaged in business with Iran, Sudan, or a foreign terrorist organization. Contractor acknowledges this Agreement may be terminated and payment withheld if this certification is inaccurate.

16.22 **Domestic Iron and Steel Certification.** Pursuant to Sections 2252.201-2252.205 of the Government Code, Service Provider certifies that it is in compliance with the requirement that any iron or steel product produced through a manufacturing process and used in the project is produced in the United States.

BY SIGNING BELOW, the Parties have executed and bound themselves to this Agreement as of the day and year first above written.

(SEAL)

(Contractor)

ATTEST:

By: _____
(original signature)

(name and title typed)

By: _____
(original signature)

(name and title typed)

Date: _____

CONTENT APPROVED:
[*Supervising Construction Purchasing Officer*]

BOARD OF REGENTS
THE UNIVERSITY OF TEXAS SYSTEM
(Owner)

By: _____

By: _____
(original signature)

Name: Stephen Harris
Title: Assistant Vice Chancellor
Office of Capital Projects

Name: Dr. Scott C. Kelley
Title: Executive Vice Chancellor for
Business Affairs

Date: _____

EXHIBIT A

**UNIFORM GENERAL CONDITIONS FOR UNIVERSITY OF TEXAS SYSTEM BUILDING
CONSTRUCTION CONTRACTS**

EXHIBIT B

OWNER'S SPECIAL CONDITIONS

EXHIBIT C
CONTRACTOR'S PROPOSAL

EXHIBIT D

LIST OF SCOPE OF WORK, SPECIFICATIONS AND ADDEDNA

EXHIBIT I

HUB SUBCONTRACTING PLAN

REVISIONS

Date	Paragraph Revised	
8-23-13	Original Issue Date	es
10-24-13	Rev. Art. 11 Insurance; to revise OCIP provisions and to add provisions for Owner Provided Builders Risk Insurance. Deleted Art. 10.3 regarding OCIP.	mgm
2-17-15	Art. 16.17 regarding no financial interest of the BOR, Chancellor or Officers in this contract. Added signature block for Chancellor's signature	mgm
10-15-15	Added Art. 16.18 notification binding all contractors and subcontractors to utilize the ROCIP program. Rev. Art. 11.2	mgm
1-19-16	Add Art 16.19 Disclosure of Interested Parties	mgm
8-1-17	Article 15 Address Change	mjc
8-29-17	16.20 Contractor Certification regarding Boycotting Israel. added 16.21 Contractor Certification regarding Business with Certain Countries and Organizations. added	Ems/m jc
09-01-17	16.22 Domestic Iron and Steel Certification	ems
5/16/2019	16.20 Contractor Certification regarding Boycotting Israel. opening phrase edited (ems)	ems
06/28/19	Changed OCP references to OCP	mjc

2013 Uniform General Conditions
for
University of Texas System Building Construction Contracts
For use on all UT System and Institution Construction Projects

Last Revision: 06/20/2018 ems

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Article 1. Definitions

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

- 1.1 *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.
- 1.2 *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.
- 1.3 *Architect/Engineer (A/E)* means a person registered as an architect pursuant to Tex. Occ. Code Ann., Chapter 1051, as a landscape architect pursuant to Tex. Occ. Code Ann., Chapter 1052, a person licensed as a professional engineer pursuant Tex. Occ. Code Ann., Chapter 1001, and/or a firm employed by Owner 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.
- 1.4 *Baseline Schedule* means the initial time schedule prepared by Contractor for Owner'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 ODR), 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.
- 1.5 *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 Close-Out documents required by the Contract Documents.
- 1.6 *Change Order* means a written modification of the Contract between Owner and Contractor, signed by Owner, Contractor and A/E.
- 1.7 *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.
- 1.8 *Contract* means the entire agreement between Owner and Contractor, including all of the Contract Documents.
- 1.9 *Contract Date* is the date when the agreement between Owner and Contractor becomes effective.
- 1.10 *Contract Documents* mean those documents identified as a component of the agreement (Contract) between Owner and Contractor. These may include, but are not limited to, Drawings; Specifications; Uniform General Conditions and Owner's Special Conditions; and all pre-bid and/or pre-proposal addenda.
- 1.11 *Contract Sum* means the total compensation payable to Contractor for completion of the Work in

- accordance with the terms of the Contract.
- 1.12 *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.
- 1.13 *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.
- 1.14 *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.
- 1.15 *Construction Manager-at-Risk*, in accordance with Tex. Educ. Code § 51.782, 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 Owner regarding construction during and after the design of the facility.
- 1.16 *Date of Commencement* means the date designated in the Notice to Proceed for Contractor to commence the Work.
- 1.17 *Day* means a calendar day unless otherwise specifically stipulated.
- 1.18 *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. Educ. Code § 51.780.
- 1.19 *Drawings* mean that product of A/E which graphically depicts the Work.
- 1.20 *Final Completion* means the date determined and certified by A/E and Owner on which the Work is fully and satisfactorily complete in accordance with the Contract.
- 1.21 *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.
- 1.22 *Historically Underutilized Business (HUB)* pursuant to Tex. Gov't Code, Chapter 2161, means a business that is at least 51% owned by an Asian Pacific American, a Black American, a Hispanic American, a Native American and/or an American Woman; is an entity with its principal place of business in Texas; and has an owner residing in Texas with proportionate interest that actively participates in the control, operations, and management of the entity's affairs.
- 1.23 *Notice to Proceed* means written document informing Contractor of the dates beginning Work and the dates anticipated for Substantial Completion.
- 1.24 *Open Item List* means a list of work activities, Punchlist items, changes or other issues that are not expected by Owner and Contractor to be complete prior to Substantial Completion.
- 1.25 *Owner* means The Board of Regents of The University of Texas System, acting through the responsible entity of The University of Texas System or one of its Institutions as identified in the Contract as Owner.
- 1.26 *Owner's Designated Representative (ODR)* means the individual assigned by Owner to act on its behalf

- and to undertake certain activities as specifically outlined in the Contract. ODR is the only party authorized to direct changes to the scope, cost, or time of the Contract.
- 1.27 *Owner's Special Conditions* mean the documents containing terms and conditions which may be unique to the Project. Owner's Special Conditions are a part of the Contract Documents and have precedence over the Uniform General Conditions
- 1.28 *Project* means all activities necessary for realization Owner's desired building or other structure including all ancillary and related work. This includes design, contract award(s), execution of the Work itself, work by Owner's forces and/or other contractors and fulfillment of all Contract and warranty obligations.
- 1.29 *Progress Assessment Report (PAR)* means the monthly compliance report to Owner verifying compliance with the HUB subcontracting plan (HSP).
- 1.30 *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.
- 1.31 *Punchlist* means a list of items of Work to be completed or corrected by Contractor before Final Completion. The Punchlist(s) indicates 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.
- 1.32 *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.
- 1.33 *Request for Information (RFI)* means a written request by Contractor directed to A/E or ODR 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.
- 1.34 *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.
- 1.35 *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 Owner and A/E.
- 1.36 *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.
- 1.37 *Site* means the geographical area of the location of the Work.
- 1.38 *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.
- 1.39 *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.
- 1.40 *Submittal Register* means a list provided by Contractor of all items to be furnished for review and approval by A/E and Owner and as identified in the Contract Documents including anticipated sequence and submittal dates.
- 1.41 *Substantial Completion* means the date determined and certified by Contractor, A/E, and Owner 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.

- 1.42 *Unit Price Work* means the Work, or a portion of the Work, paid for based on incremental units of measurement.
- 1.43 *Unilateral Change Order (ULCO)* means a Change Order issued by Owner without the complete agreement of Contractor, as to cost and/or time.
- 1.44 *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.
- 1.45 *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. Wage Rates 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, Owner 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 Owner, and shall provide an affidavit attesting to such in association with request for Substantial Completion inspection.
- 2.2 Wage Rates. Contractor shall not pay less than the wage scale of the various classes of labor as shown on the prevailing wage schedule provided by Owner in the bid or proposal specifications. The specified wage rates are minimum rates only. Owner is not bound to pay any claims for additional compensation made by any Contractor because the Contractor pays wages in excess of the applicable minimum rate contained in the Contract. The prevailing wage schedule is not a representation that qualified labor adequate to perform the Work is available locally at the prevailing wage rates.
 - 2.2.1 Notification to Workers. Contractor shall post the prevailing wage schedule in a place conspicuous to all workers on the Project Site and shall notify each worker, in writing, of the following as they commence work on the Contract: the worker's job classification, the established minimum wage rate requirement for that classification, as well as the worker's actual wage. The notice must be delivered to and signed in acknowledgement of receipt by the worker and must list both the wages and fringe benefits to be paid or furnished for each classification in which the worker is assigned duties. When requested by Owner, Contractor shall furnish evidence of compliance with the Texas Prevailing Wage Law and the addresses of all workers.
 - 2.2.1.1 Contractor shall submit a copy of each worker's wage-rate notification to ODR with the application for progress payment for the period during which the worker was engaged in activities on behalf of the Project.
 - 2.2.1.2 The prevailing wage schedule is determined by Owner in compliance with Tex. Gov't Code, Chapter 2258. Should Contractor at any time become aware that a particular skill or trade not reflected on Owner's prevailing wage schedule will be or is being employed in the Work, whether by Contractor or by Subcontractor, Contractor shall promptly inform ODR of the proposed wage to be paid for the skill along with a justification for same and ODR shall promptly concur with or reject the proposed wage and classification. Contractor is responsible for determining the

most appropriate wage for a particular skill in relation to similar skills or trades identified on the prevailing wage schedule. In no case, shall any worker be paid less than the wage indicated for laborers.

- 2.2.2 Penalty for Violation. Contractor, and any Subcontractor, will pay to the State a penalty of sixty dollars (\$60) for each worker employed for each day, or portion thereof, that the worker is paid less than the wage rates stipulated in the prevailing wage schedule.
- 2.2.3 Complaints of Violations.
 - 2.2.3.1 Owner's Determination of Good Cause. Upon receipt of information concerning a violation, Owner will conduct an investigation in accordance with Tex. Gov't Code, Chapter 2258 and make an initial determination as to whether good cause exists that a violation occurred. Upon making a good cause finding, Owner will retain the full amounts claimed by the claimant or claimants as the difference between wages paid and wages due under the prevailing wage schedule and any supplements thereto, together with the applicable penalties, such amounts being subtracted from successive progress payments pending a final decision on the violation.
 - 2.2.3.2 No Extension of Time. If Owner's determination proves valid that good cause existed to believe a violation had occurred, Contractor is not entitled to an extension of time for any delay arising directly or indirectly from the arbitration procedures.
- 2.3 Venue for Suits. The venue for any suit arising from the Contract will be in a court of competent jurisdiction in Travis County, Texas, or as may otherwise be designated in the Owner's Special Conditions.
- 2.4 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 Owner.
- 2.5 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 Owner 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 Owner 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.
- 2.6 State Sales and Use Taxes. Owner qualifies for exemption from certain State and local sales and use taxes pursuant to the provisions of Tex. Tax Code, Chapter 151. Upon request from Contractor, Owner 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. Owner acknowledges not all items qualify for exemption. Owner is not obligated to reimburse Contractor for taxes paid on items that qualify for tax exemption.

Article 3. General Responsibilities of Owner and Contractor

- 3.1 Owner's General Responsibilities. Owner 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 Owner, 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 Owner's Designated Representative. Prior to the start of construction, Owner will identify Owner's Designated Representative (ODR), who has the express authority to act and bind Owner 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, ODR is the single point of contact between Owner and Contractor. Notice to ODR, unless otherwise noted, constitutes notice to Owner under the Contract.

3.1.2.2 All directives on behalf of Owner will be conveyed to Contractor and A/E by ODR in writing.

3.1.2.3 Owner 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 Agreement or Special Conditions.

3.1.3 Owner Supplied Materials and Information.

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

3.1.4 Availability of Lands. Owner 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 Owner identified encumbrances or restrictions specifically related to use of lands so furnished. Owner will obtain and pay for easements for permanent structures or permanent changes in existing facilities, unless otherwise required in the Contract Documents.

3.1.5 Limitation on Owner's Duties.

3.1.5.1 Owner 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. Owner is not responsible for any failure of Contractor to comply with laws and regulations applicable to the Work. Owner 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, Owner 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 Owner 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 Owner and Contractor, A/E shall provide general administration services for Owner 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 Owner to the extent provided in the Contract Documents, unless otherwise modified by written instrument, which will be furnished to Contractor by ODR, 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 (or the Design/Build Contractor's Contract, if applicable) with Owner, to observe the progress and the quality of the various aspects of Contractor's executed Work and report findings to Owner.

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, Owner 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 ODR, 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 Owner 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 and procedures.

Contractor shall visit the Site before commencing the Work and become familiar with local conditions such as the location, accessibility and general character of the Site and/or building.

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 ODR in accordance with these general conditions, Division 1 of the Specifications and other provisions of the Contract, and as outlined in the pre-construction conference.

- 3.3.1.1 At the request of Owner and at no additional cost, Contractor shall furnish to the ODR one copy of the current edition of the RS Means Facilities Construction Cost Data Book in hard copy format or digital medium as directed by the ODR.
- 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 ODR. Contractor shall not change approved staff during the course of the project without the written approval of ODR unless the staff member leaves the employment of Contractor. Contractor shall provide additional quality control, safety and other staff as stated in the Contract Documents.
- 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 Owner furnished equipment or material that will be in the care, custody, and control of Contractor, Contractor is responsible for damage or loss.
- 3.3.6 Non-Compliant Work. Should A/E and/or ODR identify Work as non-compliant with the Contract Documents, A/E and/or ODR shall communicate the finding to Contractor, and Contractor shall correct such Work at no additional cost to the Owner. The approval of Work or the failure to find non-compliant Work by either A/E or ODR 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 Owner shall have reasonable objection. Owner 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 Owner.
- 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 Owner.
- 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 Owner only through Contractor. Contractor shall furnish to Owner a copy, at Owner's request, of each first-tier subcontract promptly after its execution. Contractor agrees that Owner has no obligation to review or approve the content of such contracts and that providing Owner 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 Owner.

- 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 Owner. Contractor shall not delay or postpone any Work because of pending unresolved disputes, disagreements or alternative resolution processes, except as Owner 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. Owner may, in writing, require Contractor to remove from the Project any of Contractor's or its Subcontractor's employees whom ODR finds to be careless, incompetent, unsafe, uncooperative, disruptive, or otherwise objectionable.
- 3.3.11 Ancillary Areas. Contractor shall operate and maintain operations and associated storage areas at the site of the Work in accordance with the following:
- 3.3.11.1 All Contractor operations, including storage of materials and employee parking upon the Site of Work, shall be confined to areas designated by Owner.
- 3.3.11.2 Contractor may erect, at its own expense, temporary buildings that will remain its property. Contractor shall remove such buildings and associated utility service lines upon completion of the Work, unless Contractor requests and Owner provides written consent that it may abandon such buildings and utilities in place.
- 3.3.11.3 Contractor shall use only established roadways or construct and use such temporary roadways as may be authorized by Owner. Contractor shall not allow load limits of vehicles to exceed the limits prescribed by appropriate regulations or law. Contractor shall 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.
- 3.3.11.4 Owner may restrict Contractor's entry to the Site to specifically assigned entrances and routes.
- 3.3.12 Separate Contracts. Owner reserves the right to award other contracts in connection with the Project under the same or substantially similar contract terms, including those portions related to insurance and waiver of subrogation. Owner reserves the right to perform operations related to the Project with Owner's own forces.
- 3.3.13 Under a system of separate contracts, the conditions described herein continue to apply except as may be amended by change order.
- 3.3.14 Contractor shall cooperate with other contractors or forces employed on the Project by Owner, including providing access to Site, integration of activities within Contractor's Work Progress Schedule and Project information as requested.
- 3.3.15 Owner shall be reimbursed by Contractor for costs incurred by Owner which are payable to a separate contractor because of delays, improperly timed activities, or defective construction by Contractor. Owner will equitably adjust the Contract by Change Order for costs incurred by Contractor because of delays, improperly timed activities, damage to the Work or defective

construction by a separate contractor.

3.4 Indemnification of Owner.

- 3.4.1 **Contractor covenants and agrees to FULLY INDEMNIFY and HOLD HARMLESS, Owner and the elected and appointed officials, employees, officers, directors, volunteers, and representatives of Owner, individually or collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death or property damage, made upon Owner directly or indirectly arising out of, resulting from or related to Contractor's activities under this Contract, including any acts or omissions of Contractor, or any agent, officer, director, representative, employee, consultant or the Subcontractor of Contractor, and their respective officers, agents, employees, directors and representatives while in the exercise of performance of the rights or duties under this Contract. The indemnity provided for in this paragraph does not apply to any liability resulting from the negligence of the Owner, its officers or employees, separate contractors or assigned contractors, in instances where such negligence causes personal injury, death or property damage. IN THE EVENT CONTRACTOR AND OWNER ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY WILL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS, WITHOUT WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE STATE UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.**
- 3.4.2 **Contractor shall protect and indemnify the Owner 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 the Contractor or the use by Contractor, or by Owner 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, Owner shall promptly notify Contractor and Contractor shall be given full opportunity to negotiate a settlement. Contractor does not warrant against infringement by reason of Owner's or Project Architect's design of articles or their use in combination with other materials or in the operation of any process. In the event of litigation, Owner agrees to cooperate reasonably with Contractor and parties shall be entitled, in connection with any such litigation, to be represented by counsel at their own expense.**
- 3.4.3 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.
- 3.4.4 Contractor shall promptly advise Owner in writing of any claim or demand against Owner or against Contractor which involves Owner and known to Contractor and related to or arising out of Contractor's activities under this Contract.
- 3.4.5 These indemnity provisions shall survive the termination of this Agreement regardless of the reason for termination.

Article 4. Historically Underutilized Business (HUB) Subcontracting Plan

- 4.1 General Description. The purpose of the Historically Underutilized Business (HUB) program is to promote equal business opportunities for economically disadvantaged persons (as defined by Tex. Gov't Code, Chapter 2161) to contract with the State of Texas in accordance with the goals specified in the State of Texas Disparity Study. The HUB program annual procurement utilization goals are defined in 34 T.A.C. § 20.13(b).

- 4.1.1 State agencies are required by statute to make a good faith effort to assist HUBs in participating in contract awards issued by the State. 34 T.A.C. § 20.13(b) outlines the State’s policy to encourage the utilization of HUBs in State contracting opportunities through race, ethnic and gender neutral means.
- 4.1.2 A Contractor who contracts with the State in an amount of \$100,000 or greater is required to make a good faith effort to award subcontracts to HUBs in accordance with 34 T.A.C. § 20.14(a)(2)(A) by submitting a HUB subcontracting plan within twenty-four (24) hours after the bid or response is due and complying with the HUB subcontracting plan after it is accepted by Owner and during the term of the Contract.
- 4.2 Compliance with Approved HUB Subcontracting Plan. Contractor, having been awarded this Contract in part by complying with the HUB program statute and rules, hereby covenants to continue to comply with the HUB program as follows:
 - 4.2.1 Prior to adding or substituting a Subcontractor, promptly notify Owner in the event a change is required for any reason to the accepted HUB subcontracting plan.
 - 4.2.2 Conduct the good-faith effort activities required and provide Owner with necessary documentation to justify approval of a change to the approved HUB subcontracting plan.
 - 4.2.3 Cooperate in the execution of a Change Order or such other approval of the change in the HUB subcontracting plans as Contractor and Owner may agree to.
 - 4.2.4 Maintain and make available to Owner upon request business records documenting compliance with the accepted HUB subcontracting plan.
 - 4.2.5 Upon receipt of payment for performance of Work, submit to Owner a compliance report, in the format required by Owner that demonstrates Contractor’s performance of the HUB subcontracting plan.
 - 4.2.5.1 Progress Assessment Report (PAR): monthly compliance reports to Owner (contracting agency), verifying their compliance with the HUB subcontracting plan, including the use/expenditures they have made to Subcontractors. (The PAR is available at <http://www.window.state.tx.us/procurement/prog/hub/hub-forms/progressassessmentrpt.xls>).
 - 4.2.6 Promptly and accurately explain and provide supplemental information to Owner to assist in Owner’s investigation of Contractor’s good-faith effort to fulfill the HUB subcontracting plan and the requirements under 34 T.A.C. § 20.14(a)(1).
- 4.3 Failure to Demonstrate Good-Faith Effort. Upon a determination by Owner that Contractor has failed to demonstrate a good-faith effort to fulfill the HUB subcontracting plan or any Contract covenant detailed above, Owner may, in addition to all other remedies available to it, report the failure to perform to the Comptroller of Public Accounts, Texas Procurement and Support Services Division, Historically Underutilized Business Program and may bar Contractor from future contracting opportunities with Owner.

Article 5. Bonds and Insurance

- 5.1 Construction Bonds. Contractor is required to tender to Owner, prior to commencing the Work, performance and payment bonds, as required by Tex. Gov’t Code, Chapter 2253. On Construction Manager-at-Risk and Design-Build Projects the Owner shall require a security bond, as described in Subsection 5.1.2 below.
 - 5.1.1 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 Owner, on Owner'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, Owner 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 Owner.

5.1.1.1 A Performance bond is required if the Contract Sum is in excess of \$100,000. The performance bond is solely for the protection of Owner. 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.

5.1.1.2 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 Owner 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.

5.1.2 Security Bond. The security bond provides protection to Owner if Contractor presents an acceptable guaranteed maximum price ("GMP") to Owner but is unable to deliver the required payment and performance bonds within the time period stated below.

5.1.3 When Bonds Are Due

5.1.3.1 Security bonds are due before execution of a Construction Manager-at-Risk or Design-Build Contract.

5.1.3.2 Payment and performance bonds are due before execution of a contract on competitively bid or competitively sealed proposal projects or before execution of a GMP proposal on Construction Manager-at-Risk projects or Design-Build projects.

5.1.4 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.

5.1.5 Bond Indemnification. The process of requiring and accepting bonds and making claims thereunder shall be conducted in compliance with Tex. Gov't Code, Chapter 2253. IF FOR ANY REASON A STATUTORY PAYMENT OR PERFORMANCE BOND IS NOT HONORED BY THE SURETY, CONTRACTOR SHALL FULLY INDEMNIFY AND HOLD OWNER HARMLESS OF AND FROM ANY COSTS, LOSSES, OBLIGATIONS OR LIABILITIES IT INCURS AS A RESULT.

5.1.6 Furnishing Bond Information. Owner 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.

5.1.7 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 Owner may result in loss of their rights against Contractor and/or his surety. Owner 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.

- 5.1.8 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 Owner 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.
- 5.1.9 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).
- 5.2 Insurance Requirements. Contractor shall carry insurance in the types and amounts indicated in this Article for the duration of the Contract. The required insurance shall include coverage for Owner’s property prior to construction, during construction and during the warranty period. The insurance shall be evidenced by delivery to Owner 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, Owner, 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 Owner.
- 5.2.1 Contractor, consistent with its status as an independent 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 Owner’s Insurance Specifications. Failure to maintain insurance coverage, as required, is grounds for suspension of Work for cause pursuant to Article 14. The Contractor will be notified of the date on which the Builder’s Risk insurance policy may be terminated by any means deemed appropriate by Owner.
- 5.2.2 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 Owner.
- 5.2.2.1 Insurance Coverage Required.
- 5.2.2.1.1 Workers’ Compensation. Insurance with limits as required by the Texas Workers’ Compensation Act and Employer’s Liability Insurance with limits of not less than:
- \$1,000,000 each accident;
- \$1,000,000 disease each employee; and
- \$1,000,000 disease policy limit.
- Policies must include (a) Other States Endorsement to include TEXAS if business is domiciled outside the State of Texas, and (b) a waiver of all rights of subrogation in favor of Owner.
- 5.2.2.1.2 Commercial General Liability Insurance, including premises, operations, independent contractor’s liability, products and completed operations and contractual liability, covering, but not limited to, the liability assumed under the indemnification provisions of this Contract, fully insuring Contractor’s (or Subcontractor’s) liability for bodily injury (including death) and property damage with a minimum limit of:

\$1,000,000 per occurrence;

\$2,000,000 general aggregate;

\$2,000,000 products and completed operations aggregate; 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.

5.2.2.1.3 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:

\$1,000,000 each accident;

\$1,000,000 disease each employee; and

\$1,000,000 disease policy limit.

If this Contract is for asbestos abatement only, the All-Risk Builder’s Risk or all-risk installation floater (5.2.2.1.5.e) is not required.

5.2.2.1.4 Business Automobile Liability Insurance, covering all owned, hired, and non-owned vehicles, with a minimum combined single limit for bodily injury (including death) and property damage of \$1,000,000 per occurrence. No aggregate shall be permitted for this type of coverage.

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

Contractor or any subcontractor responsible for transporting asbestos

or other hazardous materials defined as asbestos shall provide pollution coverage for any vehicle hauling asbestos containing cargo. The policy must include a MCS 90 endorsement with a \$5,000,000 limit and the CA 9948 Pollution Endorsement, or its equivalent.

- 5.2.2.1.5 All-Risk Builder's Risk Insurance, if applicable (or all-risk installation floater for instances in which the project involves solely the installation of material and/or equipment). Coverage is determined by the Contract Sum, as detailed, below.

BUILDERS RISK REQUIREMENT FOR PROJECTS WITH A CONTRACT SUM <\$20 MILLION

- 5.2.2.1.5.1 Contractor shall purchase and maintain in force builders risk insurance on the entire Work. Such insurance shall be written in the amount of the original contract, plus any subsequent change orders and plus the cost of materials supplied or installed by others, comprising Total Value for the entire Project at the site. The insurance shall apply on a replacement cost basis with no coinsurance provision. A sublimit may be applicable to flood coverage, but sublimit must be at least 20% of the Total Value of the Project. The limit for all other perils, including Named Windstorm, Wind, and Hail, must be equal to the Total Value for the entire Project at the site. (If Installation Floater, limit shall be equal to 100 percent of the contract cost.)
- 5.2.2.1.5.2 This insurance shall name as insureds the Owner, the Contractor, and all subcontractors and sub-subcontractors in the Work.
- 5.2.2.1.5.3 Builders risk insurance shall be on an "all risk" or equivalent policy form and shall include, without limitation, insurance against fire and extended coverage perils, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, boiler and machinery/mechanical breakdown, testing and startup, and terrorism.
- 5.2.2.1.5.4 This insurance shall cover the entire work at the site as required in 5.2.2.1.5.1, including, but not limited to, the following:
- Temporary works including but not limited to scaffolding, form work, fences, shoring, hoarding, falsework and temporary buildings
 - Offsite Storage
 - Portions of the work in transit
 - Debris removal
 - Extra Expense
 - Expediting Expenses
 - Demolition and Increased Cost of Construction
 - Pollutant Clean-Up and Removal
 - Trees, Shrubs, Plants, Lawns and Landscaping (if applicable)
 - Errors & Omissions (applicable to purchase of Builders Risk policy only)
- 5.2.2.1.5.5 This insurance shall not contain an occupancy clause suspending or reducing coverage should the Owner occupy, or begin beneficial occupancy before the Owner has accepted final completion.
- 5.2.2.1.5.6 This insurance shall be specific as to coverage and shall be primary to any permanent insurance or self-insurance that may be maintained on the property by Owner.
- 5.2.2.1.5.7 This insurance shall include a waiver of subrogation in favor of Owner, the Contractor, and all subcontractors and sub-subcontractors in the work.
- 5.2.2.1.5.8 As applicable, Flood deductible shall not exceed \$250,000 for Zone A, \$100,000 for Zone B and \$50,000 for all other Zones. For Tier 1 and Tier 2, Named Windstorm deductible shall not exceed 2% of the project values in place at the time of the loss.

- 5.2.2.1.5.9 Before the commencement of the work, Contractor shall provide to Owner an accurate certificate of insurance that provides specific evidence of all requirements outlined in Section 5.2.2.1.5. A copy of the policy itself shall be provided to Owner within 30 days after Notice to Proceed.
- 5.2.2.1.5.10 Refer to Owner’s Insurance Specifications for possible additional Builders Risk insurance requirements.

BUILDERS RISK REQUIREMENT FOR PROJECTS WITH A CONTRACT SUM ≥\$20 MILLION

- 5.2.2.1.5.1 Contractor shall purchase and maintain in force builders risk insurance on the entire Work. Such insurance shall be written in the amount of the original contract, plus any subsequent change orders and plus the cost of materials supplied or installed by others, comprising Total Value for the entire Project at the site. The insurance shall apply on a replacement cost basis with no coinsurance provision and shall include a margin clause of plus/minus 10% on project value. A sublimit may be applicable to flood coverage, but sublimit must be at least 20% of the Total Value of the Project. A sublimit of \$50 million or the Total Value of the Project, whichever is less, is acceptable for Earthquake. The limit for all other perils, including Named Windstorm, Wind, and Hail, must be equal to the Total Value for the entire Project at the site. (If Installation Floater, limit shall be equal to 100 percent of the contract cost.)
- 5.2.2.1.5.2 This insurance shall name as insureds the Owner, the Contractor, and all subcontractors and sub-subcontractors in the Work.
- 5.2.2.1.5.3 Builders risk insurance shall be on an “all risk” or equivalent policy form and shall include, without limitation, insurance against fire and extended coverage perils, theft, vandalism, malicious mischief, collapse, earthquake, flood, windstorm, boiler and machinery/mechanical breakdown, testing and startup, and terrorism.
- 5.2.2.1.5.4 This insurance shall cover the entire work at the site as required in 5.2.2.1.5.1, including, but not limited to, the following:

Coverage	Minimum Limit Required
Temporary works including but not limited to scaffolding, form work, fences, shoring, hoarding, falsework and temporary buildings	\$1 million
Offsite Storage	Sufficient to cover the anticipated maximum values stored offsite
Portions of the work in Transit	Sufficient to cover the anticipated maximum values in transit
Debris Removal	25% of Physical damage amount subject to maximum of \$5 million or 25% of Total Value of Project whichever is higher
Expediting Expenses	\$1 million
Extra Expense	\$5 million
Demolition and Increased Cost of Construction	\$2 million or 10% of Total Value of Project whichever is higher
Pollutant Clean-Up and Removal	\$250,000
Trees, Shrubs, Plants, Lawns and Landscaping (if applicable)	\$2,500 per item subject to a maximum of \$1 million
Errors & Omissions (applicable to purchase of Builders Risk policy only)	\$2.5 million

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

- 5.2.2.1.5.6 This insurance shall be specific as to coverage and shall be primary to any permanent insurance or self-insurance that may be maintained on the property by Owner.
- 5.2.2.1.5.7 This insurance shall include a waiver of subrogation in favor of Owner, the Contractor, and all subcontractors and sub-subcontractors in the work.
- 5.2.2.1.5.8 As applicable, Flood deductible shall not exceed \$250,000 for Zone A, \$100,000 for Zone B and \$50,000 for all other Zones. For Tier 1 and Tier 2, Named Windstorm deductible shall not exceed 2% of the project values in place at the time of the loss.
- 5.2.2.1.5.9 Before the commencement of the work, Contractor shall provide to Owner an accurate certificate of insurance that provides specific evidence of all requirements outlined in Section 5.2.2.1.5. A copy of the policy itself shall be provided to Owner within 30 days after Notice to Proceed.
- 5.2.2.1.5.10 Refer to Owner’s Insurance Specifications for possible additional Builders Risk insurance requirements.

5.2.2.1.6 “Umbrella” Liability Insurance. On Projects that are not insured under the Owner’s Rolling Owner Controlled Insurance Program (ROCIP) or any project requiring demolition services, Contractor shall obtain, pay for and maintain umbrella liability insurance during the Contract term, insuring Contractor (or Subcontractor) that provides coverage at least as broad as and applies in excess and follows form of the primary liability coverages required above. The policy shall provide “drop down” coverage where underlying primary insurance coverage limits are insufficient or exhausted.

5.2.2.1.7 “Umbrella” Liability Insurance coverage shall be in the following amounts:

- If Contract sum is \$1,000,000 or less:
No Umbrella Required
- If Contract Sum is greater than \$1,000,000 up to \$3,000,000:
\$1,000,000 each occurrence and \$2,000,000 annual aggregate
- If Contract Sum is greater than \$3,000,000 up to \$5,000,000:
\$5,000,000 each occurrence and \$5,000,000 annual aggregate
- If Contract Sum is greater than \$5,000,000:
\$10,000,000 each occurrence and \$10,000,000 annual aggregate

5.2.3 All Policies must include the following clauses, as applicable:

- 5.2.3.1 Contractor must provide to Owner immediate notice of cancellation, material change, or non-renewal to any insurance coverages required herein above. This requirement may be satisfied by the Contractor providing a copy of the notice received by the insurer to Owner within two business days of date of receipt or by Endorsement of the policies that require Insurer to provide notice to Owner.
- 5.2.3.2 It is agreed that Contractor’s insurance shall be deemed primary with respect to any insurance or self-insurance carried by Owner for liability arising out of operations under the Contract with Owner.
- 5.2.3.3 Owner, 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 Owner. The additional insured status must cover completed operations as well. This is not applicable to workers’ compensation policies.

- 5.2.3.4 A waiver of subrogation in favor of Owner shall be provided in all policies.
- 5.2.3.5 If Owner is damaged by the failure of Contractor (or Subcontractor) to maintain insurance as required herein and/or as further described in Owner's Insurance Specifications, then Contractor shall bear all reasonable costs properly attributable to that failure.
- 5.2.4 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. Owner shall be entitled, upon request and without expense, to receive copies of these certificates.
- 5.2.5 Workers' compensation insurance coverage must 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.
 - 5.2.5.1 Definitions:
 - 5.2.5.1.1 Certificate of coverage ("certificate")- A copy of a certificate of insurance, a certificate of authority to self-insure issued by the commission, or a coverage agreement (DWC-81, DWC-82, DWC-83, or DWC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project, for the duration of the project.
 - 5.2.5.1.2 Duration of the project - includes the time from the beginning of the work on the project until the contractor's/person's work on the project has been completed and accepted by the governmental entity.
 - 5.2.5.1.3 Persons providing services on the project ("subcontractor" in §406.096) – includes all persons or entities performing all or part of the services the contractor has undertaken to perform on the project, regardless of whether that person contracted directly with the contractor and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity which furnishes persons to provide services on the project. "Services" include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other service related to a project. "Services" does not include activities unrelated to the project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.
 - 5.2.5.2 The contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all employees of the contractor providing services on the project, for the duration of the project.
 - 5.2.5.3 The Contractor must provide a certificate of coverage to the governmental entity prior to

being awarded the contract.

- 5.2.5.4 If the coverage period shown on the contractor's current certificate of coverage ends during the duration of the project, the contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.
- 5.2.5.5 The contractor shall obtain from each person providing services on a project, and provide to the governmental entity:
- (1) a certificate of coverage, prior to that person beginning work on the project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the project; and
 - (2) no later than seven days after receipt by the contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project.
- 5.2.5.6 The contractor shall retain all required certificates of coverage for the duration of the project and for one year thereafter.
- 5.2.5.7 The contractor shall notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project.
- 5.2.5.8 The contractor shall post on each project site a notice, in the text, form and manner prescribed by the Texas Department of Insurance Division of Workers' Compensation, informing all persons providing services on the project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
- 5.2.5.9 The contractor shall contractually require each person with whom it contracts to provide services on a project, to:
- (1) provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code, Section 401.011(44) for all of its employees providing services on the project, for the duration of the project;
 - (2) provide to the contractor, prior to that person beginning work on the project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the project, for the duration of the project;
 - (3) provide the contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the project;
 - (4) obtain from each other person with whom it contracts, and provide to the contractor:
 - (a) a certificate of coverage, prior to the other person beginning work on the project; and
 - (b) a new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the project;

- (5) retain all required certificates of coverage on file for the duration of the project and for one year thereafter;
- (6) notify the governmental entity in writing by certified mail or personal delivery, within 10 days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the project; and
- (7) contractually require each person with whom it contracts, to perform as required by paragraphs (1) - (7), with the certificates of coverage to be provided to the person for whom they are providing services.

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

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

Article 6. Construction Documents, Coordination Documents, and Record Documents

6.1 Drawings and Specifications.

- 6.1.1 **Copies Furnished.** Contractor will be furnished, free of charge, the number of complete sets of the Drawings, Specifications, and addenda as provided in the Agreement or the Owner's 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.
- 6.1.2 **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.
- 6.1.3 **Interrelation of Documents.** The Contract Documents as referenced in the Contract between Owner and Contractor are complementary, and what is required by one shall be as binding as if required by all.
- 6.1.4 **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) Owner's Special Conditions; (d) Drawings; (e) Specifications (but Specifications shall control over Drawings as to quality of materials and installation); and (f) other Contract Documents. Among other categories of documents having the same order of precedence, the term or provision that includes the latest date shall control. Contractor shall notify A/E and ODR for resolution of the issue prior to executing the Work in question.

6.1.5 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 Owner, 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.

6.1.6 Discrepancies and Omissions in Drawings and Specifications.

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

6.1.6.2 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.

6.1.6.3 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.

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

6.1.6.5 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.

6.1.6.6 Contractor has no liability for errors, omissions, or inconsistencies unless Contractor knowingly failed to report a recognized problem to Owner 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.

6.1.6.7 Owner does not warrant or make any representations as to the accuracy, suitability or completeness of any information furnished to Contractor by Owner or its representatives.

6.2 Requirements for Record Documents. Contractor shall:

6.2.1 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 Owner and A/E access to these documents.

6.2.2 Maintain the Record Documents which reflect the actual field conditions and representations of the Work performed, whether it be directed by addendum, Change Order or otherwise. Make available the Record Documents and all records prescribed herein for reference and examination by Owner and its representatives and agents.

- 6.2.3 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.
- 6.2.4 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.
- 6.2.5 Once determined acceptable by ODR with input from A/E, provide one (1) reproducible copy and one (1) electronic media copy in a format acceptable to the ODR of all Record Documents, unless otherwise required by the Owner's Special Conditions.
- 6.2.6 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.
- 6.2.7 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 Owner.

Article 7. Construction Safety

- 7.1 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 ODR 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.
- 7.2 Notices. Contractor shall provide notices as follows:
 - 7.2.1 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.
 - 7.2.2 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 Owner and its agents as requested.
- 7.3 Emergencies. In any emergency affecting the safety of persons or property, Contractor shall act to minimize, mitigate, and prevent threatened damage, injury or loss.
 - 7.3.1 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.
 - 7.3.2 Give ODR and A/E prompt notice of all such events.

- 7.3.3 If Contractor believes that any changes in the Work or variations from Contract Documents have been caused by its emergency response, promptly notify Owner within seventy-two (72) hours of the emergency response event.
- 7.3.4 Should Contractor fail to respond, Owner is authorized to direct other forces to take action as necessary and Owner may deduct any cost of remedial action from funds otherwise due Contractor.
- 7.4 Injuries. In the event of an incident or accident involving outside medical care for an individual on or near the Work, Contractor shall notify ODR 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.
 - 7.4.1 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.
 - 7.4.2 Supply ODR 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 ODR with written notification within one week of such catastrophic event if legal counsel delays submission of full report.
- 7.5 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 ODR immediately.
 - 7.5.1 Bind all Subcontractors to the same duty.
 - 7.5.2 Upon receiving such notice, ODR 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, ODR 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.
 - 7.5.3 Owner may hire third-party contractors to perform any or all such steps.
 - 7.5.4 Should compliance with ODR's instructions result in an increase in Contractor's cost of performance, or delay the Work, Owner will make an equitable adjustment to the Contract Sum and/or the time of completion, and modify the Contract in writing accordingly.
- 7.6 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 to ODR 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. Said engineer cannot be anyone who is otherwise either directly or indirectly engaged on this project.

Article 8. Quality Control

- 8.1 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 Owner. 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.

8.2 Testing.

8.2.1 Owner 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.

8.2.2 Contractor shall provide the following testing as well as any other testing required of Contractor by the Specifications:

8.2. 2.1 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.

8.2. 2.2 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.

8.2. 2.3 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.

8.2. 2.4 All subsequent tests on original or replaced materials conducted as a result of prior testing failure.

8.2. 3 All testing shall be performed in accordance with standard test procedures by an accredited laboratory, or special consultant as appropriate, acceptable to Owner. Results of all tests shall be provided promptly to ODR, A/E, and Contractor.

8.2. 4 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:

8.2. 4.1 Contractor selection and submission of the laboratory for Owner acceptance.

8.2. 4.2 Acceptance by Owner of the quality and nature of tests.

8.2. 4.3 All tests taken in the presence of A/E and/or ODR, or their representatives.

8.2. 4.4 If tests confirm that the material/systems comply with Contract Documents, Owner will pay the cost of the test.

8.2. 4.5 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.

8.2. 4.6 Proof of noncompliance with the Contract Documents will make Contractor liable for any corrective action which ODR determines appropriate, including complete removal and replacement of non-compliant work or material.

8.2. 5 Notice of Testing. Contractor shall give ODR and A/E timely notice of its readiness and the date arranged so ODR and A/E may observe such inspection, testing, or approval.

8.2. 6 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.

8.2.7 Covering Up Work. If Contractor covers up any Work without providing Owner an opportunity to inspect, Contractor shall, if requested by ODR, uncover and recover the work at Contractor's expense.

8.3 Submittals.

8.3.1 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 Owner by an approval stamp affixed to each copy. Submittal data presented without Contractor's stamp of approval will be returned without review or comment. Any delay resulting from Contractor's failure to certify approval of the Submittal is Contractor's responsibility.

8.3.1.1 Contractor shall within twenty-one (21) days of the effective date of the Notice To Proceed with construction, submit to ODR 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 Owner. 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.

8.3.1.2 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 Owner. 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) days duration after receipt by A/E and ODR for review and approval. If re-submittal required, allow a minimum of an additional fifteen (15) days for review. Submit the updated Submittal Register with each request for progress payment. Owner 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, Owner may, after seven (7) days notice to Contractor withhold a reasonable sum of money that would otherwise be due Contractor.

8.3.1.3 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 ODR 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.

8.3.1.4 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; and has checked and coordinated each Shop Drawing and Sample with the requirements of the Work and the Contract Documents.

- 8.3.2 Review of Submittals. A/E and ODR 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 ODR of such deviation in a clear, conspicuous, and written manner on the submittal transmittal and at the time of submission, and obtains Owner’s written specific approval of the particular deviation.
- 8.3.3 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 ODR, when applicable, to any new revisions other than the corrections requested on previous submissions.
- 8.3.4 Limits on Shop Drawing Review. Contractor shall not commence any Work requiring a submittal until review of the submittal under Subsection 8.3.2. Construct all such work in accordance with reviewed submittals. Comments incorporated as part of the review in Subsection 8.3.2 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 ODR’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.
- 8.3.5 No Substitutions Without Approval. ODR and A/E may receive and consider Contractor’s request for substitution when Contractor agrees to reimburse Owner for review costs and satisfies the requirements of this section. If Contractor does not satisfy these conditions, ODR and A/E will return the request without action except to record noncompliance with these requirements. Owner 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 ODR and A/E when:
- 8.3.5.1 The Contract Documents do not require extensive revisions; and
 - 8.3.5.2 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 Owner; and
 - 8.3.5.3 The request is timely, fully documented, properly submitted and one or more of the following apply:
 - 8.3.5.3.1 Contractor cannot provide the specified product, assembly or method of construction within the Contract Time;
 - 8.3.5.3.2 The request directly relates to an “or-equal” clause or similar language in the Contract Documents;
 - 8.3.5.3.3 The request directly relates to a “product design standard” or “performance standard” clause in the Contract Documents;
 - 8.3.5.3.4 The requested substitution offers Owner a substantial advantage in cost, time, energy conservation or other considerations, after deducting additional responsibilities Owner must assume;
 - 8.3.5.3.5 The specified product or method of construction cannot receive necessary approval by an authority having jurisdiction, and ODR can approve the requested substitution;

- 8.3.5.3.6 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;
- 8.3.5.3.7 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
- 8.3.5.3.8 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.

8.3.6 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 Owner for any increased design or contract administration costs resulting from such unauthorized substitutions.

8.4 Field Mock-up.

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

8.4.1.1 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.

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

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

8.5 Inspection During Construction.

8.5.1 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 Owner and its agents.

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

8.5.2.1 Should corrections of the Work be required for approval, Contractor shall not cover up corrected Work until Owner indicates approval.

8.5.2.2 Contractor shall provide notification of at least five (5) working days or otherwise as mutually agreed, to ODR of the anticipated need for a cover-up inspection. Should ODR 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 9. Construction Schedules

- 9.1 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 or as otherwise agreed to in writing will cause damage to Owner and may subject Contractor to liquidated damages as provided in the Contract Documents. If Contractor fails to achieve Final Completion in a reasonable time after Substantial Completion, Contractor shall be responsible for Owner's damages including, but not limited to, additional inspection, project management, and maintenance cost to the extent caused by Contractor's failure to achieve Final Completion.
- 9.2 Notice to Proceed. Owner will issue a Notice to Proceed which shall state the dates for beginning Work and for achieving Substantial Completion of the Work.
- 9.3 Work Progress Schedule. Refer to Owner's Special Conditions and Division 1 of the Specifications 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) calendar days after the effective date of the Notice to Proceed to ODR 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 Owner, the initially accepted schedule shall be the Baseline Schedule for comparison to actual conditions throughout the Contract duration.
Note: This article pertains to construction phase schedules. Additional requirements for design phase scheduling for Construction Manager-at-Risk and Design-Build contracts are outlined in Division 1 Project Planning and Scheduling Specifications.
- 9.3.1 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.
- 9.3.1.1 Contractor shall re-submit initial schedule as required to address review comments from A/E and ODR until such schedule is accepted as the Baseline Schedule.
- 9.3.1.2 Submittal of a schedule, schedule revision or schedule update constitutes Contractor's representation to Owner of the accurate depiction of all progress to date and that Contractor will follow the schedule as submitted in performing the Work.
- 9.3.2 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 ODR as directed, but as a minimum with each request for payment. Owner 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 Owner 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 Owner's operations shall be communicated promptly to ODR and shall not be incorporated into the revised Baseline Schedule without ODR's consent.
- 9.3.3 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 Owner and to demonstrate that Contractor has complied with requirements for planning the Work. Owner's acceptance of a schedule, schedule update or revision constitutes Owner's agreement to coordinate its own activities with Contractor's activities as shown on the schedule.

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

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

9.3.3.3 Contractor's scheduled dates for completion of any activity or the entire Work do not constitute a change in terms of the Contract. Change Orders are the only method of modifying the Substantial Completion Date(s) and Contract Time.

9.4 Ownership of Float. Unless indicated otherwise in the Contract Documents, Contractor shall develop its schedule, pricing, and execution plan to provide a minimum of ten (10) percent total float at acceptance of the Baseline Schedule. Float time contained in the Work Progress Schedule is not for the exclusive benefit of Contractor or Owner, but belongs to the Project and may be consumed by either party. Before Contractor uses any portion of the float Contractor must submit a written request to do so to the Owner and receive Owner's written authorization to use the float. Owner's approval shall not be unreasonably withheld.

9.5 Completion of Work. Contractor is accountable for completing the Work within the Contract Time stated in the Contract, or as otherwise amended by Change Order.

9.5.1 If, in the judgment of Owner, the work is behind schedule and the rate of placement of work is inadequate to regain scheduled progress to insure timely completion of the entire work or a separable portion thereof, Contractor, when so informed by Owner, shall immediately take action to increase the rate of work placement by:

9.5.1.1 An increase in working forces.

9.5.1.2 An increase in equipment or tools.

9.5.1.3 An increase in hours of work or number of shifts.

9.5.1.4 Expedite delivery of materials.

9.5.1.5 Other action proposed if acceptable to Owner.

9.5.2 Within ten (10) days after such notice from ODR, Contractor shall notify ODR in writing of the specific measures taken and/or planned to increase the rate of progress. Contractor shall include an estimate as to the date of scheduled progress recovery and an updated Work Progress Schedule illustrating Contractor's plan for achieving timely completion of the Project. Should ODR deem the plan of action inadequate, Contractor shall take additional steps or make adjustments as necessary to its plan of action until it meets with ODR's approval.

9.6 Modification of the Contract Time.

9.6.1 Delays and extension of time as hereinafter described are valid only if executed in accordance with provisions set forth in Article 11.

9.6.2 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. Owner 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 which only consume float without delaying the project Substantial Completion date(s).

9.6.2.1 A "Weather Day" is a day on which Contractor's current schedule indicates Work is to be done, and on which inclement weather and related site conditions prevent Contractor from performing seven (7) hours of Work 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 ODR for confirmation of the conditions. At the end of each calendar month, Contractor shall submit to ODR 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 ODR, any time extension granted will be issued by Change Order. If Contractor and Owner cannot agree on the time extension, Owner may issue a ULCO for fair and reasonable time extension.

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

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

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

9.6.2.2.3 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 ODR or recommended by A/E and ordered by ODR.

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

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

9.6.3 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 9.6.2.2.4 and within the reasonable control of Owner, the Contract price and Contract Time are to be equitably adjusted by Owner pursuant to the provisions of Article 11.

9.7 No Damages for Delay. An extension of the Contract Time shall be the sole remedy of Contractor for delays in performance of the Work, whether or not such delays are foreseeable, except for delays caused solely by acts of Owner that constitute intentional interference with Contractor's performance of the Work and then only to the extent such acts continue after Contractor notifies Owner in writing of such interference. For delays caused by any act(s) other than the sole intentional interference of Owner, Contractor shall not be entitled to any compensation or recovery of any damages including, without limitation, consequential damages, lost opportunity costs, impact damages, loss of productivity, or other similar damages. Owner's exercise of any of its rights or remedies under the Contract including, without limitation, ordering changes in the Work or directing suspension, rescheduling, or correction of the

Work, shall not be construed as intentional interference with Contractor's performance of the Work regardless of the extent or frequency of Owner's exercise of such rights or remedies.

- 9.8 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.
- 9.9 Other Time Extension Requests. Time extensions requested in association with changes to the Work directed or requested by Owner shall be included with Contractor's proposed costs for such change. Time extensions requested for inclement weather are covered by Paragraph 9.6.2.1 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 ODR 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 notice of claim is necessary. State claims for extensions of time in numbers of whole or half days.
- 9.9.1 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 11.
- 9.9.2 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.
- 9.9.3 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:
- 9.9.3.1 The nature of the delay and its cause; the basis of Contractor's claim of entitlement to a time extension.
- 9.9.3.2 Documentation of the actual impacts of the claimed delay on the critical path indicated in Contractor's Work Progress Schedule, and any concurrent delays.
- 9.9.3.3 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.
- 9.9.4 Owner's Response. Owner 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.
- 9.9.4.1 Owner will not grant time extensions for delays that do not affect the Contract Substantial Completion date.
- 9.9.4.2 Owner will respond to each properly submitted Time Extension Request within fifteen (15) days following receipt. If Owner cannot reasonably make a determination about Contractor's entitlement to a time extension within that time, Owner will notify Contractor in writing. Unless otherwise agreed by Contractor, Owner has no more than fifteen (15) additional days to prepare a final response. If Owner fails to respond within forty-five (45) days from the date the Time Extension Request is received, Contractor's request for a time extension shall be deemed rejected by Owner.

- 9.10 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 Owner. These damages may be liquidated by agreement of Contractor and Owner, in the amount per day as set forth in the Contract Documents.
- 9.11 Liquidated Damages. Owner may collect liquidated damages due from Contractor directly or indirectly by reducing the Contract Sum in the amount of liquidated damages stated in the Agreement or the Owner's Special Conditions.

Article 10. Payments

- 10.1 Schedule of Values. Contractor shall submit to ODR 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 ODR. The accepted Schedule of Values will be the basis for the progress payments under the Contract.
- 10.1.1 No progress payments will be made prior to receipt and acceptance of the Schedule of Values, provided in such detail as required by ODR, 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 Owner 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.
- 10.1.1.1 Owner 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.
- 10.1.2 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 ODR at the time of Contract execution. Thereafter Contractor shall grant Owner 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.
- 10.2. Progress Payments. Contractor will receive periodic progress payments for Work performed, materials in place, suitably stored on Site, or as otherwise agreed to by Owner and Contractor. Payment is not due until receipt by ODR or his designee of a correct and complete Pay Application in electronic and/or hard copy format as set forth in the Agreement or the Owner's 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. Owner will not process progress payment applications for Change Order Work until all parties execute the Change Order.
- 10.2.1 Preliminary Pay Worksheet. Once each month that a progress payment is to be requested, the Contractor shall submit to A/E and ODR a complete, clean copy of a preliminary pay worksheet or preliminary pay application, to include the following:
- 10.2.1.1 Contractor's estimate of the amount of Work performed, labor furnished and materials incorporated into the Work, using the established Schedule of Values;
- 10.2.1.2 An updated Work Progress Schedule including the executive summary and all required schedule reports;

- 10.2.1.3 HUB subcontracting plan Progress Assessment Report as required in Paragraph 4.2.5.1;
- 10.2.1.4 Such additional documentation as Owner may require as set forth in the elsewhere in the Contract Documents; and
- 10.2.1.5 Construction payment affidavit.
- 10.2.2 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 ODR will meet with Contractor to review the preliminary pay worksheet and to observe the condition of the Work. Based on this review, ODR 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 ODR. Attach all additional documentation required by ODR 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, Chapter 2251. No Application for Payment is complete unless it fully reflects all required modifications, and attaches all required documentation including Contractor's affidavit.
- 10.2.3 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 ODR. 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.
- 10.3 Owner's Duty to Pay. Owner has no duty to pay the Contractor except on receipt by ODR of: 1) a complete Application for Payment certified by A/E; 2) Contractor's updated Work Progress Schedule; and 3) confirmation that Contractor has maintained and updated the Record Documents kept at the Site.
 - 10.3.1 Payment for stored materials and/or equipment confirmed by Owner 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.
 - 10.3.2 Retainage. Owner 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 Owner's Special Conditions. Retainage is managed in conformance with Tex. Gov't Code, Chapter 2252, Subchapter B.
 - 10.3.2.1 Contractor shall provide written consent of its surety for any request for reduction or release of retainage.
 - 10.3.2.2 At least sixty-five (65) percent of the Contract, or such other discrete Work phase as set forth in Subsection 12.1.6 or Work package delineated in the Contract Documents, must be completed before Owner can consider a retainage reduction or release.
 - 10.3.2.3 Contractor shall not withhold retainage from their Subcontractors and suppliers in amounts that are any percentage greater than that withheld in its Contract with Owner under this subsection, unless otherwise acceptable to Owner.
 - 10.3.3 Price Reduction to Cover Loss. Owner may reduce any Application for Payment, prior to payment to the extent necessary to protect Owner from loss on account of actions of Contractor

including, but not limited to, the following:

10.3.3.1 Defective or incomplete Work not remedied;

10.3.3.2 Damage to Work of a separate Contractor;

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

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

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

10.3.3.6 Assessment of fines for violations of prevailing wage rate law; or

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

10.3.4 Title to all material and Work covered by progress payments transfers to Owner upon payment.

10.3.4.1 Transfer of title to Owner 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 final acceptance, or the restoration of any damaged Work, or waive the right of Owner to require the fulfillment of all the terms of the Contract.

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

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

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

10.4.3 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.

10.4.4 For purposes of Tex. Gov't Code § 2251.021(a)(2), the date the performance of service is complete is the date when ODR approves the Application for Payment.

10.5 Off-Site Storage. With prior approval by Owner 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 Owner.

10.5.1 Store materials in a commercial warehouse meeting the criteria stated below.

10.5.2 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 Owner's representative.

10.5.3 Inspection by Owner's representative is allowed at any time. Owner's inspectors must be satisfied with the security, control, maintenance, and preservation measures.

10.5.4 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.

- 10.5.5 Owner 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.
 - 10.5.6 With each monthly payment estimate, submit a report to ODR and A/E listing the quantities of materials already paid for and still stored in the off-site location.
 - 10.5.7 Make warehouse records, receipts and invoices available to Owner's representatives, upon request, to verify the quantities and their disposition.
 - 10.5.8 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 Owner or Owner's agents at a location near the jobsite as directed by ODR. 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.
- 10.6 Time for Payment by Contractor Pursuant to Tex. Gov't Code § 2255.022.
- 10.6.1 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.
 - 10.6.2 The appropriate share is overdue on the eleventh (11th) day after the date Contractor receives the payment.

Article 11. Changes

- 11.1 Change Orders. A Change Order issued after execution of the Contract is a written order to Contractor, signed by ODR, 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. ODR 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.
 - 11.1.1 Owner, without invalidating the Contract and without approval of Contractor's Surety, 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.
 - 11.1.2 Owner and Contractor acknowledge and agree that the Specifications and Drawings may not be complete or free from errors, omissions and imperfections and that they may require changes or additions in order for the Work to be completed to the satisfaction of Owner. Therefore, any minor errors, omissions or imperfections in the Specifications or Drawings, or any changes in or additions to the Specifications or Drawings to correct minor errors or omissions or to the Work ordered by Owner 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. However, should the nature of the errors or omissions necessitate substantial changes in the Work such that a Change Order is appropriate, Owner shall be liable to Contractor for the sum

stated to be due Contractor in any Change Order approved and signed by both parties. The sum established in any Change Order, 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 for the changes in the Work described in the Change Order, as permitted under Tex. Gov't Code, Chapter 2260.

- 11.1.3 Procedures for administration of Change Orders shall be established by Owner and stated in the Owner's Special Conditions, or elsewhere in the Contract Documents.
 - 11.1.4 No verbal order, verbal statement, or verbal direction of Owner or his duly appointed representative shall be treated as a change under this article or entitle Contractor to an adjustment.
 - 11.1.5 Contractor agrees that Owner 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 Owner 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.
- 11.2 Unit Prices. If unit prices are stated in the Contract Documents or subsequently agreed upon and if the quantities originally contemplated in setting the unit prices 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 Owner or Contractor, the applicable unit prices shall be equitably adjusted as provided in the Owner's Special Conditions or as agreed to by the parties and incorporated into a Change Order.
- 11.3 Claims for Additional Costs.
- 11.3.1 If Contractor wishes to make a claim for an increase in the Contract Sum not related to a requested change, it shall give Owner and A/E written notice thereof within twenty-one (21) days after the occurrence of the event or discovery of any conditions giving rise to such claim. Contractor must notify Owner and A/E before proceeding to execute any Work considered to add additional cost or time, except in an emergency endangering life or property in which case Contractor shall act in accordance with Subsection 7.2.1., and failure to provide the required notice will invalidate any subsequent notice or claim for additional cost or time for the Work. If Owner and Contractor cannot agree on the amount of the adjustment in the Contract Sum, it shall be determined as set forth under Article 15. Any change in the Contract Sum resulting from such claim shall be authorized by a Change Order or a ULCO.
 - 11.3.2 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 Owner to stop the Work pursuant to Article 14 where Contractor was not at fault, or 3) any written order for a minor change in the Work issued pursuant to Section 11.4, Contractor shall make such claim as provided in Subsection 11.3.1.
 - 11.3.3 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, Owner may assume intent to circumvent competitive bidding for necessary corrective Work. In such case, Owner 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 Owner.

- 11.4 Minor Changes. A/E, with concurrence of ODR, 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 the Record Documents.
- 11.5 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, ODR and A/E shall be notified in writing of such conditions before they are disturbed. Upon such notice, or upon its own observation of such conditions, A/E, with the approval of ODR, 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 ODR.
- 11.6 Extension of Time. All changes to the Contract Time shall be made as a consequence of requests as required under Section 9.6, and as documented by Change Order as provided under Section 11.1.
- 11.7 Administration of Change Order Requests. All changes in the Contract shall be administered in accordance with procedures approved by Owner, and when required, make use of such electronic information management system(s) as Owner may employ.
- 11.7.1 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 ODR 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 ODR will be required for authorization to proceed with the Work being changed. Owner will not be responsible for the cost of Work changed without prior approval and Contractor may be required to remove Work so installed.
- 11.7.2 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 established Schedule of Values, to permit analysis by A/E and ODR using current estimating guides and/or practices. Photocopies of Subcontractor and vendor proposals shall be furnished unless specifically waived by ODR. Contractor shall provide written response to a change request within twenty-one (21) days of receipt.
- 11.7.3 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 Owner, 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, ODR 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.
- 11.7.4 Emergency changes to save life or property may be initiated by Contractor alone (see Section 7.3) 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.
- 11.7.5 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 ODR.

- 11.8 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 Owner before approval is given. The amounts established hereinafter are the maximums that are acceptable to Owner.
- 11.8.1 For Work performed by its forces, Contractor will be allowed its actual costs paid for materials, the total amount of its actual wages paid for labor, plus its actual cost paid for ~~of~~ State and Federal payroll taxes and for ~~of~~ worker's compensation and comprehensive general liability insurance, plus its actual 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. Overhead shall be considered to include insurance other than mentioned above, field and office supervisors and assistants, including safety and scheduling personnel, use of small tools, incidental job burdens and general Home Office expenses, and no separate allowance will be made therefore.
- Allowable percentages for overhead and profit on changes will not exceed 15 percent if the total of self-performed work is less than or equal to \$10,000, 10 percent if the total of self-performed work is between \$10,000 and \$20,000 and 7.5 percent if the total of self-performed work is over \$20,000, for any specific change priced.
- 11.8.2 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 if the total of all subcontracted work is less than or equal to \$10,000, seven and half (7.5) percent if the total of all subcontracted work is between \$10,000 and \$20,000 and five (5) percent if the total of all subcontractor work is over \$20,000.
- 11.8.3 On changes involving both additions and deletions, percentages for overhead and profit will be allowed only on the net addition. Owner does not accept and will not pay for additional Contract cost identified as indirect or consequential damages or as damages caused by delay.
- 11.8.4 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.
- 11.9 Unilateral Change Order (ULCO). Owner 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.
- 11.9.1 Owner 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 to dispute the ULCO amount, subject to Article 15.
- 11.10 Finality of Changes—Contractor. Upon execution of a Change Order and /or a ULCO by Owner, Contractor and A/E, all costs and time issues claimed by Contractor regarding that change are final and not subject to increase.
- 11.11 Audit of Changes—Owner. All Changes Orders are subject to audit by Owner or its representative at any time in accordance with Article 17.4 and Change Order amounts may be adjusted lower as a result of such audit.

Article 12. Project Completion and Acceptance

12.1 Closing Inspections.

12.1.1 Substantial Completion Inspection. When Contractor considers the entire Work or part thereof Substantially Complete, it shall notify ODR 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. Owner 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.

12.1.1.1 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.

12.1.1.2 On the date requested by Contractor, or as mutually agreed upon pending the status of the Open Items List, A/E, ODR, Contractor, and other Owner representatives as determined by Owner will jointly attend the Substantial Completion inspection, which shall be conducted by ODR or their delegate. If ODR concurs with the determination of Contractor and A/E that the Work is Substantially Complete, ODR will issue a Certificate of Substantial Completion to be signed by A/E, Owner, and Contractor establishing the date of Substantial Completion and identifying responsibilities for security, insurance and maintenance. A/E will provide with this certificate a list of Punchlist items (the pre-final Punchlist) 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. If Owner occupies the Project upon determination of Substantial Completion, Contractor shall complete all corrective Work at the convenience of Owner, without disruption to Owner's use of the Project for its intended purposes.

12.1.2 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 ODR 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, ODR, 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.

12.1.2.1 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 ODR in writing stating the disposition of each final Punchlist item. A/E, Owner, 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 ODR 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.

- 12.1.3 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 Owner.
- 12.1.4 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 Owner 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 Owner's rights under the Contract or relieve Contractor of its responsibility for performance or warranties.
- 12.1.5 Additional Inspections.
- 12.1.5.1 If Owner's inspection team determines that the Work is not substantially complete at the Substantial Completion inspection, ODR 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 ODR. Contractor shall complete or correct all work so designated prior to requesting a second Substantial Completion inspection.
- 12.1.5.2 If Owner's inspection team determines that the Work is not complete at the final inspection, ODR 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 ODR. Contractor shall complete or correct all Work so designated prior to again requesting a final inspection.
- 12.1.5.3 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 Owner of additional inspections resulting from the Work not being ready for one or more of these inspections is the responsibility of Contractor. Owner may issue a ULCO deducting these costs from Final Payment. Upon Contractor's written request, Owner 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.
- 12.1.6 Phased Completion. The Contract may provide, or Project conditions may warrant, as determined by ODR, 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 or notice.
- 12.2 Owner's Right of Occupancy. Owner may occupy or use all or any portion of the Work following Substantial Completion, or at any earlier stage of completion. Should Owner wish to use or occupy the Work, or part thereof, prior to Substantial Completion, ODR will notify Contractor in writing and identify responsibilities for security, insurance and maintenance Work performed on the premises by third parties on Owner's behalf does not constitute occupation or use of the Work by Owner for purposes of this Article. All Work performed by Contractor after occupancy, whether in part or in whole, shall

be at the convenience of Owner so as to not disrupt Owner's use of, or access to occupied areas of the Project.

12.3 Acceptance and Payment

12.3.1 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 ODR for review and approval.

12.3.2 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 Owner of attic stock, spare parts, and other specified materials. Contractor shall submit consent of surety to Final Payment form and an affidavit 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 Owner or otherwise satisfied within the period of time required by Tex. Gov't Code, Chapter 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.

12.3.3 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 Owner.

12.3.4 Offsets and Deductions. Owner 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, Owner may deduct the cost of remedying such deficiencies from the Final Payment. On such deductions, Owner will identify each deduction, the amount, and the explanation of the deduction on or by the twenty-first (21st) day after Owner'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.

12.3.5 Final Payment Due. Final Payment is due and payable by Owner, subject to all allowable offsets and deductions, on the thirtieth (30th) day following Owner's approval of the Application for Payment. If Contractor disputes any amount deducted by Owner, 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.

12.3.6 Effect of Final Payment. Final Payment constitutes a waiver of all claims by Owner, relating to the condition of the Work except those arising from:

12.3.6.1 Faulty or defective Work appearing after Substantial Completion (latent defects);

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

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

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

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

Final Payment.

- 12.3.8 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.

Article 13. Warranty and Guarantee

- 13.1 Contractor's General Warranty and Guarantee. Contractor warrants to Owner 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. Owner 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 Owner, 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 Owner, at any time, or by any repair or correction of such defect made by Owner.
- 13.2 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 the Work performed for each phase begins on the date of Substantial Completion of that phase, or as otherwise stipulated on the Certificate of Substantial Completion for the particular phase.
- 13.3 Limits on Warranty. Contractor's warranty and guarantee hereunder excludes defects or damage caused by:
- 13.3.1 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 Owner is compelled to undertake maintenance or operation due to the neglect of Contractor.
- 13.3.2 Normal wear and tear under normal usage after acceptance of the Work by Owner.
- 13.4 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 Work that is not in accordance with the Contract Documents or relieve the Contractor from its obligation to perform the Work in accordance with the Contract Documents:
- 13.4.1 Observations by Owner and/or A/E;
- 13.4.2 Recommendation to pay any progress or final payment by A/E;
- 13.4.3 The issuance of a certificate of Substantial Completion or any payment by Owner to Contractor under the Contract Documents;
- 13.4.4 Use or occupancy of the Work or any part thereof by Owner;
- 13.4.5 Any acceptance by Owner or any failure to do so;
- 13.4.6 Any review of a Shop Drawing or sample submittal; or
- 13.4.7 Any inspection, test or approval by others.
- 13.5 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. ODR will certify the date of service commencement in the Substantial Completion certificate.

13.5.1 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.

13.5.2 Contractor may satisfy any such obligation by obtaining and assigning to Owner a complying warranty from a manufacturer, supplier, or Subcontractor. Where an assigned warranty is tendered and accepted by Owner which does not fully comply with the requirements of the Contract, Contractor remains liable to Owner on all elements of the required warranty not provided by the assigned warranty.

13.6 Correction of Defects. Upon receipt of written notice from Owner, or any agent of Owner 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 Owner and designated agent indicating action taken. In case of emergency where delay would cause serious risk of loss or damage to Owner, or if Contractor fails to remedy within thirty (30) days, or within another period agreed to in writing, Owner may correct the defect and be reimbursed the cost of remedying the defect from Contractor or its surety.

Article 14. Suspension and Termination

14.1 Suspension of Work for Cause. Owner may, at any time without prior notice, suspend all or any part of the Work if, after reasonable observation and/or investigation, Owner 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.

14.1.1 Owner 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, Owner will initiate and complete a further investigation of the circumstances giving rise to the suspension, and issue a written determination of the findings.

14.1.2 If it is confirmed that the cause was within the control of Contractor, Contractor will not be entitled to an extension of time 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.

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

14.2 Suspension of Work for Owner's Convenience. Upon seven (7) days written notice to Contractor, Owner may at any time without breach of the Contract suspend all or any portion of the Work for a period of up to sixty (60) days for its own convenience. Owner 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 Owner at any time on seven (7) days written notice to Contractor. If Owner 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.

14.3 Termination by Owner for Cause.

- 14.3.1 Upon thirty (30) days written notice to Contractor and its surety, Owner 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:
 - 14.3.1.1 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;
 - 14.3.1.2 Persistent disregard of laws, ordinances, rules, regulations or orders of any public authority having jurisdiction, including ODR;
 - 14.3.1.3 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;
 - 14.3.1.4 Failure to remedy defective work condemned by ODR;
 - 14.3.1.5 Failure to pay Subcontractors, laborers, and material suppliers pursuant to Tex. Gov't Code, Chapter 2251;
 - 14.3.1.6 Persistent endangerment to the safety of labor or of the Work;
 - 14.3.1.7 Failure to supply or maintain statutory bonds or to maintain required insurance, pursuant to the Contract;
 - 14.3.1.8 Any material breach of the Contract; or
 - 14.3.1.9 Contractor's insolvency, bankruptcy, or demonstrated financial inability to perform the Work.
- 14.3.2 Failure by Owner to exercise the right to terminate in any instance is not a waiver of the right to do so in any other instance.
- 14.3.3 Upon receipt of a termination notice, the Contractor or its Surety has thirty (30) days to cure the reasons for the termination or demonstrate to the satisfaction of the Owner that it is prepared to remedy to the condition(s) upon which the notice of termination was based with diligence and promptness. If the Owner is satisfied that the Contractor or its Surety can remedy the reasons for the termination and complete the Work as required, the notice of termination shall be rescinded in writing by the Owner and the Work shall continue without an extension of time.
- 14.3.4 If at the conclusion of the thirty (30) day cure period the Contractor or its Surety is unable to demonstrate to the satisfaction of the Owner its ability to remedy the reasons for termination, the Owner may immediately terminate the employment of the Contractor, make alternative arrangements for completion of the Work and deduct the cost of completion from the unpaid Contract Sum.
 - 14.3.4.1 Owners cost to complete the Work includes, but is not limited to, fees for additional services by A/E and other consultants, and additional contract administration costs.
 - 14.3.4.2 Owner 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 Owner.
 - 14.3.4.3 This obligation for payment survives the termination of the Contract.

- 14.3.4.4 Owner reserves the right in termination for cause to take assignment of all the Contracts between Contractor and its Subcontractors, vendors, and suppliers. ODR will promptly notify Contractor of the contracts Owner elects to assume. Upon receipt of such notice, Contractor shall promptly take all steps necessary to effect such assignment.
- 14.4 Conversion to Termination for Convenience. In the event that any termination of Contractor for cause under Section 14.3 is later determined to have been improper, the termination shall automatically convert to a termination for convenience under Section 14.5 and Contractor's recovery for termination shall be strictly limited to the payments allowable under Section 14.5.
- 14.5 Termination for Convenience of Owner. Owner 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:
 - 14.5.1 Owner will notify Contractor and A/E in writing specifying the reason for and the effective date of the Contract termination. The notice may also contain instructions necessary for the protection, storage or decommissioning of incomplete work or systems, and for safety.
 - 14.5.2 Upon receipt of the notice of termination, Contractor shall immediately proceed with the following obligations, regardless of any dispute in determining or adjusting any amounts due at that point in the Contract:
 - 14.5.2.1 Stop all work.
 - 14.5.2.2 Place no further subcontracts or orders for materials or services.
 - 14.5.2.3 Terminate all subcontracts for convenience.
 - 14.5.2.4 Cancel all materials and equipment orders as applicable.
 - 14.5.2.5 Take appropriate action that is necessary to protect and preserve all property related to the Contract which is in the possession of Contractor.
 - 14.5.3 When the Contract is terminated for Owner's convenience, Contractor may recover from Owner payment for all Work executed. Contractor may not claim lost profits or lost business opportunities.
- 14.6 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 ODR, terminate the Contract and recover from Owner payment for all Work executed, but not lost profits 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.
- 14.7 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 Owner based upon recoverable costs as provided under the Contract. If Contractor fails to submit the proposal within the time allowed, Owner may unilaterally determine the amount due to Contractor because of the termination and pay the determined amount to Contractor.

Article 15. Dispute Resolution

- 15.1 Unresolved Contractor Disputes. To the extent that it is applicable, the dispute resolution process provided for in Tex. Gov't Code, Chapter 2260, shall be used by Contractor to resolve any claim for breach of Contract made by Contractor that is not resolved under procedures described in these Uniform General Conditions or Owner's Special Conditions of the Contract.
- 15.2 Alternative Dispute Resolution Process. Owner may establish a dispute resolution process to be utilized in advance of that outlined in Tex. Gov't Code, Chapter 2260.
- 15.3 Nothing herein shall hinder, prevent, or be construed as a waiver of Owner's right to seek redress on any disputed matter in a court of competent jurisdiction.
- 15.4 In any litigation between the Owner and the Contractor arising from this Contract or this Project, neither party will be entitled to an award of legal fees or costs in any judgment regardless which one is deemed the prevailing party.
- 15.5 Nothing herein shall waive or be construed as a waiver of the State's sovereign immunity.

Article 16. Certification of No Asbestos Containing Material or Work

- 16.1 Contractor shall insure 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.
- 16.2 Contractor shall provide a notarized certification to Owner that all equipment and materials used in fulfillment of its Contract responsibilities are non-Asbestos Containing Building Materials (ACBM). This certification must be provided no later than Contractor's application for Final Payment.
- 16.3 The Contractor shall insure compliance with the following acts from all of his subcontractors and assigns:
 - Asbestos Hazard Emergency Response Act (AHERA—40 CFR 763-99 (7));
 - National Emission Standards for Hazardous Air Pollutants (NESHAP—EPA 40 CFR 61, Subpart M—National Emission Standard for Asbestos);
 - Texas Asbestos Health Protection Rules (TAHPR—Tex. Admin. Code Title 25, Part 1, Ch. 295C, Asbestos Health Protection)

Article 17. Miscellaneous

- 17.1 Owner's Special Conditions. When the Work contemplated by Owner 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 Owner's Special Conditions that relate to the Project. In the event of a conflict between the UTUGCs and the Owner's Special Conditions, the Owner's Special Conditions will govern.
- 17.2 Federally Funded Projects. On Federally funded projects, Owner 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 Owner 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.
- 17.3 Internet-based Project Management Systems. At its option, Owner 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.

17.3.1 Accessibility and Administration.

17.3.1.1 When used, Owner will make the software accessible via the Internet to all Project team members.

17.3.1.2 Owner shall administer the software.

17.3.2 Training. When used, Owner shall provide training to the Project team members.

17.4 Right to Audit.

17.4.1 Contractor understands that acceptance of funds under this Contract acts as acceptance of the authority of the State Auditor's Office, Owner, any successor agency and their representatives, including independent auditors, to conduct an audit or investigation in connection with those funds. Contractor further agrees to cooperate fully with any party conducting the audit or investigation, including providing all records requested.

17.4.2 Contractor shall maintain and retain supporting fiscal and any other documents relevant to showing that any payments under this Contract funds were expended in accordance with the terms of this Contract, the requirements of Owner, and with the laws and regulations of the State of Texas including, but not limited to, requirements of the Comptroller of the State of Texas and the State Auditor. Contractor shall maintain all such documents and other records relating to this Contract and Owner's property for a period of four (4) years after the date of submission of a request for Final Payment or until a resolution of all billing questions, whichever is later. Contractor shall make available at reasonable times and upon reasonable notice and for reasonable periods all documents and other information related to the Work of this Contract.

17.4.3 Contractor shall ensure that this clause concerning the authority to audit funds received indirectly by subcontractors through the Contractor and the requirement to cooperate is included in any subcontract it awards.

17.5 179 D Benefit Allocation. Owner may decide to seek the allocation of certain tax benefits pursuant to Section 179D of the Internal Revenue Code of 1986, as amended, (the "Code") through its Agreement with Contractor

If the Owner and the Internal Revenue Service (IRS) determine that the Contractor is eligible to receive the 179D deduction allocation as a "Designer" for the purposes of Section 179D of the Code or that Contractor could otherwise profit financially from the monetization of the benefit (separately and collectively, the "Rebate"), Contractor hereby agrees to allocate to the Owner a portion of the Rebate in an amount to be determined and contracted for on mutually agreeable terms when the value of the Rebate becomes ascertainable, net of associated costs realized by the Owner and Project Architect. At its sole discretion, the Owner shall determine whether to receive its portion of the Rebate in cash, discounted Contractor fees or both.

Owner reserves the right to retain a third-party consultant (the "Consultant") to manage and administer the process of obtaining and monetizing the Rebate derived from the Project(s).

Contractor agrees to cooperate in all reasonable respects with the Consultant's efforts to obtain and monetize any such Rebates derived from the Project(s) on behalf of the Owner. Certification of eligibility and negotiation of the Rebates should be facilitated by the Owner's 179D Consultant.

17.6 Force Majeure. Neither Owner nor Contractor will be liable or responsible to the other for any loss or damage or for any delays or failure to perform due to causes beyond its reasonable control including acts of God, strikes, epidemics, war, riots, flood, fire, sabotage, or any other circumstances of like character.

17.7 Confidentiality and Safeguarding of Owner Records; Press Releases; Public Information. Under the

- Contract, Contractor may (1) create, (2) receive from or on behalf of Owner, or (3) have access to, Owner records or record systems (collectively, "Owner Records"). Contractor represents, warrants, and agrees that it will: (1) hold all Owner Records in strict confidence and will not use or disclose Owner Records except as (a) permitted or required by the Contract, (b) required by Applicable Laws, or (c) otherwise authorized by Owner in writing; (2) safeguard Owner Records according to reasonable administrative, physical and technical standards that are no less rigorous than the standards by which Contractor protects its own confidential information; and (3) comply with the Owner's rules, policies, and procedures regarding access to and use of Owner's computer systems. At the request of Owner, Contractor agrees to provide a written summary of the procedures Contractor uses to safeguard and maintain the confidentiality of Owner Records.
- 17.7.1 Notice of Impermissible Use. If an impermissible use or disclosure of any Owner Records occurs, Contractor will provide written notice to University within one (1) business day after Contractor's discovery of that use or disclosure. Contractor will promptly provide Owner with all information requested by University regarding the impermissible use or disclosure.
- 17.7.2 Return of University Records. Contractor agrees that within thirty (30) days after the expiration or termination of the Contract, for any reason, all Owner Records created or received from or on behalf of University will be (1) returned to Owner, with no copies retained by Contractor; or (2) if return is not feasible, destroyed following twenty (20) days written notice to the Owner. Contractor will confirm in writing the destruction of any Owner Records.
- 17.7.3 Disclosure. If Contractor discloses any Owner Records to a subcontractor or agent, Contractor will require the subcontractor or agent to comply with the same restrictions and obligations as are imposed on Contractor by this Section.
- 17.7.4 Press Releases. Except as required by the Contract, Contractor will not make any press releases, public statements, or advertisement referring to the Project or the engagement of Contractor as an independent contractor of Owner in connection with the Project or release any information relative to the Project for publication, advertisement or any other purpose without the prior written approval of Owner.
- 17.7.5 Public Information. Owner strictly adheres to all statutes, court decisions and the opinions of the Texas Attorney General with respect to disclosure of public information under the *Texas Public Information Act* ("TPIA"), Chapter 552, *Texas Government Code*. In accordance with Section 552.002 of TPIA and Section 2252.907, *Texas Government Code*, and at no additional charge to Owner, Contractor will make any information created or exchanged with Owner pursuant to this Contract that is not otherwise exempt from disclosure under TPIA available in a format reasonably requested by Owner that is accessible by the public.
- 17.8 Domestic Iron and Steel Requirement. Pursuant to Sections 2252.201-2252.205 of the Government Code, Contractor shall require that any iron or steel product produced through a manufacturing process and used in the Project is produced in the United States will require that the bid documents provided to all bidders and the contract include this same requirement.

End of U.T. System Uniform General Conditions

REVISIONS

DATE	REVISED	INITIALS
8-23-2013	2010 Uniform General and Supplementary Conditions merged into and Reissued as new document: 2013 Uniform General Conditions for UT System Building Construction Projects (UTUGCs); <i>Special Conditions</i> and <i>Supplementary General Conditions</i> deleted from Definitions; <i>Owner's Special Conditions</i> added to Definitions; Para. 3.3.11, <i>Indemnification</i> , moved to new Para. 3.4; Para 5.2.2.1.4 added Asbestos Transportation Insurance Coverage; Para. 5.2.2.1.7 added Umbrella Insurance Coverage; Para. 13.7, <i>Certification of No Asbestos Containing Material</i> moved to renamed Article 16 and revised; Article 15, <i>Dispute Resolution</i> , revised; Existing Article 16, <i>Miscellaneous</i> , re-numbered as Article 17.	ems
10-29-15	Added Section 17.5 regarding 179D Benefit Allocation	mgm
11-12-15	Art. 11.11, changed reference from 16.4 to 17.4	mgm
4-21-16	Misc. minor revisions in Art. 5.2 to reference Insurance Specifications and 6.1.4 to reference Owner's Special Conditions (OFPC Only)	mgm/mjc
06-14-18	Para. 1.25, <i>Owner</i> , definition changed; Para. 3.2.1.1, <i>Site Visits</i> , reference to D/B Contract added; Misc. typos and formatting errors corrected; New Para. 17.6, <i>Force Majeure</i> and Para. 17.7, <i>Confidentiality</i> , added.	ems
06-20-18	Para. 17.8, <i>Domestic Iron and Steel Requirement</i> , added	ems

SECTION 07 54 16
KETONE ETHYLENE ESTER (KEE) ROOFING

PART 1 - GENERAL

1.01 SUMMARY

- A. Section includes:
1. Adhered ketone ethylene ester (KEE) roofing system.
 2. Roof insulation.
 3. Cover board.
 4. Walkways.
- B. Related Sections include:
1. Division 07 Section- Roof Accessories- Roof Hatch.

1.02 DEFINITIONS

- A. Roofing Terminology: Definitions in ASTM D1079 and glossary in NRCA's "The NRCA Roofing Manual: Membrane Roof Systems" apply to work of this Section.

1.03 PREINSTALLATION MEETINGS

- A. Preinstallation Roofing Conference: Conduct conference at Project site.
1. Meet with Owner and Owner's Designated Representative (ODR), testing and inspecting agency representative, roofing Installer, roofing system manufacturer's representative, , air barrier Installer, and installers whose work interfaces with or affects roofing, including installers of roof accessories and roof-mounted equipment.
 2. Review methods and procedures related to roofing installation, including manufacturer's written instructions.
 3. Review and finalize construction schedule, and verify availability of materials, Installer's personnel, equipment, and facilities needed to make progress and avoid delays.
 4. Examine existing conditions, deck substrate conditions (when exposed) and finishes for compliance with requirements, including flatness and fastening.
 5. Review structural loading limitations of roof deck during and after roofing.
 6. Review base flashings, special roofing details, roof drainage, roof penetrations, equipment curbs, and condition of other construction that affects roofing system.
 7. Review governing regulations and requirements for insurance and certificates if applicable.
 8. Review temporary protection requirements for roofing system during and after installation.
 9. Review roof observation and repair procedures after roofing installation.

1.04 ACTION SUBMITTALS

- A. Product Data: For each type of product.
- B. Shop Drawings: Include plans, elevations, sections, details, and attachments to other work, including the following:
 - 1. Layout and thickness of insulation.
 - 2. Base flashings and membrane terminations.
 - 3. Flashing details at penetrations.
 - 4. Tapered insulation, including slopes.
 - 5. Roof plan showing orientation of steel roof deck and orientation of roof membrane, fastening spacings, and patterns for mechanically fastened roofing system.
 - 6. Insulation fastening patterns for corner, perimeter, and field-of-roof locations.
 - 7. Tie-in with air barrier.
- C. Samples for Verification: For the following products:
 - 1. Roof membrane and flashing, of color required.
 - 2. Walkway pads or rolls, of color required.
- D. Wind Uplift Resistance Submittal: For roofing system, indicating compliance with wind uplift performance requirements. Compliance with IBC 2018 is required.
- E. Qualification Data: For Installer and manufacturer.
- F. Manufacturer Certificates:
 - 1. Performance Requirement Certificate: Signed by roof membrane manufacturer, certifying that roofing system complies with requirements specified in "Performance Requirements" Article.
 - a. Submit evidence of compliance with performance requirements.
 - 2. Special Warranty Certificate: Signed by roof membrane manufacturer, certifying that all materials supplied under this Section are acceptable for special warranty.
- G. Evaluation Reports: For components of roofing system, from ICC-ES.
- H. Field Test Reports:
 - 1. Fastener-pullout test results and manufacturer's revised requirements for fastener patterns.
- I. Field quality-control reports.
- J. Sample Warranties: For manufacturer's special warranties.

1.05 CLOSEOUT SUBMITTALS

- A. Maintenance Data: For roofing system to include in maintenance manuals.

- B. Certified statement from existing roof membrane manufacturer stating that existing roof warranty has not been affected by Work performed under this Section.

1.06 QUALITY ASSURANCE

- A. Manufacturer Qualifications: A qualified manufacturer that is UL listed for roofing system identical to that used for this Project.
- B. Installer Qualifications: A qualified firm that is approved, authorized, or licensed by roofing system manufacturer to install manufacturer's product and that is eligible to receive manufacturer's special warranty.

1.07 DELIVERY, STORAGE, AND HANDLING

- A. Deliver roofing materials to Project site in original containers with seals unbroken and labeled with manufacturer's name, product brand name and type, date of manufacture, approval or listing agency markings, and directions for storing and mixing with other components.
- B. Store liquid materials in their original undamaged containers in a clean, dry, protected location and within the temperature range required by roofing system manufacturer. Protect stored liquid material from direct sunlight.
 - 1. Discard and legally dispose of liquid material that cannot be applied within its stated shelf life.
- C. Protect roof insulation materials from physical damage and from deterioration by sunlight, moisture, soiling, and other sources. Store in a dry location. Comply with insulation manufacturer's written instructions for handling, storing, and protecting during installation.
- D. Handle and store roofing materials, and place equipment in a manner to avoid permanent deflection of deck.

1.08 FIELD CONDITIONS

- A. Weather Limitations: Proceed with installation only when existing and forecasted weather conditions permit roofing system to be installed according to manufacturer's written instructions and warranty requirements.

1.09 WARRANTY

- A. Special Warranty: Manufacturer agrees to repair or replace components of roofing system that fail in materials or workmanship within specified warranty period.
 - 1. Special warranty includes roof membrane, base flashings, roof insulation, fasteners, cover boards, and other components of roofing system.
 - 2. Warranty Period: 20 years from date of Substantial Completion.
- B. Special Project Warranty: Submit roofing Installer's warranty, on warranty form at end of this Section, signed by Installer, covering the Work of this Section, including all components of roofing

system such as roof membrane, base flashing, roof insulation, fasteners, cover boards, and walkway products, for the following warranty period:

1. Warranty Period: Two years from Date of Substantial Completion.

PART 2 - PRODUCTS

2.01 PERFORMANCE REQUIREMENTS

- A. General Performance: Installed roofing and base flashings shall withstand specified uplift pressures, thermally induced movement, and exposure to weather without failure due to defective manufacture, fabrication, installation, or other defects in construction. Roof system and base flashings shall remain watertight.
 1. Accelerated Weathering: Roof membrane shall withstand 2000 hours of exposure when tested according to ASTM G152, ASTM G154, or ASTM G155.
 2. Impact Resistance: Roof membrane shall resist impact damage when tested according to ASTM D3746 or ASTM D4272/D4272M, or the "Resistance to Foot Traffic Test" in FM Approvals 4470.
- B. Material Compatibility: Roofing materials shall be compatible with one another and adjacent materials under conditions of service and application required, as demonstrated by roof membrane manufacturer based on testing and field experience.
- C. Wind Uplift Resistance: Design roofing system to resist uplift pressures indicated on Drawings when tested according to FM Approvals 4474, UL 580, or UL 1897:
- D. Energy Performance: Roofing system shall have an initial solar reflectance of not less than 0.70 and an emissivity of not less than 0.75 when tested according to CRRC-1.
- E. Exterior Fire-Test Exposure: ASTM E108 or UL 790, Class A; for application and roof slopes indicated; testing by a qualified testing agency. Identify products with appropriate markings of applicable testing agency.
- F. Fire-Resistance Ratings: Comply with fire-resistance-rated assembly designs indicated. Identify products with appropriate markings of applicable testing agency.

2.02 KETONE ETHYLENE ESTER (KEE) ROOFING

- A. KEE Sheet: ASTM D6754/D6754M, fabric reinforced and fabric backed.
 1. Product: Subject to compliance with requirements, provide Seaman Corporation FiberTite-XT-FB.
 2. Thickness: 50 mils.
 3. Exposed Face Color: White or approved reflective color.
- B. Source Limitations: Obtain components for roofing system from manufacturer of roof membrane or manufacturer approved by roof membrane manufacturer.

2.03 AUXILIARY ROOFING MATERIALS

- A. General: Auxiliary materials recommended by roofing system manufacturer for intended use and compatible with other roofing components.
 - 1. Adhesives and Sealants: Comply with VOC limits of authorities having jurisdiction.
- B. Sheet Flashing: Manufacturer's standard sheet flashing of same material, type, reinforcement, thickness, and color as KEE sheet.
- C. Prefabricated Pipe Flashings: As recommended by roof membrane manufacturer.
- D. Bonding Adhesive: Manufacturer's standard.
- E. SBS-Modified Bitumen Polyester Mat Base Sheet: ASTM D6164/D6164M, Type I, Grade S, SBS-modified asphalt sheet, reinforced with polyester fabric, smooth surfaced, suitable for torch application method.
 - 1. Product: Subject to compliance with requirements, provide Seaman Corporation FiberTite-SBS 190 Base.
 - 2. Average Thickness: 120 mils.
- F. Metal Termination Bars: Manufacturer's standard, predrilled stainless steel or aluminum bars, approximately 1 by 1/8 inch thick; with anchors.
- G. Metal Battens: Manufacturer's standard, aluminum-zinc-alloy-coated or zinc-coated steel sheet, approximately 1 inch wide by 0.05 inch thick, prepunched.
- H. Fasteners: Factory-coated steel fasteners and metal or plastic plates complying with corrosion-resistance provisions in FM Approvals 4470, designed for fastening roofing components to substrate, and acceptable to roofing system manufacturer.
- I. Miscellaneous Accessories: Provide pourable sealers, preformed cone and vent sheet flashings, preformed inside and outside corner sheet flashings, T-joint covers, lap sealants, termination reglets, and other accessories.

2.04 ROOF INSULATION

- A. General: Preformed roof insulation boards manufactured or approved by KEE roof membrane manufacturer.
- B. Polyisocyanurate Board Insulation: ASTM C1289, Type II, Class 1, Grade 2, felt or glass-fiber mat facer on both major surfaces.
 - 1. Manufacturers: Subject to compliance with requirements, available manufacturers offering products that may be incorporated into the Work include, but are not limited to the following:
 - a. Atlas Roofing Corporation.
 - b. Carlisle SynTec Incorporated.
 - c. CertainTeed Corporation.
 - d. Firestone Building Products.
 - e. GAF.

- f. Hunter Panels.
 - g. Johns Manville; a Berkshire Hathaway company.
 - h. Rmax, Inc.
 - 2. Compressive Strength: 20 psi.
 - 3. Size: 48 by 48 inches.
 - 4. Thickness:
 - a. Base Layer: 2 inches.
 - b. Upper Layer: 2 inches.
- C. Tapered Insulation: Provide factory-tapered insulation boards.
 - 1. Material: Match roof insulation.
 - 2. Minimum Thickness: 1/4 inch.
 - 3. Slope:
 - a. Roof Field: 1/4 inch per foot unless otherwise indicated on Drawings.
 - b. Saddles and Crickets: 1/2 inch per foot unless otherwise indicated on Drawings.

2.05 INSULATION ACCESSORIES

- A. General: Roof insulation accessories recommended by insulation manufacturer for intended use and compatibility with other roofing system components.
- B. Fasteners: Factory-coated steel fasteners and metal or plastic plates complying with corrosion-resistance provisions in FM Approvals 4470, designed for fastening roof insulation to substrate, and acceptable to roofing system manufacturer.
- C. Insulation Adhesive: Insulation manufacturer's recommended adhesive formulated to attach roof insulation to substrate or to another insulation layer as follows:
 - 1. Bead-applied, low-rise, one-component or multicomponent urethane adhesive.
- D. Cover Board: ASTM C1177/C1177M, glass-mat, water-resistant gypsum board, or ASTM C1278/C1278M fiber-reinforced gypsum board.
 - 1. Products: Subject to compliance with requirements, available products that may be incorporated into the Work include, but are not limited to the following:
 - a. Georgia-Pacific Gypsum LLC; Dens Deck.
 - b. National Gypsum Company; DEXcell Glass Mat Roof Board.
 - c. USG Corporation; Securock Glass Mat Roof Board.
 - 2. Thickness: 5/8 inch.
 - 3. Surface Finish: Unprimed.

2.06 ASPHALT MATERIALS

- A. Roofing Asphalt: ASTM D312/D312M, Type III or Type IV.

2.07 WALKWAYS

- A. Flexible Walkways: Factory-formed, nonporous, heavy-duty, slip-resisting, surface-textured walkway pads, approximately 3/16-inch thick and acceptable to roofing system manufacturer.
 - 1. Size: Approximately 36 by 60 inches.
 - 2. Color: Energy Grey.

PART 3 - EXECUTION

3.01 EXAMINATION

- A. Examine substrates, areas, and conditions, with Installer present, for compliance with requirements and other conditions affecting performance of the Work.
 - 1. Verify that roof openings and penetrations are in place, curbs are set and braced, and roof-drain bodies are securely clamped in place.
 - 2. Verify that wood blocking, curbs, and nailers are securely anchored to roof deck at penetrations and terminations and that nailers match thicknesses of insulation.
- B. Proceed with installation only after unsatisfactory conditions have been corrected.

3.02 PREPARATION

- A. Clean substrate of dust, debris, moisture, and other substances detrimental to roofing system installation according to roofing system manufacturer's written instructions. Remove sharp projections.
- B. Prevent materials from entering and clogging roof drains and conductors and from spilling or migrating onto surfaces of other construction. Remove roof-drain plugs when no work is taking place or when rain is forecast.

3.03 INSTALLATION OF ROOFING, GENERAL

- A. Install roofing system according to roofing system manufacturer's written instructions, FM Approvals' RoofNav assembly requirements, and FM Global Property Loss Prevention Data Sheet 1-29.
- B. Complete terminations and base flashings and provide temporary seals to prevent water from entering completed sections of roofing system at the end of workday or when rain is forecast. Remove and discard temporary seals before beginning work on adjoining roofing.
- C. Asphalt Heating:
 - 1. Heat asphalt to its equiviscous temperature, measured at the mop cart or mechanical spreader immediately before application.
 - 2. Circulate asphalt during heating.
 - 3. Do not raise asphalt temperature above equiviscous temperature range more than one hour before time of application.

4. Do not exceed asphalt manufacturer's recommended temperature limits during asphalt heating.
 5. Do not heat asphalt within 25 deg F of flash point.
 6. Discard asphalt maintained at a temperature exceeding finished blowing temperature for more than four hours.
 7. Apply hot roofing asphalt within plus or minus 25 deg F of equiviscous temperature.
- D. Substrate-Joint Penetrations: Prevent roofing asphalt and adhesives from penetrating substrate joints, entering building, or damaging roofing system components or adjacent building construction.

3.04 INSTALLATION OF INSULATION

- A. Coordinate installing roofing system components, so insulation is not exposed to precipitation or left exposed at the end of the workday.
- B. Comply with roofing system and insulation manufacturer's written instructions for installing roof insulation.
- C. Installation Over Metal Decking:
1. Install base layer of insulation with joints staggered not less than 24 inches in adjacent rows and with long joints continuous at right angle to flutes of decking.
 - a. Locate end joints over crests of decking.
 - b. Trim insulation neatly to fit around penetrations and projections, and to fit tight to intersecting sloping roof decks.
 - c. Make joints between adjacent insulation boards not more than 1/4 inch in width.
 - d. At internal roof drains, slope insulation to create a square drain sump with each side equal to the diameter of the drain bowl plus 24 inches.
 - 1) Trim insulation so that water flow is unrestricted.
 - e. Fill gaps exceeding 1/4 inch with insulation.
 - f. Cut and fit insulation within 1/4 inch of nailers, projections, and penetrations.
 - g. Mechanically attach base layer of insulation using mechanical fasteners specifically designed and sized for fastening specified board-type roof insulation to metal decks.
 - 1) Fasten insulation to resist specified uplift pressure at corners, perimeter, and field of roof.
 2. Install upper layers of insulation and tapered insulation with joints of each layer offset not less than 12 inches from previous layer of insulation.
 - a. Staggered end joints within each layer not less than 24 inches in adjacent rows.
 - b. Install with long joints continuous and with end joints staggered not less than 12 inches in adjacent rows.
 - c. Trim insulation neatly to fit around penetrations and projections, and to fit tight to intersecting sloping roof decks.
 - d. Make joints between adjacent insulation boards not more than 1/4 inch in width.
 - e. At internal roof drains, slope insulation to create a square drain sump with each side equal to the diameter of the drain bowl plus 24 inches.

- f. Trim insulation so that water flow is unrestricted.
- g. Fill gaps exceeding 1/4 inch with insulation.
- h. Cut and fit insulation within 1/4 inch of nailers, projections, and penetrations.
- i. Adhere each layer of insulation to substrate to resist specified uplift pressure at corners, perimeter, and field of roof, as follows:
 - 1) Set each layer of insulation in ribbons of bead-applied insulation adhesive, firmly pressing and maintaining insulation in place.

3.05 INSTALLATION OF COVER BOARDS

- A. Install cover boards over insulation with long joints in continuous straight lines with end joints staggered between rows. Offset joints of insulation below a minimum of 6 inches in each direction.
 - 1. Trim cover board neatly to fit around penetrations and projections, and to fit tight to intersecting sloping roof decks.
 - 2. At internal roof drains, conform to slope of drain sump.
 - a. Trim cover board so that water flow is unrestricted.
 - 3. Cut and fit cover board tight to nailers, projections, and penetrations.
 - 4. Adhere cover board to substrate using adhesive to resist specified uplift pressure at corners, perimeter, and field of roof as follows:
 - a. Set cover board in ribbons of bead-applied insulation adhesive, firmly pressing and maintaining insulation in place.

3.06 INSTALLATION OF BASE SHEET

- A. Before installing, unroll base sheet, cut into workable lengths, and allow to lie flat for a time period recommended by manufacturer for the ambient temperature.
- B. Installation of SBS-Modified Bitumen Polyester-Mat Base Sheet:
 - 1. Install base sheet according to roofing manufacturer's written instructions, starting at low point of roofing system.
 - 2. Extend roofing sheets over and terminate above cants.
 - 3. Install base sheet in a shingle fashion.
 - 4. Adhere to substrate in a solid mopping of hot roofing asphalt.
 - 5. Install base sheet without wrinkles, rears, and free from air pockets.
 - 6. Laps: Accurately align roofing sheets, without stretching, and maintain uniform side and end laps.
 - a. Lap side laps as recommended by roof membrane manufacturer but not less than 3 inches.
 - b. Lap end laps as recommended by roof membrane manufacturer but not less than 12 inches.
 - c. Stagger end laps not less than 18 inches.
 - d. Completely bond and seal laps, leaving no voids.
 - e. Roll laps with a 20-pound roller.
 - 7. Repair tears and voids in laps and lapped seams not completely sealed.

8. Apply pressure to the body of the base sheet according to manufacturer's instructions, to remove air pockets and to result in complete adhesion of base sheet to substrate.

3.07 INSTALLATION OF ADHERED ROOFING

- A. Adhere roof membrane over area to receive roofing according to roofing system manufacturer's written instructions. Unroll roof membrane and allow to relax before installing.
- B. Start installation of roofing in presence of roofing system manufacturer's technical personnel and Owner's testing and inspection agency.
- C. Where roof slope exceeds 3/4 inch per 12 inches, install roofing membrane sheets parallel with slope.
- D. Accurately align roof membrane and maintain uniform side and end laps of minimum dimensions required by manufacturer. Stagger end laps.
- E. Fabric-Backed Roof Membrane Adhesive: Apply to substrate at rate required by manufacturer and install fabric-backed roof membrane.
- F. In addition to adhering, mechanically fasten roof membrane securely at terminations, penetrations, and perimeter of roofing.
- G. Apply roof membrane with side laps shingled with slope of roof deck where possible.
- H. Seams: Clean seam areas, overlap roofing, and hot-air weld side and end laps of roof membrane and sheet flashings to ensure a watertight seam installation.
 1. Test lap edges with probe to verify seam weld continuity. Apply lap sealant to seal cut edges of roof membrane and sheet flashings.
 2. Verify field strength of seams a minimum of twice daily, and repair seam sample areas.
 3. Repair tears, voids, and lapped seams in roof membrane that do not comply with requirements.
- I. Spread sealant bed over deck-drain flange at roof drains, and securely seal roof membrane in place with clamping ring.

3.08 INSTALLATION OF BASE FLASHING

- A. Install sheet flashings and preformed flashing accessories and adhere to substrates according to roofing system manufacturer's written instructions.
- B. Apply bonding adhesive to substrate and underside of sheet flashing at required rate and allow to partially dry. Do not apply to seam area of flashing.
- C. Flash penetrations and field-formed inside and outside corners with cured or uncured sheet flashing.
- D. Clean seam areas, overlap, and firmly roll sheet flashings into the adhesive. Hot-air weld side and end laps to ensure a watertight seam installation.

- E. Terminate and seal top of sheet flashings and mechanically anchor to substrate through termination bars.

3.09 INSTALLATION OF WALKWAYS

- A. Flexible Walkways: Install walkway products according to manufacturer's written instructions.
 - 1. Install flexible walkways at the following locations:
 - a. Perimeter of each rooftop unit.
 - b. Between each rooftop unit location, creating a continuous path connecting rooftop unit locations.
 - c. Between each roof hatch and each rooftop unit location or path connecting rooftop unit locations.
 - d. Top and bottom of each roof access ladder.
 - e. Between each roof access ladder and each rooftop unit location or path connecting rooftop unit locations.
 - f. Locations indicated on Drawings.
 - g. As required by roof membrane manufacturer's warranty requirements.
 - 2. Provide 6-inch clearance between adjoining pads.
 - 3. Heat weld to substrate or adhere walkway products to substrate with compatible adhesive according to roofing system manufacturer's written instructions.

3.10 FIELD QUALITY CONTROL

- A. Testing Agency: Owner will engage a qualified testing agency to inspect substrate conditions, surface preparation, roof membrane application, sheet flashings, protection, and drainage components, and to furnish reports to ODR and Owner.
- B. Owner will engage a qualified testing agency to perform the following tests:
 - 1. Low-Voltage Electrical Conductance Testing: Testing agency shall survey entire roof area and flashings to locate discontinuity in the roof membrane using an exposed metal electrical loop to create an electrical field tested with handheld probes.
 - a. Perform tests before overlying construction is placed.
 - b. After testing, repair areas of discontinuities, repeat tests, and make further repairs until roofing and flashing installations are contiguous.
 - 1) Cost of retesting is Contractor's responsibility.
- C. Final Roof Inspection: Arrange for roofing system manufacturer's technical personnel to inspect roofing installation on completion, in presence of ODR, and to prepare inspection report.
- D. Repair or remove and replace components of roofing system where inspections indicate that they do not comply with specified requirements.
- E. Additional testing and inspecting, at Contractor's expense, will be performed to determine if replaced or additional work complies with specified requirements.

3.11 PROTECTING AND CLEANING

- A. Protect roofing system from damage and wear during remainder of construction period. When remaining construction does not affect or endanger roofing, inspect roofing system for deterioration and damage, describing its nature and extent in a written report, with copies to ODR and Owner.
- B. Correct deficiencies in or remove roofing system that does not comply with requirements, repair substrates, and repair or reinstall roofing system to a condition free of damage and deterioration at time of Substantial Completion and according to warranty requirements.
- C. Clean overspray and spillage from adjacent construction using cleaning agents and procedures recommended by manufacturer of affected construction.

3.12 ROOFING INSTALLER'S WARRANTY

- A. WHEREAS _____ of _____, herein called the "Roofing Installer," has performed roofing and associated work ("work") on the following project:
 - 1. Owner: University of Texas System, University Lands.
 - 2. Address: 704 W Dengar Ave, Midland, TX 79705-5319.
 - 3. Building Name/Type: University Lands Office Building.
 - 4. Address: 704 W Dengar Ave, Midland, TX 79705-5319.
 - 5. Area of Work: Roof.
 - 6. Acceptance Date: _____.
 - 7. Warranty Period: **<Insert time>**.
 - 8. Expiration Date: _____.
- B. AND WHEREAS Roofing Installer has contracted (either directly with Owner or indirectly as a subcontractor) to warrant said work against leaks and faulty or defective materials and workmanship for designated Warranty Period,
- C. NOW THEREFORE Roofing Installer hereby warrants, subject to terms and conditions herein set forth, that during Warranty Period Roofing Installer will, at Roofing Installer's own cost and expense, make or cause to be made such repairs to or replacements of said work as are necessary to correct faulty and defective work and as are necessary to maintain said work in a watertight condition.
- D. This Warranty is made subject to the following terms and conditions:
 - 1. Specifically excluded from this Warranty are damages to work and other parts of the building, and to building contents, caused by:
 - a. lightning;
 - b. peak gust wind speed exceeding **<Insert mph>**;
 - c. fire;
 - d. failure of roofing system substrate, including cracking, settlement, excessive deflection, deterioration, and decomposition;
 - e. faulty construction of parapet walls, copings, chimneys, skylights, vents, equipment supports, and other edge conditions and penetrations of the work;
 - f. vapor condensation on bottom of roofing; and

- g. activity on roofing by others, including construction contractors, maintenance personnel, other persons, and animals, whether authorized or unauthorized by Owner.
- 2. When work has been damaged by any of foregoing causes, Warranty shall be null and void until such damage has been repaired by Roofing Installer and until cost and expense thereof have been paid by Owner or by another responsible party so designated.
- 3. Roofing Installer is responsible for damage to work covered by this Warranty but is not liable for consequential damages to building or building contents resulting from leaks or faults or defects of work.
- 4. During Warranty Period, if Owner allows alteration of work by anyone other than Roofing Installer, including cutting, patching, and maintenance in connection with penetrations, attachment of other work, and positioning of anything on roof, this Warranty shall become null and void on date of said alterations, but only to the extent said alterations affect work covered by this Warranty. If Owner engages Roofing Installer to perform said alterations, Warranty shall not become null and void unless Roofing Installer, before starting said work, shall have notified Owner in writing, showing reasonable cause for claim, that said alterations would likely damage or deteriorate work, thereby reasonably justifying a limitation or termination of this Warranty.
- 5. During Warranty Period, if original use of roof is changed and it becomes used for, but was not originally specified for, a promenade, work deck, spray-cooled surface, flooded basin, or other use or service more severe than originally specified, this Warranty shall become null and void on date of said change, but only to the extent said change affects work covered by this Warranty.
- 6. Owner shall promptly notify Roofing Installer of observed, known, or suspected leaks, defects, or deterioration and shall afford reasonable opportunity for Roofing Installer to inspect work and to examine evidence of such leaks, defects, or deterioration.
- 7. This Warranty is recognized to be the only warranty of Roofing Installer on said work and shall not operate to restrict or cut off Owner from other remedies and resources lawfully available to Owner in cases of roofing failure. Specifically, this Warranty shall not operate to relieve Roofing Installer of responsibility for performance of original work according to requirements of the Contract Documents, regardless of whether Contract was a contract directly with Owner or a subcontract with Owner's General Contractor.

E. IN WITNESS THEREOF, this instrument has been duly executed this _____ day of _____.

- 1. Authorized Signature: _____.
- 2. Name: _____.
- 3. Title: _____.

END OF SECTION 07 54 16

SECTION 07 72 00
ROOF ACCESSORIES: ROOF HATCH

PART 1 - GENERAL

1.1 SUMMARY

- A. Section includes:
 - 1. Roof Hatches.
 - 2. Hatch railing
 - a. Safety Railings for all roof hatches
 - b. Safety posts for vertical ladder access roof hatches

1.2 COORDINATION

- A. Coordinate layout and installation of roof accessories with roofing membrane and base flashing to provide a leak proof, watertight, secure and noncorrosive installation.
- B. Confirm existing opening dimensions and coordinate dimensions with rough-in information. Confirm dimensions during shop drawings preparation.

1.3 ACTION SUBMITTALS

- A. Shop Drawings:
 - 1. Indicate configuration and dimension of components, adjacent construction, required clearances and tolerances, and other affected Work.
 - a. Hatch Units: Show types, elevations, thickness of metals, and full-size profiles.
 - b. Hardware: Show materials, finishes, locations of fasteners, types of fasteners, locations and types of operating hardware, and details of installation.
 - c. General: Show connections of units and hardware to other Work. Include schedules showing location of each type and size of unit.
 - d. Laboratory test reports.
- B. Product Data: Manufacturer's technical data for each type of hatch assembly, including setting drawings, templates, finish requirements, and details of anchorage devices.
 - 1. Include complete schedule, types, locations, construction details, finishes, latching or locking provisions, and other pertinent data.

1.4 CLOSEOUT SUBMITTALS

- A. Installation, Operating & Maintenance manuals

1.5 QUALITY ASSURANCE

- A. Regulatory Requirements:
 - 1. OSHA 29 CFR 1910.23 Guarding floor and wall openings and holes
 - 2. OSHA 29 CFR 1926.502 Fall protection systems criteria
 - 3. International Building Code (IBC) Section 1013.6 Roof Access
 - 4. International Building Code (IBC) Section 1009.11 Means of Egress, Stairways, Stairway to Roof
 - 5. NRCA's "Roofing and Waterproofing Manual" for details for installing units.

1.6 WARRANTY

- A. Provide manufacturer's standard 5-year warranty. Roof hatches shall be free from manufacturing defects in materials and fabrication for a period of 5 years from the date of shipment. Should a product

fail to function in normal use within this period, manufacturer shall furnish a replacement or new part.

PART 2 - PRODUCTS

2.1 MATERIALS

- A. Aluminum:
 - 1. Sheet: ASTM B 209 (ASTM B 209M) for alclad alloy 3005H25 or alloy and temper required to suit forming operations, with mill finish, unless otherwise indicated.
- B. Schedule 40 pipe.
- C. Galvanized Steel Sheet: ASTM A 653/A 653M with G90 (Z275); commercial steel, unless otherwise indicated.
 - 1. Structural Quality: Grade 40 (Grade 275), where indicated or as required for strength.
- D. Insulation: Manufacturer's standard rigid or semirigid glass-fiber board of thickness indicated.
- E. Wood Nailers: Softwood lumber, pressure treated with waterborne preservatives for aboveground use, complying with AWPA C2; not less than 1-1/2 inches (38 mm) thick.
- F. Fasteners: Same metal as metals being fastened, or nonmagnetic stainless steel or other noncorrosive metal as recommended by manufacturer. Match finish of exposed fasteners with finish of material being fastened.
 - 1. Provide nonremovable fastener heads.
- G. Mastic Sealant: Polyisobutylene; nonhardening, non-skinning, nondrying, nonmigrating sealant.
- H. Elastomeric Sealant: Recommended by unit manufacturer that is compatible with joint surfaces; ASTM C 920, Type S, Grade NS, Class 25.
- I. Roofing Cement: ASTM D 4586, nonasbestos, fibrated asphalt cement designed for trowel application or other adhesive compatible with roofing system.

2.2 ROOF HATCHES

- A. Manufacturers: Subject to compliance with requirements, provide products by one of the following:
 - 1. Babcock-Davis Hatchways, Inc.
 - 2. Bilco Company.
 - 3. J. L. Industries, Inc.
 - 4. Milcor, Inc.
 - 5. Nystrom Products Co.
- B. General: Frame with minimum 12-inch high, integral-curb, double-wall construction with 1-1/2-inch (38 mm) insulation, and cap flashing (roofing counterflashing), with welded or sealed mechanical corner joints. Provide double-wall cover (lid) construction with 1 inch (25 mm) thick insulation core. Provide gasketing and equip with corrosion-resistant or hot-dip galvanized hardware including pintle hinges, hold-open devices, interior padlock hasps, and both interior and exterior latch handles
 - 1. Fabricate units to withstand 40 lbf/sq. ft. (1.9 kPa) external and 20 lbf/sq. ft. (0.95 kPa) internal loading pressure.
 - 2. Single-Leaf Personnel Hatches:
 - a. Size: As indicated on the Drawings.
 - b. Hatch Material: Galvanized steel; prime painted.
 - c. Thickness: Manufacturer's standard thickness for hatch size indicated.

3. Hardware: Spring operators, hold-open arm, stainless steel spring latch with turn handles, stainless steel butt- or pintle-type hinge system, and padlock hasps inside and outside. Coordinate options with Owner.
4. Color: As selected by Owner. Provide color options at least 2 weeks prior to fabrication/purchase of hatch.

2.3 SAFETY ACCESSORIES

- A. Safety Railing System: Roof-hatch manufacturer's standard system including rails, clamps, fasteners, safety barrier at railing opening, and accessories required for a complete installation; attached to roof hatch and complying with 29 CFR 1910.23 requirements and shall meet OSHA strength requirements with a factor of safety of two.
 1. Rails:
 - a. Schedule 40 pipe.
 - b. Finish: TGIC Polyester powder coat paint.
 - c. Color: Safety Yellow.
 - d. UV and corrosion resistant construction with a twenty-five year warranty.
 - e. Fittings: Cast aluminum alloy with set screw hold.
 - f. Mounting Brackets: 3/16-inch (4.75 mm) steel, zinc plated with nut backing plate.
 - g. Exit: Self-closing gate with coil spring, 1-1/4 inch (32 mm) aluminum or chain, 3/16 inch (4.76 mm) zinc plated steel link chain with spring clip ends.
- B. *Optional- Coordinate with Owner- Ladder-Assist Post*: Roof-hatch manufacturer's standard device for attachment to roof-access ladder.
 1. Operation: Post locks in place on full extension; release mechanism returns post to closed position.
- C. *Optional- Coordinate with Owner- Safety Grab Bar*: provide safe access through roof hatches while providing added functionality and weight bearing support.
 1. Operation: mounts through a corner section through the curb counterflashing.
 2. Material: Aluminum pipe 1-1/4 inch (32 mm) inside diameter Schedule 40 ATSM A53 Seamed Steel.
 3. Fittings: Cast aluminum alloy with set screw hold.
 4. Hardware: Hex head bolts 3/8 inch (9.5 mm) by 3/4 inch (19 mm) or per manufacturers recommendations.
 5. Finish: Manufacturer's standard baked enamel or powder coat.
 6. Color: Safety Yellow.
- D. Hardware: Mounting brackets shall be 1/4 inch (6 mm) thick hot dip galvanized steel. Hinges and post guides shall be 6063T5 aluminum. Fasteners shall be Type 316 stainless steel.

PART 3 - EXECUTION

3.1 EXAMINATION

- A. Verification of Conditions: Examine site conditions under which work of this Section will be performed.
 1. Identify conditions detrimental to providing proper quality and timely completions of work.
 2. Do not proceed with installation until detrimental conditions have been corrected.

3.2 INSTALLATION

- A. General: Coordinate installation of roof accessories with installation of roof deck, roof insulation, flashing, roofing membranes, penetrations, equipment, and other construction to ensure that combined elements are waterproof and weathertight. Anchor roof accessories securely to supporting structural substrates so they are capable of withstanding lateral and thermal stresses, and inward and outward loading pressures.

- B. Coordinate with structural supports with existing roof framing. If additional supports are required, coordinate installation with Owner
- C. Install roof accessory items according to construction details in NRCA's "Roofing and Waterproofing Manual," unless otherwise indicated,
- D. Comply with manufacturer's recommendations.
- E. Securely anchor roof accessories in compliance with manufacturer's instructions. Separate metal from incompatible metal or corrosive substrates, including wood, by coating concealed surfaces, at locations of contact, with bituminous coating or providing other permanent separation.
- F. Set units plumb, level, and true to line without warp or rack.

3.3 ADJUSTING

- A. Adjust movable parts for smooth operation.
- B. Operational Units: Test-operate units with operable components. Clean and lubricate joints and hardware. Adjust for proper operation.

3.4 CLEANING

- A. Clean exposed surfaces per manufacturer's written instructions. Touch up damaged metal coatings.

END OF SECTION

Stephen Harris
Assistant Vice Chancellor for Capital Projects
512-499-4351
sharris@utsystem.edu



February 14, 2020

To: OCP Staff

From: Stephen Harris

Re: Receiving Benefits, Gifts and Honoraria

Sub: Updated Supplemental OCP Policy

A large part of the credibility of the Office of Capital Projects (OCP) within the service provider community is derived from the confidence and certainty that there is no “blacklisting” and OCP does not “play favorites.” Therefore, it is crucial for OCP staff to always act in a manner that denies a critic or skeptic just cause to question our impartiality. Simply put, OCP must remain objective and impartial and must not exhibit partial influence, cannot support commercial market advertising, and in no way create the perception that anything we do fails to comply with regulations, statutes, rules and laws.

This supplemental administrative OCP policy further defines, and in most cases restricts, the benefits, gifts, honoraria and other entertainment activities all OCP staff may be exposed to and supplements any provisions of state law or UT System rule or policy that is less strict.

POLICY

OCP staff shall adhere to the requirements below and strive to use good judgment in all decisions related to perceived and/or real conflicts of interest. Only the Assistant Vice Chancellor for OCP is authorized to approve exceptions.

Conflicts of Interest Regardless of Amount (i.e. not allowed)

1. Golfing, boating, fishing, hunting, or similar recreational events, or sporting or entertainment events, paid for by a service provider.
2. Raffle / door prizes provided by a service provider.
3. Work boots or jackets provided by a service provider, except as provided below.
4. Breakfast, lunch or dinners when the service provider is consistently paying.
5. Any travel purchased and/or reimbursed by a service provider including airfare, lodging, meals, ground or public transportation, vehicle rentals, parking, etc.
6. Anything from a service provider before or during a service provider selection process or contract negotiations.
7. Anything from a service provider during a financial review and/or audit.

8. Any event paid for by a service provider that includes a lunch, dinner, charity event, entertainment or other type of service provider sponsored social gathering, except as provided below.
9. Honorarium from a service provider for speaking at a conference.
10. Any gift from a service provider that includes alcohol.

Items Typically Allowed

11. Mugs, pens and other nominal, non-wearable items from a service provider, which may include the service provider's brand name and/or logo.
12. Project specific shirts, hats and light weight jackets if they are available to the entire project team and include the project name, Institution, and major project partners, which may include the service provider's brand name and/or logo.
13. Employee attendance at OCP paid conferences, including social events that are not paid for or sponsored by a service provider.
14. Employee attendance at a project award ceremony paid for by a service provider or a design / construction association.
15. OCP employee-paid golfing, boating, fishing, hunting, or similar recreational events, or sporting or entertainment events, with a personal friend who is also a service provider.
16. Holiday baskets worth less than \$50 if they are delivered to and shared among the local OCP office staff.
17. Commemorative and dedicatory project memorabilia.
18. OCP and project awards from an industry association.
19. Gifts from the Institution.
20. Working lunches / dinners paid for by a service provider during document reviews, etc... if required by the project schedule.

This policy applies to OCP staff and the activities they undertake related to their UT System responsibilities. This policy does not directly apply to their family members but should still be carefully considered. Each employee shall electronically acknowledge conformance with this policy on an annual basis.

ADDENDUM No. 1

REQUEST FOR PROPOSALS
FOR
GENERAL CONTRACTOR

THE UNIVERSITY OF TEXAS SYSTEM ADMINISTRATION

UNIVERSITY LANDS RE-ROOF

RFP No.: UL 2020-1

***RESPONSE DUE: October 28, 2020
2:00 PM***

HUB SUBCONTRACTING PLAN SUBMITTAL DUE DATE: October 28, 2020



Prepared By:
Robert J. Barrera, P.E.
The University of Texas System Administration
Office of Capital Projects
210 W. 7th Street
Austin, Texas 78701

REQUEST FOR PROPOSALS
FOR
A GENERAL CONTRACTOR

THE UNIVERSITY OF TEXAS SYSTEM ADMINISTRATION

UNIVERSITY LANDS RE-ROOF
RFP No.: UL 2020-1

ADDENDUM No. 1

The following information is issued to change, clarify, supplement or further explain the above referenced RFP. This information shall supersede and take precedence over the information contained in the RFP in the event of a conflict.

In response to written inquiries, the following clarifications are issued:

Question #1: *No substitution requested form was provided within the project document, please advise?*

Response #1: *A substitution form was not included in the RFP. However, if substitutions are proposed, then the respondent shall clearly note that the proposed material is not the preferred material noted. The proposed roofing material will be considered.*

Question #2: *Per "KEE Roofing" documents 075416-4, Section 2.02, A.1., this project calls for "Product: Subject to compliance with requirements, provide Seaman Corporation FiberTite-XT-FB." Are other KEE PVC Roofing manufacturers acceptable for proposal on this project? Specifically, Carlisle Syntec.*

Response #2: *The proposed alternative product is acceptable and will be considered during the evaluation of the proposals. All alternative products shall be clearly noted in the proposals that the proposed material is not the preferred material.*

Question #3: *Will single ply roofing such as a PVC roofing material be considered?*

Response #3: *Yes, single ply roofing material will be considered (provided they are clearly noted on the proposal). As noted in the proposal – "...hybrid with SBS base and a PVC/KEE Elvaloy cap sheet is preferred... Single-ply roofing membranes will be considered; assuming a 60-mil membrane or better is proposed."*

Attachment #1: *Attached is the sign in sheet for the pre-submittal conference held October 8, 2020; 2:00 p.m.*

Copy to: All registered recipients of the RFP (via OCP and ESBD website)

End of Addendum 1

SECTION 3

ADDENDA CHECKLIST

Proposal of: _____
(Proposer Company Name)

To: The University of Texas _____

Ref.: RFP UL 2020-1

RFP No.: UL 2020-1

Ladies and Gentlemen:

The undersigned Proposer hereby acknowledges receipt of the following Addenda to the captioned RFP (initial if applicable).

Note: If there was only 1 Addendum, initial just the first blank after No. 1, not all 7 blanks below.

No. 1 _____ No. 2 _____ No. 3 _____ No. 4 _____ No. 5 _____

No. 6 _____ No. 7 _____

Respectfully submitted,

Proposer: _____

By: _____
(Authorized Signature for Proposer)

Name: _____

Title: _____

Date: _____

RFP No: UL 2020-1 UT System - University Lands Re-Roofing Project
On-Site Scope of Work Review Sign-In

	Company Name:	Contact Person:	Phone:	Email:	Initial
1	Advantage USAA, Inc	Carlos 830-885-2950	830-885-2950	carlos@advantage USAA.com	WR
2					
3					
4					
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10					