AGENDA

Regular Meeting

City Council

Tuesday, November 14, 2023

6:00 PM, City Hall

4000 Galleria Parkway

Bee Cave, Texas 78738-3104

THE CITY OF BEE CAVE COUNCIL MEETINGS ARE AVAILABLE TO ALL PERSONS REGARDLESS OF DISABILITY. IF YOU REQUIRE SPECIAL ASSISTANCE, PLEASE CONTACT KAYLYNN HOLLOWAY AT (512) 767-6641 AT LEAST 48 HOURS IN ADVANCE OF THE MEETING. THANK YOU.

A quorum of the Planning and Zoning Commission and/or Development Board may be in attendance at this meeting. No action will be taken by the Commission or Board.

1. Call meeting to order
2. Roll Call
3. Pledge of Allegiance
4. Recognition and Moment of Silence
5. Citizen Comments

This is an opportunity for citizens to address the City Council concerning an issue of community interest that is not on the agenda. Comments on the agenda items must be made when the agenda item comes before the Council. Any deliberation of the issue is limited to a proposal to place it on the agenda for a later meeting. Citizens will have up to 3 minutes to make comments.

6. Staff Comments

Each department of the city may present a monthly report to the City Council on informational items only which do not require action. Each department may provide a monthly report regarding department operations and any noteworthy events for council.

a. City secretary report
b. Communications report
c. Financial report
d. Human Resources report
e. Library report
f. Parks and Facilities report
g. Planning and Development report
h. Police Department report
i. City Manager's office report

7. Consent Agenda

All Consent Agenda items listed are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council member requests in which event the item will be removed from the Consent Agenda and considered in its normal sequence on the agenda. Information concerning consent agenda items is available for public view.

A. Consider approval of the minutes of the Special Session conducted on October 23, 2023.
B. Consider approval of the minutes of the Regular Session conducted on October 24, 2023.

8. Discuss and consider action on Ordinance No. 520 annexing a portion of State Highway 71 Right-Of-Way, a total of 11.13 acres

9. Public hearing, discussion, and possible action on Ordinance 521 designating a zoning classification of Public District for an approximately eleven-acre tract located on W State Highway 71 that is anticipated to be annexed into City Limits via Ordinance 520 on November 14, 2023

10. Public hearing, discussion, and possible action on Ordinance 522 amending the City of Bee Cave Unified Development Code (UDC) regulations including but not limited to Signs, Landscaping and Screening Standards, Tree Preservation, Drainage and Water Quality, and Lighting.

11. Discuss and consider action on Ordinance No. 523 amending Appendix A (Fee Schedule) of the Bee Cave Code of Ordinances.

12. Discuss and consider action on Resolution No. 2023-18 supporting the Highway Safety Improvement Program with the Texas Department of Transportation

13. Discuss and consider action on a contract with Rogers-O'Brien for Construction Manager-at-Risk (CMAR) services for the new Bee Cave Public Safety Building and authorize the City Manager to execute.

14. Discuss and consider action to authorize staff to publish request for

proposals for Grant Writing professional services for the City of Bee Cave Capital Improvement Projects.

15. Discuss and consider action on a Memorandum of Understanding between the City of Bee Cave Municipal Court and the Village of the Hills, Texas for hosting and operating municipal court under concurrent jurisdiction.

16. Close Regular Meeting

17. Open Executive Session

Open Executive Session. Executive session in accordance with the Texas Government Code, Section 551-072 – Deliberation regarding real property; and Section 551.071 - Consultation with Attorney regarding pending or contemplated litigation or a settlement offer, or on any matters in which the Attorney has a duty to the City under the Texas Disciplinary Rules of Professional Conduct that clearly conflicts with the provisions of the Open Meetings Law. A quorum of the City Council will be present for the executive session.

A. Consultation with Attorney regarding pending litigation styled Citizens for Preservation of The Brown Property v. City of Bee Cave.
B. Deliberation regarding the potential acquisition of real property for public purposes
C. Consultation with attorney regarding legal issues associated with city's intellectual property rights, marketing campaigns, promotional product distribution and updates in state law.

18. Close Executive Session

19. Open Regular Meeting

20. Consider action, if any, on Executive Session

21. Adjournment

The Council may go into closed session at any time when permitted by Chapters 418 or 551, Texas Government Code, or Section 321.3022 of the Texas Tax Code. Before going into closed session a quorum of the Council must be present, the meeting must be convened as an open meeting pursuant to proper notice, and the presiding officer must announce that a closed session will be held and must identify the sections of Chapter 551 or 418, Texas Government Code, or Section 321.3022 of the Texas Tax Code authorizing the closed session.

I certify that the above notice of meeting was posted at Bee Cave City Hall, 4000 Galleria Parkway, Bee Cave, Texas, on the 8th day of November, 2023 at 5:00 P.M. (Seal)

_____

Kaylynn Holloway, City Secretary

City Council Meeting
11/14/2023
Agenda Item Transmittal

Agenda Item:	**7.A.**
Agenda Title:	**Consider approval of the minutes of the Special Session conducted on October 23, 2023.**
Council Action:	**Approve**
Department:	**City Secretary**
Staff Contact:	**Kaylynn Holloway, City Secretary**

1. INTRODUCTION/PURPOSE

2. DESCRIPTION/JUSTIFICATION

a) Background

b) Issues and Analysis

3. FINANCIAL/BUDGET

Amount Requested	Fund/Account No.
Cert. Obligation	GO Funds
Other source	Grant title
Addtl tracking info	

4. TIMELINE CONSIDERATIONS

5. RECOMMENDATION

ATTACHMENTS:

Description	Type
Minutes of October 23, 2023	Backup Material

MINUTES OF THE SPECIAL MEETING OF THE
CITY COUNCIL
CITY OF BEE CAVE
Monday, October 23, 2023

STATE OF TEXAS §
COUNTY OF TRAVIS §

Present:

Kara King, Mayor
Andrew Clark, Mayor Pro Tem
Kevin Hight, Council Member
Andrea Willott, Council Member

Absent:

Courtney Hohl, Council Member
Andrew Rebber, Council Member

City Staff:

Clint Garza, City Manager
Kaylynn Holloway, City Secretary
Lindsey Oskoui, Assistant City Manager

Call to Order and Announce a Quorum is Present

With a quorum present, the special meeting of the Bee Cave City Council was called to order by Mayor King at 4:30 p.m. on Monday, October 23, 2023.

First Public Hearing on Ordinance No. 520 regarding the intent of the City of Bee Cave to annex a portion of State Highway 71 Right-Of-Way of an approximate total of 11.4 acres.

Mayor King opened the public hearing at 4:31 p.m.

There being no one wishing to provide public testimony, the public hearing closed at 4:31 p.m.

Adjournment:

MOTION: A motion was made by Council Member Hight, seconded by Mayor Pro Tem Clark, to adjourn.

The vote was taken on the motion with the following result:

Voting Aye: Mayor King, Mayor Pro Tem Clark, Council Members Hight and Willott
Voting Nay: None
Absent: Council Members Hohl and Rebber

The motion carried 4-0.

The City Council meeting adjourned at 4:31 p.m.

PASSED AND APPROVED THIS _____ DAY OF _____, 2023.

_____
Kara King, Mayor

ATTEST:

_____
Kaylynn Holloway, City Secretary

City Council Meeting
11/14/2023
Agenda Item Transmittal

Agenda Item:	**7.B.**
Agenda Title:	**Consider approval of the minutes of the Regular Session conducted on October 24, 2023.**
Council Action:	**Approve**
Department:	**City Secretary**
Staff Contact:	**Kaylynn Holloway, City Secretary**

1. INTRODUCTION/PURPOSE

2. DESCRIPTION/JUSTIFICATION

a) Background

b) Issues and Analysis

3. FINANCIAL/BUDGET

Amount Requested	Fund/Account No.
Cert. Obligation	GO Funds
Other source	Grant title
Addtl tracking info	

4. TIMELINE CONSIDERATIONS

5. RECOMMENDATION

ATTACHMENTS:

Description	Type
Minutes of October 24, 2023	Backup Material

MINUTES OF THE REGULAR MEETING OF THE
CITY COUNCIL
CITY OF BEE CAVE
October 24, 2023

STATE OF TEXAS §
COUNTY OF TRAVIS §

Present:

Kara King, Mayor
Kevin Hight, Council Member
Courtney Hohl, Council Member
Andrew Rebber, Council Member
Andrea Willott, Council Member

Absent:

Andrew Clark, Mayor Pro Tem

City Staff:

Clint Garza, City Manager
Rebecca Regueira, Deputy City Secretary
Ryan Henry, City Attorney
Lindsey Oskoui, Assistant City Manager
Megan Will, Planning & Development Director
Jenny Hoff, Communications Director
Dori Kelley, Communications Specialist
William Pitmon, Police Lieutenant

Call to Order and Announce a Quorum is Present

With a quorum present, the regular meeting of the Bee Cave City Council was called to order by Mayor King at 6:00 p.m. on Tuesday, October 24, 2023.

Recognition and moment of silence

Citizen Comments.

There were no citizen comments at this time.

Staff Comments.

Communications Director Jenny Hoff commented that the Haunted Trail will be held the weekend of October 20th from 7-9pm and Sunday from 4-6pm, there will be a kiddy trail and Trunk or Treat.

Library Director Barbara Hathaway commented that the Car show will be held this Sunday, October 22nd.

Consent Agenda.

A. Consider approval of the minutes of the Regular Session conducted on September 26, 2023.
B. Consider approval of the finance and investment reports. (Q3)
C. Consider appointment of Thomas Hatfield as a Deputy City Secretary.

MOTION: A motion was made by Council Member Rebber, seconded by Council Member Hohl, to approve the Consent Agenda Items A – C.

The vote was taken on the motion with the following result:

Voting Aye: Mayor King, Council Members Hight, Hohl, Rebber and Willott
Voting Nay: None
Absent: Mayor Pro Tem Clark

The motion carried 5-0.

Discussion regarding update from Municipal Court and consider action on organizing a Teen Court in Bee Cave.

Municipal Court Judge Sheehan reported on the activities of the Court.

Teen Court is scheduled to meet every 3rd Thursday of the Month from 6-8 pm.

Second Public Hearing on Ordinance No. 520 regarding annexing a portion of State Highway 71 Right-Of-Way of an approximate total of 11.4 acres.

Assistant City Manager Lindsey Oskoui presented this item.

Mayor King opened the public hearing at 6:11 p.m.

There being no one wishing to provide public testimony, the public hearing closed at 6:11 p.m.

Discuss and consider action regarding an application from the Special Olympics of Texas for use of Hotel Occupancy Tax Funds.

Chad Eason and Miguel Quezada representing the Special Olympics of Texas presented this item.

MOTION: A motion was made by Council Member Willott, seconded by Council Member Hohl, to approve $100,000 of Hotel Occupancy Tax Funds for the Special Olympics of Texas.

The vote was taken on the motion with the following result:

Voting Aye: Mayor King, Council Members Hight, Hohl, Rebber and Willott
Voting Nay: None
Absent: Mayor Pro Tem Clark

The motion carried 5-0.

Discuss and consider action on a contract with HOAR for Construction Manager-at-Risk (CMAR) services for the new Bee Cave Public Library Building and authorize the City Manager to execute.

Chelsea Maldonado, Project Manager presented this item.

MOTION: A motion was made by Council Member Rebber, seconded by Council Member Hohl, to approve a contract with HOAR for Construction Manager-at-Risk (CMAR) services for the new Bee Cave Public Library Building and authorize the City Manager to execute.

The vote was taken on the motion with the following result:

Voting Aye: Mayor King, Council Members Hight, Hohl, Rebber and Willott
Voting Nay: None
Absent: Mayor Pro Tem Clark

The motion carried 5-0.

Discuss and consider action on a contract with CSHV HCG Retail LLC. for the holiday ice rink.

City Manager Clint Garza presented this item.

MOTION: A motion was made by Council Member Rebber, seconded by Council Member Hight, to approve a contract with CSHV HCG Retail LLC. for the holiday ice rink.

The vote was taken on the motion with the following result:

Voting Aye: Mayor King, Council Members Hight, Hohl, Rebber and Willott
Voting Nay: None
Absent: Mayor Pro Tem Clark

The motion carried 5-0.

Executive Session:

The City Council closed the Open Session at 6:44 p.m. to convene in Executive Session.

At this point in the meeting, Mayor King publicly announced that a closed, executive session would be held and identified the section of the Open Meeting Law under which the meeting would be held.

Executive session in accordance with the Texas Government Code, Section 551-072 – Deliberation regarding real property; Section 551.071 - Consultation with Attorney regarding pending or contemplated litigation or a settlement offer, or on any matters in which the Attorney has a duty to the City under the Texas Disciplinary Rules of Professional Conduct that clearly conflicts with the provisions of the Open Meetings Law. A quorum of the City Council will be present for the executive session.

A. Consultation with Attorney regarding pending litigation styled *Citizens for Preservation of The Brown Property v. City of Bee Cave*.
B. Deliberation regarding the potential acquisition of real property for public purposes.
C. Consultation with attorney regarding legal issues associated with city's intellectual property rights, marketing campaigns, promotional product distribution and updates in state law.

The City Council closed the Executive Session at 7:23 p.m. and reconvened in Regular Session.

Adjournment:

MOTION: A motion was made by Council Member Hohl, seconded by Council Member Rebber, to adjourn.

The vote was taken on the motion with the following result:

Voting Aye: Mayor King, Council Members Hight, Hohl, Rebber and Willott
Voting Nay: None
Absent: Mayor Pro Tem Clark

The motion carried 5-0.

The City Council meeting adjourned at 7:24 p.m.

PASSED AND APPROVED THIS _____ DAY OF _____, 2023.

_____
Kara King, Mayor

ATTEST:

_____
Kaylynn Holloway, City Secretary

City Council Meeting
11/14/2023
Agenda Item Transmittal

Agenda Item:	**8.**
Agenda Title:	**Discuss and consider action on Ordinance No. 520 annexing a portion of State Highway 71 Right-Of-Way, a total of 11.13 acres**
Council Action:	**Discuss and Consider Action**
Department:	**City Manager**
Staff Contact:	**Lindsey Oskoui**

1. INTRODUCTION/PURPOSE

To consider adopting Ordinance 520, which would annex an approximately 11.4 acre portion of SH 71 ROW from approximately the intersection of Vail Divide and State Highway 71to approximately 2,500' westward of the intersection.

2. DESCRIPTION/JUSTIFICATION

a) Background

Section 1.03 of the Home Rule Charter adopted by the citizens of Bee Cave in May 2013 states that *"The City may from time to time alter its boundaries by annexing any territory adjoining boundaries, as such boundaries may exists from time to time, in any size or shape desired in any manner provided by State law and by any other method provided by law for any type of incorporated municipali8ty, with or without consent of the owners of such territory or the inhabitants thereof. The City may from time to time alter its boundaries by disannexing any territory adjoining its boundaries; as such boundaries may exist from time to time, by passage of an ordinance describing the territory to be disannexed. Any additional territory annexed to the City shall be part of the City for all purposes, and the property situated therein shall bear its pro rata part of the taxes levied by the City as provided by State law. The inhabitants thereof shall be entitled to all right and privileges of all citizens and shall be bound by the acts, ordinances, and resolutions of the City."*
Each calendar year, a City may initiate annexation from within its Extraterritorial Jurisdiction an amount equal to up to 10 percent of the area within its City Limits. (Annexation due to land owner petition does not count against this cap). Any 'unused' acreage from the maximum allowed may be carried over to the next calendar year.
Texas Local Government Code Chapter 43 establishes a detailed process for how annexations must be completed, including, for an annexation of this type ("C-1"):

- preparation of a service plan;
- issuance of notice in the newspaper and via mail to property owners of the subject land and those within 200'; and

- two public hearings at City Council.

On 9/12/2023, City Council approved Resolution 2023-15, which initiated the process of annexing an 11.4 acre area encompassing the right of way (ROW) of SH 71 located from approximately the intersection of Vail Divide and SH 71 to approximately 2,500' westward of that intersection, all of which is owned by Texas Department of Transportation (TXDOT). A survey is attached. This area generally includes SH 71 itself and all of the normal utilities and appurtenances found in a state ROW. There is no commercial development, nor residences. Adjacent neighbors include the Canyonside neighborhood and Bee Cave Primitive Park to the North and the Lake Travis Independent School District Bus Ban to the South. This area is outside of a Municipal Utility District.
The City held the two requisite public hearings on _____ and _____.

b) Issues and Analysis

Annexation of this stretch of SH 71 completes incorporating all portions of SH 71 that were formerly within the City's Extraterritorial Jurisdiction.
In addition to initiating the process, approval of Resolution 2023-15 also had the effect of scheduling the two public hearings required by state law as part of this process. The first hearing was held on 10/23/23 and the second was held on 10/24/2023.

The complete annexation calendar, the service plan, and ordinance 520 are attached.

3. FINANCIAL/BUDGET

Amount Requested	Fund/Account No.
Cert. Obligation	GO Funds
Other source	Grant title
Addtl tracking info	

4. TIMELINE CONSIDERATIONS

The rules in the Texas Local Government regarding the timing of each of the steps in annexation are very specific. Once this process is commenced, most dates cannot be modified without starting the process over.

5. RECOMMENDATION

Adopt ordinance 520.

ATTACHMENTS:

Description	Type
Ord. 520	Ordinance

ORDINANCE NO. 520

AN ORDINANCE ANNEXING TERRITORY ADJACENT AND CONTIGUOUS TO THE CITY OF BEE CAVE TERRITORIAL AND JURISDICTIONAL BOUNDARIES CONSISTING OF A 11.13 ACRE TRACT OF STATE HIGHWAY 71 WEST RIGHT-OF-WAY GENERALLY LOCATED ADJACENT TO CANYONSIDE AT FALCONHEAD WEST CONDOMINIUMS (COMMON AREA), BEE CAVE, TEXAS, WHICH PROPERTY IS MORE FULLY DESCRIBED IN EXHIBIT A, INTO THE CITY OF BEE CAVE, TEXAS AND EXTENDING THE BOUNDARY LIMITS OF SAID CITY SO AS TO INCLUDE SAID PROPERTY; DIRECTING THE CITY SECRETARY TO FILE A CERTIFIED COPY OF THIS ORDINANCE WITH CERTAIN AUTHORITIES; DIRECTING THAT THE MAP OF THE CITY BOUNDARIES AND EXTRATERRITORIAL JURISDICTION BE REVISED TO INCLUDE THE ANNEXED TERRITORY; PROVIDING FOR APPROVAL OF THE SERVICE PLAN ATTACHED HERETO AS EXHIBIT "B"; GRANTING TO SAID PROPERTY AND ALL FUTURE INHABITANTS ALL OF THE RIGHTS AND PRIVILEGES OF OTHER CITIZENS AND BINDING SAID FUTURE INHABITANTS BY ALL OF THE ACTS AND ORDINANCES OF SAID CITY; PROVIDING FOR SEVERABILITY; PROPER NOTICE AND MEETING; EFFECTIVE DATE.

WHEREAS, the City desires to annex real property owned by the Texas Department of Transportation and is adjacent to the City's territorial and jurisdictional boundaries; and

WHEREAS, they City's home-rule charter allows it to annex territory; and

WHEREAS, the City is authorized, pursuant to its home-rule authority as well as pursuant to Texas Local Government Code §43.1055 to additionally annex a public right-of-way of a road or highway in order to achieve contiguity; and

WHEREAS, all procedural and substantive prerequisites to annexation have occurred, including notice in the newspaper for at least twenty days prior to the public hearing and allowing for comments from citizens regarding the annexation; and

WHEREAS, the Property being annexed pursuant to this ordinance is the property described in Exhibit "A"; and

WHEREAS, a service plan for the Property has been prepared as required by law, and a copy of that service plan is attached hereto as Exhibit "B" and incorporated herein for all purposes;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE

CITY OF BEE CAVE, TEXAS, THAT THE BELOW IDENTIFIED PROPERTY IS HEREBY ANNEXED BY THE CITY OF BEE CAVE AS FOLLOWS:

SECTION 1. TERRITORY. Pursuant to the authority granted by Chapter 43 of the Texas Local Government Code, and the Bee Cave Home Rule Charter, the City of Bee Cave hereby annexes to the City of Bee Cave the territory described in Attachment A by metes and bounds and incorporated by reference herein. Such annexation is for full purposes including all privileges and liabilities extended to inhabitants of such territory.

That the boundary limits of the City of Bee Cave be and the same are hereby extended to include the above described territory within the city limits of the City of Bee Cave, and the same shall hereafter be included within the territorial limits of said city, and the inhabitants and future inhabitants thereof shall hereafter be entitled to all the rights and privileges of other citizens of the City of Bee Cave and they shall be bound by the acts, ordinances, resolutions, and regulations of the City.

The land and territory lying outside of, but adjacent to and adjoining the City of Bee Cave, Texas, more particularly described as that portion of the tract of land described in Exhibit "A," attached hereto and incorporated herein by reference, shall hereafter be included within the boundary limits of said City, and the present boundary limits of said City, at the various points contiguous to the area described in Exhibit "A," are altered and amended so as to include said area within the corporate limits of the City of Bee Cave, Texas.

SECTION 2. SERVICE PLAN. That the service plan for the Annexation Area, attached hereto as Exhibit “B” is hereby approved as part of this Ordinance and incorporated herein for all purposes.

SECTION 3. OFFICIAL MAP. The City Manager is hereby authorized and directed to take — appropriate action to have the official map of the City revised to reflect the additions to the City's Corporate Limits and the City Secretary is hereby authorized and directed to provide appropriate notice to the State of Texas and the County of Travis of this annexation.

SECTION 4. ZONING. Pursuant to City ordinances, newly annexed territory shall be zoned by default as AG upon annexation, unless such territory is zoned differently at the time of annexation. The territory herein described an annexed is hereby zoned pursuant to any adopted zoning ordinance applicable to the property at the same meeting in which this ordinance is passed. Should no other zoning ordinance be adopted at the same meeting as this ordinance, then the property is zoned by default as AG and shall remain as such until properly altered by the City Council.

SECTION 5. CUMULATIVE CLAUSE. That this Ordinance shall be cumulative of all provisions of the City of Bee Cave Code of Ordinances except where the provisions of this Ordinance are in direct conflict with the provisions of such existing Ordinance, in which event the conflicting provisions of such existing Ordinance are hereby repealed, and this Ordinance controls.

SECTION 6 SEVERABILITY. That it is hereby declared to be the intent of the City Council for the City of Bee Cave that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance should be declared unconstitutional by the valid judgement or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of the Ordinances, since the same would have been enacted by the City Council without incorporation in this ordinance of any such unconstitutional phrases, sentences, paragraphs, or sections.

SECTION 7. PROPER NOTICE AND MEETING. It is hereby officially found and determined that the meeting at which this Ordinance was adopted was open to the public and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

SECTION 8. EFFECTIVE DATE. This Ordinance shall be effective upon passage and publication as required by governing law.

DULY PASSED AND APPROVED, on the day of , 2023, at a regular meeting of the City Council of the City of Bee Cave, Texas, which was held in compliance with the Opening Meetings Act, Gov't Code §551.001. et. Seq. at which meeting a quorum was present and voting.

CITY OF BEE CAVE, TEXAS

_____
Kara King, Mayor

ATTEST:

_____
Kaylynn Holloway, City Secretary

APPROVED:

_____
City Attorney
Ryan Henry, Law Offices of Ryan Henry, PLLC

Exhibit A
Property Description

DOUCET

7401B Highway 71 West, Suite 160, Austin, TX 78735
Office: 512.583.2600
Fax: 512.583.2601
Doucetengineers.com

"Exhibit "------"

11.13 Acre Highway 71 Annexation Tract Description **D&A Job No. 2051-003**
Travis County, Texas **September 8, 2023**

DESCRIPTION

BEING A 11.13 ACRE TRACT OF LAND IN THE T.C. RR. CO. SURVEY, ABSTRACT NUMBER 2259, AND THE T.C. RR. CO. SURVEY, ABSTRACT NUMBER 2525, TRAVIS COUNTY, TEXAS, SAID 11.13 ACRE TRACT OF LAND BEING A PORTION OF STATE HIGHWAY 71 (A VARIABLE WIDTH RIGHT-OF-WAY), DESCRIBED IN A DEED TO THE STATE OF TEXAS IN VOLUME 790, PAGE 582, DEED RECORDS, TRAVIS COUNTY, TEXAS, SAID 11.13 ACRE TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY THE METES AND BOUNDS AS FOLLOWS:

BEGINNING at a calculated point on the north right-of-way line of said State Highway 71, for the southernmost southeast corner of Final Plat of Lot 1A, 1B and 1C, Block A of Falconhead West, Phase 1, Section 2 & Phase 2, a subdivision of record in Document Number 201700231 of the Official Public Records, Travis County, Texas [O.P.R.T.C.T.], same being the southwest corner of a called 22.997 acre tract described in a deed to Protestant Episcopal Church Council of the Diocese of Texas, recorded in Document Number 2018104077, O.P.R.T.C.T., and the northeast corner of the tract described herein;

THENCE over and across said State Highway 71, S28°04'41"W, a distance of 162.74 feet to a calculated point in the south right-of-way line of State Highway 71, for the northwest corner of Bella Colinas Commercial Plat, a subdivision of record in Document Number 201600051 O.P.R.T.C.T., same being the northeast corner of a called 136.059 acre tract of land described in a deed to Lake Travis Independent School District in Document Number 2010014061, O.P.R.T.C.T., and the southeast corner of the tract described herein;

THENCE with the south right-of-way line of said State Highway 71, same being the north line of said Lake Travis Independent School District tract, and the south line of the tract described herein, the following three (3) courses and distances:

1) N84°33'47"W, a distance of 168.86 feet to a calculated point of curvature,

2) With a curve to the left, defined by an arc length of 1,531.04 feet, a radius of 5,639.33 feet, a delta angle of 15°33'19", and a chord which bears S87°39'02"W, a distance of 1,526.34 feet to a calculated point of tangency, and

3) S79°54'05"W, at distance of 276.48 feet passing a calculated point for the northwest corner of said Lake Travis Independent School District Tract, same being the northeast corner of Sweetwater Crossing Lot 9, Block A Final Plat, a subdivision of record in Document Number 201700109 O.P.R.T.C.T., continuing for a total of 986.80 feet to a calculated point of curvature in the common line of State Highway 71 and the north line of said Sweetwater Crossing Lot 9, Block A Final Plat, and the south line of the tract described herein;

THENCE with the south right-of-way line of said State Highway 71, same being the north line of said Sweetwater Crossing Lot 9, Block A Final Plat, and with said curve to the right, defined by an arc length of 63.83 feet, a radius of 1,522.37 feet, a delta angle of 02°24'09", and a chord which bears S80°57'37"W, for a distance of 63.83 feet, to a calculated point for a northwestern corner of said Sweetwater Crossing Lot 9, Block A Final Plat, same being the northeastern corner of Sweetwater Crossing Phase One Final Plat, a subdivision of record described in Document Number 201700299 O.P.R.T.C.T., also being a point on curve to the right for the tract described herein;

THENCE with the south right-of-way line of said State Highway 71, same being the north line of said Sweetwater Crossing Phase One Final Plat, and continuing with a curve to the right, defined by an arc length of 340.85 feet, a radius of 1,522.37 feet, a delta angle of 12°49'41", and a chord which bears S88°34'54"W, for a distance of 340.14 feet, to a calculated point for the southwest corner of the tract described herein;

(CONTINUED ON NEXT PAGE)

7401B Highway 71 West, Suite 160, Austin, TX 78735
Office: 512.583.2600
Fax: 512.583.2601
Doucetengineers.com

THENCE over and across the said State Highway 71 right-of-way, N00°00'00"E, a distance of 178.80 feet to a calculated point in the north right-of-way line of State Highway 71, for the southwest corner of Mansions at Lakeway, a subdivision of record in Document Number 201300276, O.P.R.T.C.T., same being the southwest corner of Falconhead West Phase 1, Section 2 & Phase 2 Final Plat, a subdivision of record in Document Number 200800106, O.P.R.T.C.T., for a point of curvature and the northwest corner of the tract described herein;

THENCE with the north right-of-way line of said State Highway 71, same being the south line of said Falconhead West Phase 1, Section 2 & Phase 2 Final Plat, and the north line of the tract described herein, the following four (4) courses and distances;

1. With a curve to the left, defined by an arc length of 373.01 feet, a radius of 1,342.39 feet, a delta angle of 15°55'15", and a chord which bears N87°42'00E, for a distance of 371.81 feet, to a calculated point,

2. N83°41'22"E, a distance of 447.21 feet to a calculated point,

3. N79°50'35"E, a distance of 541.10 feet to a calculated point of curvature, and

4. With a curve to the right, defined by an arc length of 1,051.53 feet, a radius of 5,789.58 feet, a delta angle of 10°24'23", and a chord which bears N85°02'47E, for a distance of 1,050.09 feet, to a calculated point on curve to the right, said point being on the west right-of-way line of Vail Divide (a variable width right-of-way) as described in Document Number 200800106, O.P.R.T.C.T.,

THENCE with the north right-of-way line of said State Highway 71, same being the south line of said Vail Divide, also being the north line of the tract described herein with said curve to the right, defined by an arc length of 100.27 feet, a radius of 5,789.58 feet, a delta angle of 0°59'32", and a chord which bears S89°15'16E, for a distance of 100.27 feet, to a calculated point on curve to the right, being a southwest corner of Final Plat of Lot 1A, 1B, and 1C, Block A of Falconhead West, Phase 1, Section 2, & Phase 2, a subdivision of record in described in Document Number 201700231, O.P.R.T.C.T.,

(CONTINUED ON NEXT PAGE)

DOUCET

7401B Highway 71 West, Suite 160, Austin, TX 78735
Office: 512.583.2600
Fax: 512.583.2601
Doucetengineers.com

THENCE continuing with the north right-of-way line of said State Highway 71, and the south line of said Final Plat of Lot 1A, 1B, and 1C, Block A of Falconhead West, Phase 1, Section 2, & Phase 2, the following two (2) courses and distances;

1. With said curve to the right, defined by an arc length of 419.47 feet, a radius of 5,789.58 feet, a delta angle of 04°09'04", and a chord which bears N86°40'57E, for a distance of 419.38 feet, to a calculated point of tangency, and

2. S84°36'22"E, a distance of 231.62 feet to the **POINT OF BEGINNING** and containing 11.13 acres, more or less.

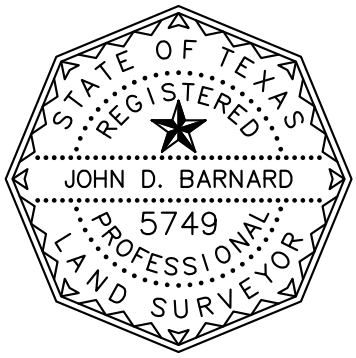
Basis of bearings is the N87°39'02"E, a distance of 1,526.34 feet from said Lake Travis Independent School District Tract, Document Number 2010014061 [O.P.R.T.C.T.].

Units: U.S. Survey Feet.

This document was prepared under 22 TAC §663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

09/08/2023

John Barnard Date
Registered Professional Land Surveyor
Texas Registration No. 5749
Doucet & Associates
JBarnard@DoucetEngineers.com
TBPELS Firm Registration No. 10105800

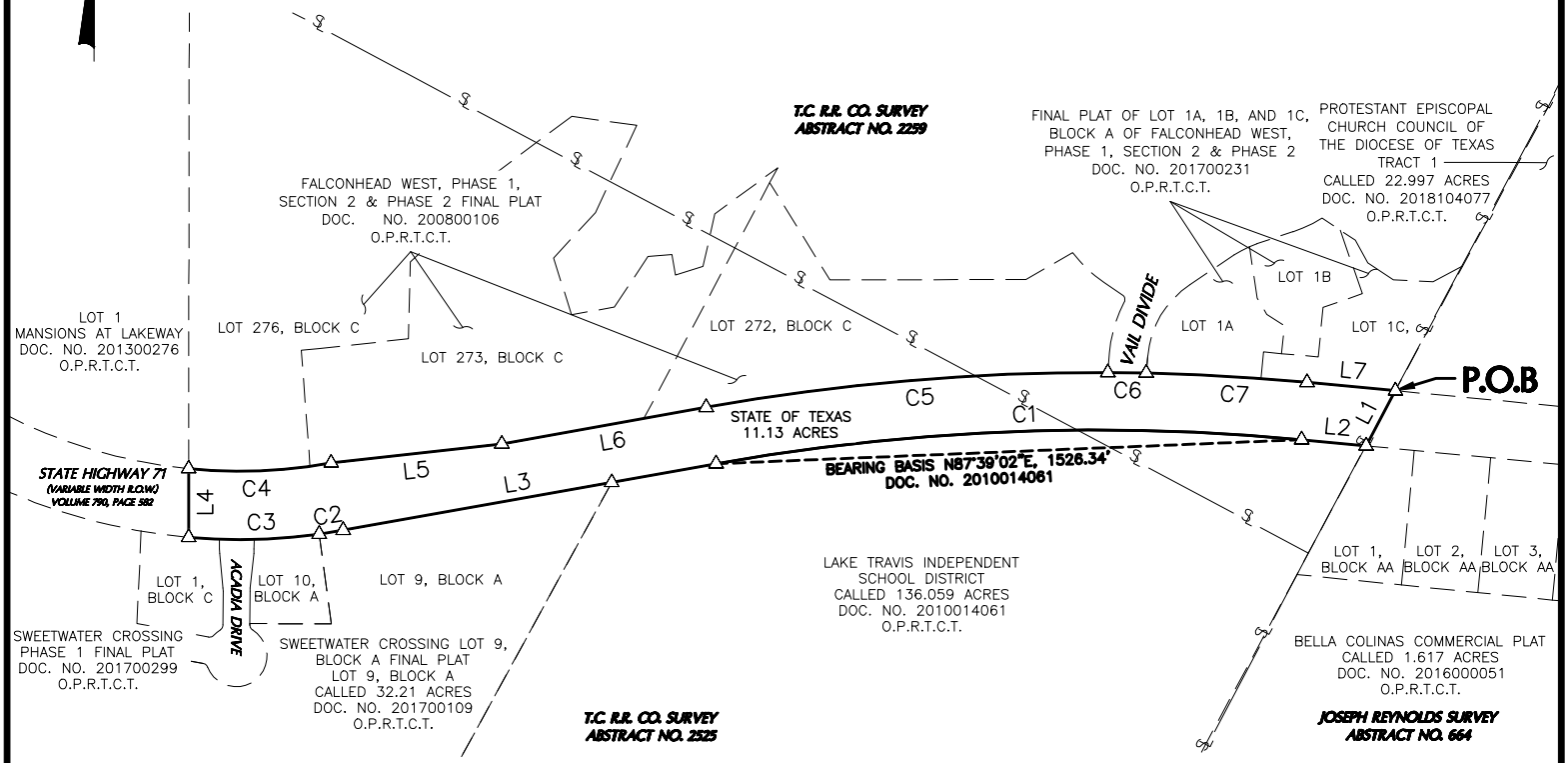


COMMITMENT YOU EXPECT | EXPERIENCE YOU NEED | PEOPLE YOU TRUST

CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD LENGTH
C1	1,531.04'	5,639.33'	15°33'19"	S87°39'02"W	1,526.34'
C2	63.83'	1,522.37'	2°24'09"	S80°57'37"W	63.83'
C3	340.85'	1,522.37'	12°49'41"	S88°34'54"W	340.14'
C4	373.01'	1,342.39'	15°55'15"	N87°42'00"E	371.81'
C5	1,051.53'	5,789.58'	10°24'23"	N85°02'47"E	1,050.09'
C6	100.27'	5,789.58'	0°59'32"	S89°15'16"E	100.27'
C7	419.47'	5,789.58'	4°09'04"	S86°40'57"E	419.38'

LEGEND

———	PROPERTY LINE
— — — —	ADJOINER PROPERTY LINE
——— ℄ ———	APPROXIMATE SURVEY LINE
△	CALCULATED POINT
P.O.B.	POINT OF BEGINNING
DOC. NO.	DOCUMENT NUMBER
R.O.W.	RIGHT-OF-WAY
O.P.R.T.C.T.	OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS



LINE TABLE		
LINE	BEARING	DISTANCE
L1	S28°04'41"W	162.74'
L2	N84°33'47"W	168.86'
L3	S79°54'05"W	986.80'
L4	N00°00'00"E	178.80'
L5	N83°41'22"E	447.21'
L6	N79°50'35"E	541.10'
L7	S84°36'22"E	231.62'

SURVEYOR'S NOTE:

ALL BEARINGS, DISTANCES AND CURVES SHOWN HEREON ARE RECORD AND DO NOT REFLECT THE THE RESULTS OF AN ON THE GROUND SURVEY.

THIS DOCUMENT WAS PREPARED UNDER 22 TAC §663.21, DOES NOT REFLECT THE RESULTS OF AN ON THE GROUND SURVEY, AND IS NOT TO BE USED TO CONVEY OR ESTABLISH INTERESTS IN REAL PROPERTY EXCEPT THOSE RIGHTS AND INTERESTS IMPLIED OR ESTABLISHED BY THE CREATION OR RECONFIGURATION OF THE BOUNDARY OF THE POLITICAL SUBDIVISION FOR WHICH IT WAS PREPARED.

0 1" 2"

GRAPHIC SCALE: 1" = 500'

11.13 ACRE TRACT EXHIBIT

CITY OF BEE CAVE, TRAVIS COUNTY, TEXAS

DOUCET

Civil Engineering // Entitlements // Geospatial
7401 B. Highway 71 W, Ste. 160
Austin, TX 78735, Tel: (512)-583-2600
www.doucetengineers.com
TBPELS Firm Number: 3937
TBPELS Firm Number: 10194551

Date:	09/08/2023
Scale:	1" = 500'
Drawn by:	BSS
Reviewer:	JA/JB
Project:	2051-003
Sheet:	4 of 4
Field Book:	N/A
Party Chief:	N/A
Survey Date:	9/7/2023

X:\Departments\Geospatial\Projects\2051-003 Highway 71 Annexation\CAD\dwg\Active - Exhibits\Highway 71 Annexation - ANNEX EXHIBIT - SRF.dwg

Exhibit B
Service Plan

CITY OF BEE CAVE
ANNEXATION SERVICE PLAN

11.13 ACRE TRACT OF LAND IN THE T.C. RR. CO. SURVEY, ABSTRACT NUMBER 2259, AND THE T.C. RR. CO. SURVEY, ABSTRACT NUMBER 2525, TRAVIS COUNTY, TEXAS, SAID 11.13 ACRE TRACT OF LAND BEING A PORTION OF STATE HIGHWAY 71 (A VARIABLE WIDTH RIGHT-OF-WAY), DESCRIBED IN A DEED TO THE STATE OF TEXAS IN VOLUME 790, PAGE 582, DEED RECORDS, TRAVIS COUNTY, TEXAS, TO BE ANNEXED INTO THE CITY ON NOVEMBER 14, 2023.

SERVICES TO BE RENDERED AS OF THE EFFECTIVE DATE OF CITY'S ANNEXATION ORDINANCE FOR THE ANNEXED PROPERTY

Pursuant to Section 43.056 of the Texas Local Government Code, Municipal facilities and services to the Annexed Property Area described above will be provided or made available on behalf of the City at the following levels and in accordance with the following schedule:

1. POLICE PROTECTION

A. *Existing Services*: Currently, the Area is under the jurisdiction of Travis County Sheriff's Office.

B. *Services to be Provided*: The City and its Police Department will provide police protection to the newly annexed Area at the same or similar level of service now being provided to other areas of the City with similar topography, land use and population as that within the newly annexed Area. It is anticipated that the implementation of police patrol activities can be effectively accommodated within the current budget and staff appropriation. The City has a Municipal Court that is a Municipal Court of Record and of competent jurisdiction to handle Class C Misdemeanors.

2. FIRE PROTECTION

A. *Existing Services*: Currently, the Area is under the jurisdiction of Emergency Service District Number 6/Lake Travis Fire and Rescue ("LTFR").

B. *Services to be Provided*: The City does not provide fire protection services. LTFR will continue to provide fire protection service. The City is not aware that the annexation of this property will change or impact fire protection services provided to the Area by LTFR. The LTFR Station #3 is located next to the City's Police Departments. The distance from Station #3 to the subject property is approximately 2.9 miles. The distance from the LTFR Station #2 is 5 miles and from Station # 1 is 9.3 miles.

3. EMERGENCY MEDICAL SERVICES

A. *Existing Services*: Currently, the Area is under the jurisdiction of Travis County and the City of Austin.

B. *Services to be Provided*: The City does not provide emergency medical services. Travis County and the City of Austin will continue to provide emergency medical services. The City is not aware that the annexation of this property will change or impact emergency medical services provided to the Area.

4. SOLID WASTE COLLECTION

A. *Existing Services*: None

B. *Services to be Provided*: Solid waste collection services are provided by several commercial companies in the area. As of the preparation of this Service Plan, Bee Cave does not specify which company will be used, though it is in the midst of a Request for Proposal process for provision of solid waste services. There is a solid waste collection and transfer station located within 3.5 miles of the subject property. Upon compliance with all City ordinances, policies and regulations, solid waste collection will be provided to citizens in the newly annexed Area now being provided to other areas of the City with similar topography, land use and population within the City.

5. BUILDING CODES AND INSPECTION

A. *Existing Services:* None

B. *Services to be Provided:* The City will provide code enforcement services within the Annexed Property in accordance with the City's Code of Ordinances. This includes issuing building permits for any new construction and remodeling, and enforcing all other applicable codes which regulate building construction within the City. Costs are determined by ordinance. The City uses the 2015 International Building Code for mechanical, fire, building, plumbing and miscellaneous other items. It uses the 2017 International Electric Code for electrical work. Wastewater rules are the latest version of those published by the Texas Commission on Environmental Quality.

6. PLANNING AND ZONING

A. *Existing Services:* The City currently has extraterritorial jurisdiction over the subdivision of land, signage and nonpoint source pollution abatement regulations related to the development of property.

B. *Services to be Provided:* The City Council, the Planning and Zoning Commission, and City staff regulate development and land use through the administration of the City's Code of Ordinances which will extend to the newly annexed Area on the effective date of the annexation. These services can be effectively accommodated within the current budget and staff appropriation.

7. FLOODPLAIN MANAGEMENT

A. *Existing Services:* None

B. *Services to be Provided:* The Planning & Development Department of the City provides floodplain management services, and these services will extend to the newly annexed Area. These services can be effectively accommodated within the current budget and staff appropriation.

8. ANIMAL CONTROL

A. *Existing Services:* None

B. *Services to be Provided:* The City and its Police Department will provide animal control services to the newly annexed Area at the same or similar level of service now being provided to other areas of the City with similar topography, land use and population as that within the Annexed Property. It is anticipated that the implementation of animal control services can be effectively accommodated within the current budget and staff appropriation.

9. NUISANCE CONTROL

A. *Existing Services:* The City has jurisdiction over Nuisances within City limits and property located within 5,000 feet of City limits, which encompasses this annexed area.

B. *Services to be Provided:* The City, its Police Department, and Planning & Development Department will provide nuisance control services through the administration of the City's Code of Ordinances to the newly annexed Area at the same or similar level of service now being provided to the newly annexed Area and to other areas of the City with similar topography, land use and population. It is anticipated that the continuation of nuisance control services can be effectively accommodated within the current budget and staff appropriation.

10. WATER SERVICES

A. *Existing City Services*: Currently, water service is provided by the West Travis County Public Utility Agency ("WTCPUA").

B. *Services to be Provided:* Retail water service will be provided by the WTCPUA. Persons utilizing water wells shall be permitted to continue to utilize the same until such time, if ever, that service is requested from the WTCPUA or such persons become required by operation of law to connect to the WTCPUA's water systems. New development on lots or tracts to which WTCPUA water service is not readily available shall be permitted to utilize water wells unless and until WTCPUA water service becomes available at that location. Operation and maintenance of water will be provided by the WTCPUA on the same basis and at the same level as provided

throughout the City with comparable topography, land use and population density in accordance with existing Ordinances; including Ordinances governing subdivisions in effect on the date of development which require a developer, at the developer's cost, to extend and install water lines.

11. <u>SANITARY SEWER SERVICE</u>

A. *Existing City Services:* Currently, wastewater service is provided by the WTCPUA.

B. *Services to be Provided:* Retail wastewater service will be provided by the WTCPUA. Sanitary Sewer Service shall be provided by the same means by which the WTCPUA extends such services to any other area of the City and shall at no time be at a lower level of services currently provided in the Annexed Property. Persons currently receiving such service(s) from the WTCPUA shall continue to receive the same, consistent with City ordinances in effect on the date of development. Persons utilizing septic systems shall be permitted to continue to utilize the same until such time, if ever, that service is requested from the WTCPUA, or such persons become required by operation of law to connect to the WTCPUA's wastewater system. New development on lots or tracts of sufficient size to support septic systems shall be allowed to install septic systems unless WTCPUA sanitary sewer service is or becomes available at that location. Operation and maintenance of wastewater facilities will be provided by the WTCPUA on the same basis and at the same level as provided throughout the City with comparable topography, land use and population density in accordance with Ordinances; including Ordinances which require a developer, at the developer's cost, to extend and install wastewater lines.

12. <u>MAINTENANCE OF WATER AND WASTEWATER FACILITIES</u>

A. *Existing Services*: Currently, water and wastewater services are provided by the WTCPUA.

B. *Services to be Provided*: The City does not provide water or wastewater services, nor maintain the respective facilities of the WTCPUA. The City is not aware that the annexation of this property will change or impact water and wastewater services provided to the Area by the WTCPUA.

13. <u>MAINTENANCE OF ROADS AND STREETS</u>

A. *Existing Services*: There is a State road in the Area to be annexed. The City has a Municipal Maintenance Agreement ("MMA") with Texas Department of Transportation ("TxDOT") to maintain the road and right of way.

B. *Services to be Provided*: The right-of-way and road will continue to be owned by the TxDOT, and maintained by the City, in partnership with TxDOT pursuant to the

MMA.

14. MAINTENANCE OF PARKS, PLAYGROUNDS AND SWIMMING POOLS

A. *Existing Services*: There are no public parks, playgrounds, or public swimming pools located in the Annexed Property.

B. *Services to be Provided*: Bee Cave has a 50 acre park with playgrounds, walking trail and facilities that can be used for picnics, etc. and an approximately 144 acre primitive park. The City has a Sculpture Park located adjacent to the Police Department. Also, within the City limits, the Lake Travis Youth Association provides baseball and soccer fields. The City has City Administrative Offices. The City Hall portion of those offices is available for limited local use, i.e., civic events, meetings, etc. Within close proximity to the subject property are several golf courses, tennis courts, etc. These are not operated by the City, but are available through various kinds of membership arrangements.

15. LIBRARY SERVICE

A. *Existing service:* Yes.

B. *Services to be Provided:* The City of Bee Cave has a municipal library located in City Hall at 4000 Galleria Parkway. It is available to the public through membership. It is located 3.8 miles northwest of the subject property. Lake Travis Community Library, located at 1938 Lohmans Crossing, is also available to the public through membership. The library at Lake Travis Independent School District High School is open to students within the District.

16. ELECTRICAL SERVICE AND STREET LIGHTING

A. *Existing service:* Electric service is provided by Austin Energy.

B. *Services to be Provided:* Austin Energy provides electricity to the area. There are no street lights provided by Bee Cave. Lighting within the annexed area will be subject to requirements and restrictions provided in City ordinances, or State Law, as applicable.

17. LAND USE

A. *Existing City Services:* The City currently has extraterritorial jurisdiction over the subdivision of land, signage and nonpoint source pollution abatement regulations related to the development of property.

B. *Services to be Provided:* The Annexed Property will simultaneously be zoned upon annexation by City Council to Public District . If the Annexed Property is not zoned

simultaneously, it is anticipated that the decision regarding zoning will be made soon after the annexation ordinance is passed and will be in accordance with the Ordinances of the City and the Comprehensive Plan as amended from time to time. The zoning process includes notice and public hearings. The planning and zoning jurisdiction, of the City including land use regulations etc., not already applicable in the ETJ will extend to the Annexed Property on the effective date of the annexation ordinance.

18. GAS SERVICE

A. *Existing City Services:* Propane and natural gas services are provided by several commercial companies in the area. Bee Cave does not specify which company will be used.

B. *Services to be Provided:* Property owners within the annexed areas will have the same options as prior to annexation. Upon compliance with all City ordinances, policies and regulations, gas service will be provided to citizens in the newly annexed Area now being provided to other areas of the City with similar topography, land use and population within the City.

19. CONSTRUCTION OF ANY CAPITAL IMPROVEMENTS

Section 43.056(e) of the Texas Local Government Code requires that the City include a program under which the City will initiate after the effective date of the annexation the acquisition or construction of capital improvements necessary for providing municipal services adequate to serve the Area. Any capital improvements to be constructed in the area being annexed shall be constructed pursuant to the terms of the City's Ordinances and policies. No capital improvements are contemplated or necessary at this time. However, if it becomes necessary to construct capital improvements to implement this Service Plan, the City shall provide such service no later than four and one-half (4½) years after the effective date of the annexation. The City reserves the right to amend this service plan to extend the period of construction in a manner that ensures that construction proceeds with all deliberate speed consistent with generally accepted engineering and architectural standards and practices and consistent with comparable topography, land use and population density, and service needs existing as of the date of this annexation.

20. FUTURE CAPITAL IMPROVEMENTS

Construction of other capital improvements shall be considered by the City in the future as the need dictates on the same basis as such capital improvements are considered throughout the City in accordance with Ordinances of the City, including Ordinances which require a developer to install or construct such capital improvements including but not limited to roads, streets, water and sewer lines.

21. UNIFORM LEVEL OF SERVICES MAY NOT BE REQUIRED

Nothing in this Service Plan shall require the City to provide a uniform level of full municipal services to each area of the City, including the Annexed Property, if different characteristics of topography, land use, and population density are considered a sufficient basis for providing different levels of service. Funding capital improvement and infrastructure necessary to provide municipal services to the Annexed Property shall be subject to and in accordance with the Ordinances of the City in effect on the date of the development including those which require that a developer install or construct such capital improvements to the property being developed.

22. TERM

This service plan shall be valid for a term of ten (10) years.

City Council Meeting
11/14/2023
Agenda Item Transmittal

Agenda Item:	**9.**
Agenda Title:	**Public hearing, discussion, and possible action on Ordinance 521 designating a zoning classification of Public District for an approximately eleven-acre tract located on W State Highway 71 that is anticipated to be annexed into City Limits via Ordinance 520 on November 14, 2023**
Council Action:	**Discuss and Consider Action**
Department:	**City Manager**
Staff Contact:	**Sean Lapano**

1. INTRODUCTION/PURPOSE

The purpose of this agenda item is to recommend a zoning district designation of Public District for a portion of Hwy 71 Right of Way upon annexation into Bee Cave City Limits. The area is anticipated to be annexed into the City with Ordinance 520 scheduled for City Council action on November 11, 2023.

2. DESCRIPTION/JUSTIFICATION

a) Background

The tract located adjacent to the Canyonside at Falconhead West Condominiums (Common Area) is being annexed into the City with Ordinance No. 520 and will have a zoning of Public (P) upon annexation. This tract consists entirely of TxDOT Right of Way and as per UDC Section 3.1.6.B, Council may grant a zoning designation other than AG to property annexed into the City only after Council approves the annexation.

b) Issues and Analysis

This area generally includes SH 71 itself and all of the normal utilities and appurtenances found in a state ROW. There is no commercial development, or residences. Adjacent land uses include the Canyonside neighborhood and Bee Cave Primitive Park to the North and the Lake Travis Independent School District Bus Ban to the South. This area is outside of a Municipal Utility District.

3. FINANCIAL/BUDGET

Amount Requested	Fund/Account No.
Cert. Obligation	GO Funds
Other source	Grant title
Addtl tracking info	

4. TIMELINE CONSIDERATIONS

5. RECOMMENDATION

Staff and the Planning & Zoning Commission recommend approval of Ordinance No. 521, designating zoning upon annexation as Public District (P).

ATTACHMENTS:

Description	Type
Ord. 521	Ordinance
Ord. 520	Ordinance

ORDINANCE NO. 521

AN ORDINANCE OF THE CITY OF BEE CAVE, TEXAS ("CITY") DESIGNATING THE ZONING OF REAL PROPERTY UPON ANNEXATION, IN CONFORMANCE WITH THE CITY OF BEE CAVE COMPREHENSIVE PLAN, SECTION THREE-ONE, FUTURE LAND USE PLAN, TO PUBLIC (P) DISTRICT FOR A 11.13 ACRE TRACT OF STATE HIGHWAY 71 WEST RIGHT-OF-WAY GENERALLY LOCATED ADJACENT TO CANYONSIDE AT FALCONHEAD WEST CONDOMINIUMS (COMMON AREA), BEE CAVE, TEXAS; AND WHICH TRACT OF LAND IS DESCRIBED AND DEPICTED IN EXHIBIT "A" ATTACHED HERETO; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR FINDINGS OF FACT, EFFECTIVE DATE, AND PROPER NOTICE AND MEETING.

WHEREAS, the City of Bee Cave is lawfully incorporated as a Home-Rule municipality and the City Council is the governing body of the City; and

WHEREAS, the City Council seeks to provide for the orderly development of land and use of property within its corporate limits; and

WHEREAS, the City is empowered by Section 211.005 (Districts) of the Texas Local Government Code to divide the municipality into districts of a number, shape, and size the City Council considers best for carrying out the zoning purposes under state law; and within each district, the City Council may regulate the erection, construction, reconstruction, alteration, repair, or use of buildings, other structures, or land; and

WHEREAS, the zoning regulations must be uniform for each class or kind of building in a district, but the regulations may vary from district to district; and shall be adopted with reasonable consideration, among other things, for the character of each district and its peculiar suitability for particular uses, with a view of conserving the value of buildings and encouraging the most appropriate use of land in the municipality; and

WHEREAS, the City recognizes its responsibility and authority to impose ordinances and controls that are necessary for the government of the City, its interest, welfare, and good order of the City; and

WHEREAS, pursuant to the City of Bee Cave Unified Development Code, Article 3, "Zoning Regulations" section 3.1.6.A, property that is annexed into the City will, by district and separate action of City Council, have an interim zoning of Agricultural (AG) District, unless City Council approves a prior agreement that specifies the zoning or approves a different designation at the time of annexation; and

WHEREAS, section 3.2.14 of the Unified Development Code provides that the purpose of a Public (P) District is a non-residential district intended primarily for uses of a government, civic, public service, or institutional nature, including major public facilities such as City

administrative buildings, police and fire stations, and City, County, or State maintenance or service uses; and

WHEREAS, the City of Bee Cave Comprehensive Plan ("Comprehensive Plan"), Future Land Use Plan provides that it shall serve as a guide for future land use patterns and that all aspects of the Comprehensive Plan "are implemented primarily through development regulations (zoning and subdivision ordinances)"; this area is designated as Suburban Corridor; and

WHEREAS, designating the zoning classification of the subject property described herein will protect the integrity and continuity of the Comprehensive Plan and such proposed land uses are consistent with the Comprehensive Plan; and

WHEREAS, the City of Bee Cave Planning and Zoning Commission and the City of Bee Cave City Council ("City Council"), in compliance with the City of Bee Cave Unified Development Code section 3.1.8, Texas Local Government Code section 211.006(a), et seq., and all applicable laws of the State of Texas, have given the requisite notices by publication and otherwise, and have held two public hearings and afforded a full and fair hearing to all property owners generally and to all persons interested and situated in the affected area and in the vicinity thereof, and the City Council is of the opinion and finds that a zoning change as described herein should be granted and that the Comprehensive Zoning Ordinance and Map should be amended as set forth herein; and

WHEREAS, any protest made against the proposed change of Zoning Classification has been duly considered by the City Council; and

WHEREAS, the City Council finds that designating the real property described herein is prudent and, in accordance with Texas Local Government Code section 211.004(a)(3), will promote the health and general welfare of the City of Bee Cave and its citizens;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BEE CAVE, TEXAS:

SECTION 1. Findings of Fact. All of the above premises are hereby found to be true and correct legislative and factual findings of the City and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2. Amendment. That the City Zoning Ordinance and Map of the City of Bee Cave, Texas, be and the same are hereby, amended so as to designate the zoning classification of Public (P) District for the 11.13-acre real property hereinafter described, and depicted in Exhibit "A," attached hereto.

SECTION 3. Severability. That should any sentence, paragraph, subdivision, clause, phrase or section of this ordinance be adjusted or held to be unconstitutional, illegal or invalid, the same shall not affect the validity of this Ordinance as a whole or any part or provision thereof, other than the part so declared to be invalid, illegal or unconstitutional, and shall not affect the validity of Article 3, Zoning Regulations, of the City of Bee Cave Unified Development Code and Map as a whole.

SECTION 4: Repealer. All ordinances or parts of ordinances in force when the provisions of this Ordinance become effective which are inconsistent or in conflict with the terms and provisions contained in this Ordinance are hereby repealed only to the extent of such conflict.

SECTION 5. Notice and Meeting Clause. It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

SECTION 6. Effective Date. That this Ordinance shall take effect immediately from and after its passage.

PASSED AND APPROVED by the City Council of the City of Bee Cave, Texas, on the ____day of _____, 2023.

CITY OF BEE CAVE, TEXAS

_____
Kara King, Mayor

ATTEST:

_____
Kaylynn Holloway, City Secretary

APPROVED AS TO FORM:

_____
City Attorney
Ryan Henry, Law Offices of Ryan Henry, PLLC

Exhibit “A”

Property Description

DOUCET

7401B Highway 71 West, Suite 160, Austin, TX 78735
Office: 512.583.2600
Fax: 512.583.2601
Doucetengineers.com

"Exhibit "------"

11.13 Acre Highway 71 Annexation Tract Description **D&A Job No. 2051-003**
Travis County, Texas **September 8, 2023**

DESCRIPTION

BEING A 11.13 ACRE TRACT OF LAND IN THE T.C. RR. CO. SURVEY, ABSTRACT NUMBER 2259, AND THE T.C. RR. CO. SURVEY, ABSTRACT NUMBER 2525, TRAVIS COUNTY, TEXAS, SAID 11.13 ACRE TRACT OF LAND BEING A PORTION OF STATE HIGHWAY 71 (A VARIABLE WIDTH RIGHT-OF-WAY), DESCRIBED IN A DEED TO THE STATE OF TEXAS IN VOLUME 790, PAGE 582, DEED RECORDS, TRAVIS COUNTY, TEXAS, SAID 11.13 ACRE TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY THE METES AND BOUNDS AS FOLLOWS:

BEGINNING at a calculated point on the north right-of-way line of said State Highway 71, for the southernmost southeast corner of Final Plat of Lot 1A, 1B and 1C, Block A of Falconhead West, Phase 1, Section 2 & Phase 2, a subdivision of record in Document Number 201700231 of the Official Public Records, Travis County, Texas [O.P.R.T.C.T.], same being the southwest corner of a called 22.997 acre tract described in a deed to Protestant Episcopal Church Council of the Diocese of Texas, recorded in Document Number 2018104077, O.P.R.T.C.T., and the northeast corner of the tract described herein;

THENCE over and across said State Highway 71, S28°04'41"W, a distance of 162.74 feet to a calculated point in the south right-of-way line of State Highway 71, for the northwest corner of Bella Colinas Commercial Plat, a subdivision of record in Document Number 201600051 O.P.R.T.C.T., same being the northeast corner of a called 136.059 acre tract of land described in a deed to Lake Travis Independent School District in Document Number 2010014061, O.P.R.T.C.T., and the southeast corner of the tract described herein;

THENCE with the south right-of-way line of said State Highway 71, same being the north line of said Lake Travis Independent School District tract, and the south line of the tract described herein, the following three (3) courses and distances:

1) N84°33'47"W, a distance of 168.86 feet to a calculated point of curvature,

2) With a curve to the left, defined by an arc length of 1,531.04 feet, a radius of 5,639.33 feet, a delta angle of 15°33'19", and a chord which bears S87°39'02"W, a distance of 1,526.34 feet to a calculated point of tangency, and

3) S79°54'05"W, at distance of 276.48 feet passing a calculated point for the northwest corner of said Lake Travis Independent School District Tract, same being the northeast corner of Sweetwater Crossing Lot 9, Block A Final Plat, a subdivision of record in Document Number 201700109 O.P.R.T.C.T., continuing for a total of 986.80 feet to a calculated point of curvature in the common line of State Highway 71 and the north line of said Sweetwater Crossing Lot 9, Block A Final Plat, and the south line of the tract described herein;

THENCE with the south right-of-way line of said State Highway 71, same being the north line of said Sweetwater Crossing Lot 9, Block A Final Plat, and with said curve to the right, defined by an arc length of 63.83 feet, a radius of 1,522.37 feet, a delta angle of 02°24'09", and a chord which bears S80°57'37"W, for a distance of 63.83 feet, to a calculated point for a northwestern corner of said Sweetwater Crossing Lot 9, Block A Final Plat, same being the northeastern corner of Sweetwater Crossing Phase One Final Plat, a subdivision of record described in Document Number 201700299 O.P.R.T.C.T., also being a point on curve to the right for the tract described herein;

THENCE with the south right-of-way line of said State Highway 71, same being the north line of said Sweetwater Crossing Phase One Final Plat, and continuing with a curve to the right, defined by an arc length of 340.85 feet, a radius of 1,522.37 feet, a delta angle of 12°49'41", and a chord which bears S88°34'54"W, for a distance of 340.14 feet, to a calculated point for the southwest corner of the tract described herein;

(CONTINUED ON NEXT PAGE)

7401B Highway 71 West, Suite 160, Austin, TX 78735
Office: 512.583.2600
Fax: 512.583.2601
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THENCE over and across the said State Highway 71 right-of-way, N00°00'00"E, a distance of 178.80 feet to a calculated point in the north right-of-way line of State Highway 71, for the southwest corner of Mansions at Lakeway, a subdivision of record in Document Number 201300276, O.P.R.T.C.T., same being the southwest corner of Falconhead West Phase 1, Section 2 & Phase 2 Final Plat, a subdivision of record in Document Number 200800106, O.P.R.T.C.T., for a point of curvature and the northwest corner of the tract described herein;

THENCE with the north right-of-way line of said State Highway 71, same being the south line of said Falconhead West Phase 1, Section 2 & Phase 2 Final Plat, and the north line of the tract described herein, the following four (4) courses and distances;

1. With a curve to the left, defined by an arc length of 373.01 feet, a radius of 1,342.39 feet, a delta angle of 15°55'15", and a chord which bears N87°42'00E, for a distance of 371.81 feet, to a calculated point,

2. N83°41'22"E, a distance of 447.21 feet to a calculated point,

3. N79°50'35"E, a distance of 541.10 feet to a calculated point of curvature, and

4. With a curve to the right, defined by an arc length of 1,051.53 feet, a radius of 5,789.58 feet, a delta angle of 10°24'23", and a chord which bears N85°02'47E, for a distance of 1,050.09 feet, to a calculated point on curve to the right, said point being on the west right-of-way line of Vail Divide (a variable width right-of-way) as described in Document Number 200800106, O.P.R.T.C.T.,

THENCE with the north right-of-way line of said State Highway 71, same being the south line of said Vail Divide, also being the north line of the tract described herein with said curve to the right, defined by an arc length of 100.27 feet, a radius of 5,789.58 feet, a delta angle of 0°59'32", and a chord which bears S89°15'16E, for a distance of 100.27 feet, to a calculated point on curve to the right, being a southwest corner of Final Plat of Lot 1A, 1B, and 1C, Block A of Falconhead West, Phase 1, Section 2, & Phase 2, a subdivision of record in described in Document Number 201700231, O.P.R.T.C.T.,

(CONTINUED ON NEXT PAGE)

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THENCE continuing with the north right-of-way line of said State Highway 71, and the south line of said Final Plat of Lot 1A, 1B, and 1C, Block A of Falconhead West, Phase 1, Section 2, & Phase 2, the following two (2) courses and distances;

1. With said curve to the right, defined by an arc length of 419.47 feet, a radius of 5,789.58 feet, a delta angle of 04°09'04", and a chord which bears N86°40'57E, for a distance of 419.38 feet, to a calculated point of tangency, and

2. S84°36'22"E, a distance of 231.62 feet to the **POINT OF BEGINNING** and containing 11.13 acres, more or less.

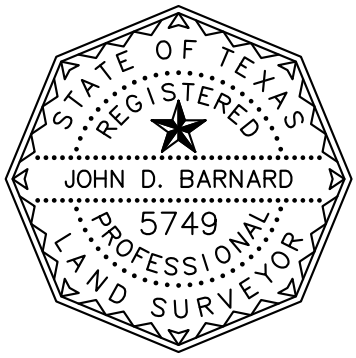
Basis of bearings is the N87°39'02"E, a distance of 1,526.34 feet from said Lake Travis Independent School District Tract, Document Number 2010014061 [O.P.R.T.C.T.].

Units: U.S. Survey Feet.

This document was prepared under 22 TAC §663.21, does not reflect the results of an on the ground survey, and is not to be used to convey or establish interests in real property except those rights and interests implied or established by the creation or reconfiguration of the boundary of the political subdivision for which it was prepared.

09/08/2023

John Barnard Date
Registered Professional Land Surveyor
Texas Registration No. 5749
Doucet & Associates
JBarnard@DoucetEngineers.com
TBPELS Firm Registration No. 10105800

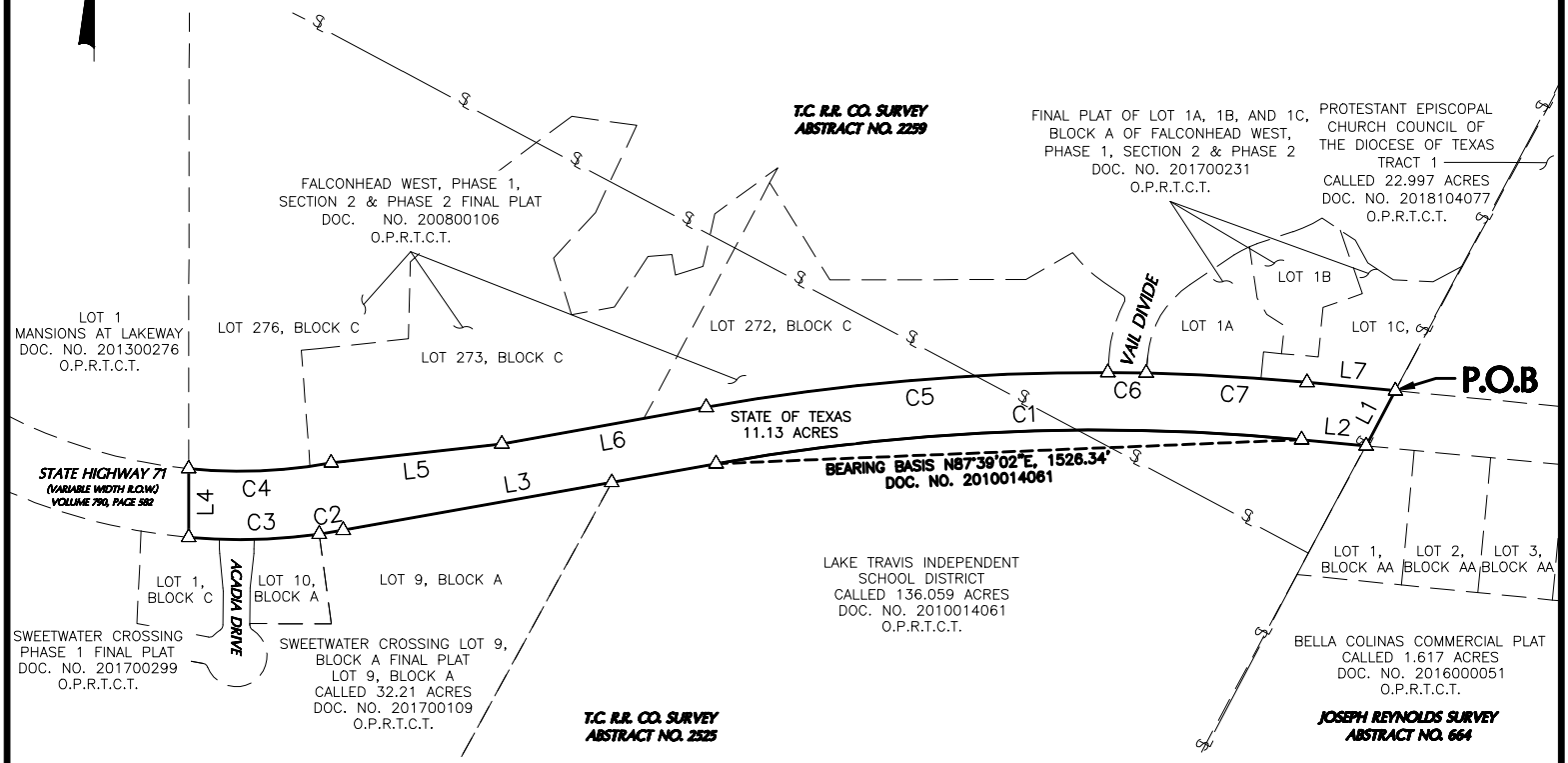


COMMITMENT YOU EXPECT | EXPERIENCE YOU NEED | PEOPLE YOU TRUST

CURVE TABLE					
CURVE	LENGTH	RADIUS	DELTA	CHORD BEARING	CHORD LENGTH
C1	1,531.04'	5,639.33'	15°33'19"	S87°39'02"W	1,526.34'
C2	63.83'	1,522.37'	2°24'09"	S80°57'37"W	63.83'
C3	340.85'	1,522.37'	12°49'41"	S88°34'54"W	340.14'
C4	373.01'	1,342.39'	15°55'15"	N87°42'00"E	371.81'
C5	1,051.53'	5,789.58'	10°24'23"	N85°02'47"E	1,050.09'
C6	100.27'	5,789.58'	0°59'32"	S89°15'16"E	100.27'
C7	419.47'	5,789.58'	4°09'04"	S86°40'57"E	419.38'

LEGEND

———	PROPERTY LINE
— — — —	ADJOINER PROPERTY LINE
——— ℄ ———	APPROXIMATE SURVEY LINE
△	CALCULATED POINT
P.O.B.	POINT OF BEGINNING
DOC. NO.	DOCUMENT NUMBER
R.O.W.	RIGHT-OF-WAY
O.P.R.T.C.T.	OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS



LINE TABLE		
LINE	BEARING	DISTANCE
L1	S28°04'41"W	162.74'
L2	N84°33'47"W	168.86'
L3	S79°54'05"W	986.80'
L4	N00°00'00"E	178.80'
L5	N83°41'22"E	447.21'
L6	N79°50'35"E	541.10'
L7	S84°36'22"E	231.62'

SURVEYOR'S NOTE:

ALL BEARINGS, DISTANCES AND CURVES SHOWN HEREON ARE RECORD AND DO NOT REFLECT THE THE RESULTS OF AN ON THE GROUND SURVEY.

THIS DOCUMENT WAS PREPARED UNDER 22 TAC §663.21, DOES NOT REFLECT THE RESULTS OF AN ON THE GROUND SURVEY, AND IS NOT TO BE USED TO CONVEY OR ESTABLISH INTERESTS IN REAL PROPERTY EXCEPT THOSE RIGHTS AND INTERESTS IMPLIED OR ESTABLISHED BY THE CREATION OR RECONFIGURATION OF THE BOUNDARY OF THE POLITICAL SUBDIVISION FOR WHICH IT WAS PREPARED.

0 1" 2"

GRAPHIC SCALE: 1" = 500'

11.13 ACRE TRACT EXHIBIT

CITY OF BEE CAVE, TRAVIS COUNTY, TEXAS

DOUCET

Civil Engineering // Entitlements // Geospatial
7401 B. Highway 71 W, Ste. 160
Austin, TX 78735, Tel: (512)-583-2600
www.doucetengineers.com
TBPELS Firm Number: 3937
TBPELS Firm Number: 10194551

Date:	09/08/2023
Scale:	1" = 500'
Drawn by:	BSS
Reviewer:	JA/JB
Project:	2051-003
Sheet:	4 of 4
Field Book:	N/A
Party Chief:	N/A
Survey Date:	9/7/2023

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ORDINANCE NO. 520

AN ORDINANCE ANNEXING TERRITORY ADJACENT AND CONTIGUOUS TO THE CITY OF BEE CAVE TERRITORIAL AND JURISDICTIONAL BOUNDARIES CONSISTING OF A 11.13 ACRE TRACT OF STATE HIGHWAY 71 WEST RIGHT-OF-WAY GENERALLY LOCATED ADJACENT TO CANYONSIDE AT FALCONHEAD WEST CONDOMINIUMS (COMMON AREA), BEE CAVE, TEXAS, WHICH PROPERTY IS MORE FULLY DESCRIBED IN EXHIBIT A, INTO THE CITY OF BEE CAVE, TEXAS AND EXTENDING THE BOUNDARY LIMITS OF SAID CITY SO AS TO INCLUDE SAID PROPERTY; DIRECTING THE CITY SECRETARY TO FILE A CERTIFIED COPY OF THIS ORDINANCE WITH CERTAIN AUTHORITIES; DIRECTING THAT THE MAP OF THE CITY BOUNDARIES AND EXTRATERRITORIAL JURISDICTION BE REVISED TO INCLUDE THE ANNEXED TERRITORY; PROVIDING FOR APPROVAL OF THE SERVICE PLAN ATTACHED HERETO AS EXHIBIT "B"; GRANTING TO SAID PROPERTY AND ALL FUTURE INHABITANTS ALL OF THE RIGHTS AND PRIVILEGES OF OTHER CITIZENS AND BINDING SAID FUTURE INHABITANTS BY ALL OF THE ACTS AND ORDINANCES OF SAID CITY; PROVIDING FOR SEVERABILITY; PROPER NOTICE AND MEETING; EFFECTIVE DATE.

WHEREAS, the City desires to annex real property owned by the Texas Department of Transportation and is adjacent to the City's territorial and jurisdictional boundaries; and

WHEREAS, they City's home-rule charter allows it to annex territory; and

WHEREAS, the City is authorized, pursuant to its home-rule authority as well as pursuant to Texas Local Government Code §43.1055 to additionally annex a public right-of-way of a road or highway in order to achieve contiguity; and

WHEREAS, all procedural and substantive prerequisites to annexation have occurred, including notice in the newspaper for at least twenty days prior to the public hearing and allowing for comments from citizens regarding the annexation; and

WHEREAS, the Property being annexed pursuant to this ordinance is the property described in Exhibit "A"; and

WHEREAS, a service plan for the Property has been prepared as required by law, and a copy of that service plan is attached hereto as Exhibit "B" and incorporated herein for all purposes;

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE

CITY OF BEE CAVE, TEXAS, THAT THE BELOW IDENTIFIED PROPERTY IS HEREBY ANNEXED BY THE CITY OF BEE CAVE AS FOLLOWS:

SECTION 1. TERRITORY. Pursuant to the authority granted by Chapter 43 of the Texas Local Government Code, and the Bee Cave Home Rule Charter, the City of Bee Cave hereby annexes to the City of Bee Cave the territory described in Attachment A by metes and bounds and incorporated by reference herein. Such annexation is for full purposes including all privileges and liabilities extended to inhabitants of such territory.

That the boundary limits of the City of Bee Cave be and the same are hereby extended to include the above described territory within the city limits of the City of Bee Cave, and the same shall hereafter be included within the territorial limits of said city, and the inhabitants and future inhabitants thereof shall hereafter be entitled to all the rights and privileges of other citizens of the City of Bee Cave and they shall be bound by the acts, ordinances, resolutions, and regulations of the City.

The land and territory lying outside of, but adjacent to and adjoining the City of Bee Cave, Texas, more particularly described as that portion of the tract of land described in Exhibit "A," attached hereto and incorporated herein by reference, shall hereafter be included within the boundary limits of said City, and the present boundary limits of said City, at the various points contiguous to the area described in Exhibit "A," are altered and amended so as to include said area within the corporate limits of the City of Bee Cave, Texas.

SECTION 2. SERVICE PLAN. That the service plan for the Annexation Area, attached hereto as Exhibit “B” is hereby approved as part of this Ordinance and incorporated herein for all purposes.

SECTION 3. OFFICIAL MAP. The City Manager is hereby authorized and directed to take — appropriate action to have the official map of the City revised to reflect the additions to the City's Corporate Limits and the City Secretary is hereby authorized and directed to provide appropriate notice to the State of Texas and the County of Travis of this annexation.

SECTION 4. ZONING. Pursuant to City ordinances, newly annexed territory shall be zoned by default as AG upon annexation, unless such territory is zoned differently at the time of annexation. The territory herein described an annexed is hereby zoned pursuant to any adopted zoning ordinance applicable to the property at the same meeting in which this ordinance is passed. Should no other zoning ordinance be adopted at the same meeting as this ordinance, then the property is zoned by default as AG and shall remain as such until properly altered by the City Council.

SECTION 5. CUMULATIVE CLAUSE. That this Ordinance shall be cumulative of all provisions of the City of Bee Cave Code of Ordinances except where the provisions of this Ordinance are in direct conflict with the provisions of such existing Ordinance, in which event the conflicting provisions of such existing Ordinance are hereby repealed, and this Ordinance controls.

SECTION 6 SEVERABILITY. That it is hereby declared to be the intent of the City Council for the City of Bee Cave that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance should be declared unconstitutional by the valid judgement or decree of any court of competent jurisdiction, such unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of the Ordinances, since the same would have been enacted by the City Council without incorporation in this ordinance of any such unconstitutional phrases, sentences, paragraphs, or sections.

SECTION 7. PROPER NOTICE AND MEETING. It is hereby officially found and determined that the meeting at which this Ordinance was adopted was open to the public and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

SECTION 8. EFFECTIVE DATE. This Ordinance shall be effective upon passage and publication as required by governing law.

DULY PASSED AND APPROVED, on the day of , 2023, at a regular meeting of the City Council of the City of Bee Cave, Texas, which was held in compliance with the Opening Meetings Act, Gov't Code §551.001. et. Seq. at which meeting a quorum was present and voting.

CITY OF BEE CAVE, TEXAS

_____
Kara King, Mayor

ATTEST:

_____
Kaylynn Holloway, City Secretary

APPROVED:

_____
City Attorney
Ryan Henry, Law Offices of Ryan Henry, PLLC

Exhibit A
Property Description

DOUCET

7401B Highway 71 West, Suite 160, Austin, TX 78735
Office: 512.583.2600
Fax: 512.583.2601
Doucetengineers.com

"Exhibit "------"

11.13 Acre Highway 71 Annexation Tract Description **D&A Job No. 2051-003**
Travis County, Texas **September 8, 2023**

DESCRIPTION

BEING A 11.13 ACRE TRACT OF LAND IN THE T.C. RR. CO. SURVEY, ABSTRACT NUMBER 2259, AND THE T.C. RR. CO. SURVEY, ABSTRACT NUMBER 2525, TRAVIS COUNTY, TEXAS, SAID 11.13 ACRE TRACT OF LAND BEING A PORTION OF STATE HIGHWAY 71 (A VARIABLE WIDTH RIGHT-OF-WAY), DESCRIBED IN A DEED TO THE STATE OF TEXAS IN VOLUME 790, PAGE 582, DEED RECORDS, TRAVIS COUNTY, TEXAS, SAID 11.13 ACRE TRACT OF LAND BEING MORE PARTICULARLY DESCRIBED BY THE METES AND BOUNDS AS FOLLOWS:

BEGINNING at a calculated point on the north right-of-way line of said State Highway 71, for the southernmost southeast corner of Final Plat of Lot 1A, 1B and 1C, Block A of Falconhead West, Phase 1, Section 2 & Phase 2, a subdivision of record in Document Number 201700231 of the Official Public Records, Travis County, Texas [O.P.R.T.C.T.], same being the southwest corner of a called 22.997 acre tract described in a deed to Protestant Episcopal Church Council of the Diocese of Texas, recorded in Document Number 2018104077, O.P.R.T.C.T., and the northeast corner of the tract described herein;

THENCE over and across said State Highway 71, S28°04'41"W, a distance of 162.74 feet to a calculated point in the south right-of-way line of State Highway 71, for the northwest corner of Bella Colinas Commercial Plat, a subdivision of record in Document Number 201600051 O.P.R.T.C.T., same being the northeast corner of a called 136.059 acre tract of land described in a deed to Lake Travis Independent School District in Document Number 2010014061, O.P.R.T.C.T., and the southeast corner of the tract described herein;

THENCE with the south right-of-way line of said State Highway 71, same being the north line of said Lake Travis Independent School District tract, and the south line of the tract described herein, the following three (3) courses and distances:

1) N84°33'47"W, a distance of 168.86 feet to a calculated point of curvature,

2) With a curve to the left, defined by an arc length of 1,531.04 feet, a radius of 5,639.33 feet, a delta angle of 15°33'19", and a chord which bears S87°39'02"W, a distance of 1,526.34 feet to a calculated point of tangency, and

3) S79°54'05"W, at distance of 276.48 feet passing a calculated point for the northwest corner of said Lake Travis Independent School District Tract, same being the northeast corner of Sweetwater Crossing Lot 9, Block A Final Plat, a subdivision of record in Document Number 201700109 O.P.R.T.C.T., continuing for a total of 986.80 feet to a calculated point of curvature in the common line of State Highway 71 and the north line of said Sweetwater Crossing Lot 9, Block A Final Plat, and the south line of the tract described herein;

THENCE with the south right-of-way line of said State Highway 71, same being the north line of said Sweetwater Crossing Lot 9, Block A Final Plat, and with said curve to the right, defined by an arc length of 63.83 feet, a radius of 1,522.37 feet, a delta angle of 02°24'09", and a chord which bears S80°57'37"W, for a distance of 63.83 feet, to a calculated point for a northwestern corner of said Sweetwater Crossing Lot 9, Block A Final Plat, same being the northeastern corner of Sweetwater Crossing Phase One Final Plat, a subdivision of record described in Document Number 201700299 O.P.R.T.C.T., also being a point on curve to the right for the tract described herein;

THENCE with the south right-of-way line of said State Highway 71, same being the north line of said Sweetwater Crossing Phase One Final Plat, and continuing with a curve to the right, defined by an arc length of 340.85 feet, a radius of 1,522.37 feet, a delta angle of 12°49'41", and a chord which bears S88°34'54"W, for a distance of 340.14 feet, to a calculated point for the southwest corner of the tract described herein;

(CONTINUED ON NEXT PAGE)

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THENCE over and across the said State Highway 71 right-of-way, N00°00'00"E, a distance of 178.80 feet to a calculated point in the north right-of-way line of State Highway 71, for the southwest corner of Mansions at Lakeway, a subdivision of record in Document Number 201300276, O.P.R.T.C.T., same being the southwest corner of Falconhead West Phase 1, Section 2 & Phase 2 Final Plat, a subdivision of record in Document Number 200800106, O.P.R.T.C.T., for a point of curvature and the northwest corner of the tract described herein;

THENCE with the north right-of-way line of said State Highway 71, same being the south line of said Falconhead West Phase 1, Section 2 & Phase 2 Final Plat, and the north line of the tract described herein, the following four (4) courses and distances;

1. With a curve to the left, defined by an arc length of 373.01 feet, a radius of 1,342.39 feet, a delta angle of 15°55'15", and a chord which bears N87°42'00E, for a distance of 371.81 feet, to a calculated point,

2. N83°41'22"E, a distance of 447.21 feet to a calculated point,

3. N79°50'35"E, a distance of 541.10 feet to a calculated point of curvature, and

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(CONTINUED ON NEXT PAGE)

DOUCET

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THENCE continuing with the north right-of-way line of said State Highway 71, and the south line of said Final Plat of Lot 1A, 1B, and 1C, Block A of Falconhead West, Phase 1, Section 2, & Phase 2, the following two (2) courses and distances;

1. With said curve to the right, defined by an arc length of 419.47 feet, a radius of 5,789.58 feet, a delta angle of 04°09'04", and a chord which bears N86°40'57E, for a distance of 419.38 feet, to a calculated point of tangency, and

2. S84°36'22"E, a distance of 231.62 feet to the **POINT OF BEGINNING** and containing 11.13 acres, more or less.

Basis of bearings is the N87°39'02"E, a distance of 1,526.34 feet from said Lake Travis Independent School District Tract, Document Number 2010014061 [O.P.R.T.C.T.].

Units: U.S. Survey Feet.

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09/08/2023

John Barnard Date
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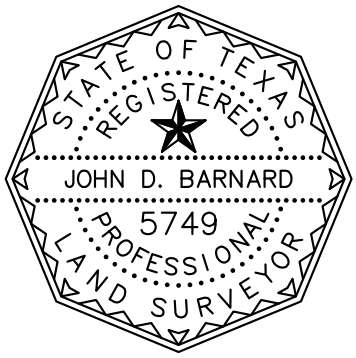

COMMITMENT YOU EXPECT | EXPERIENCE YOU NEED | PEOPLE YOU TRUST

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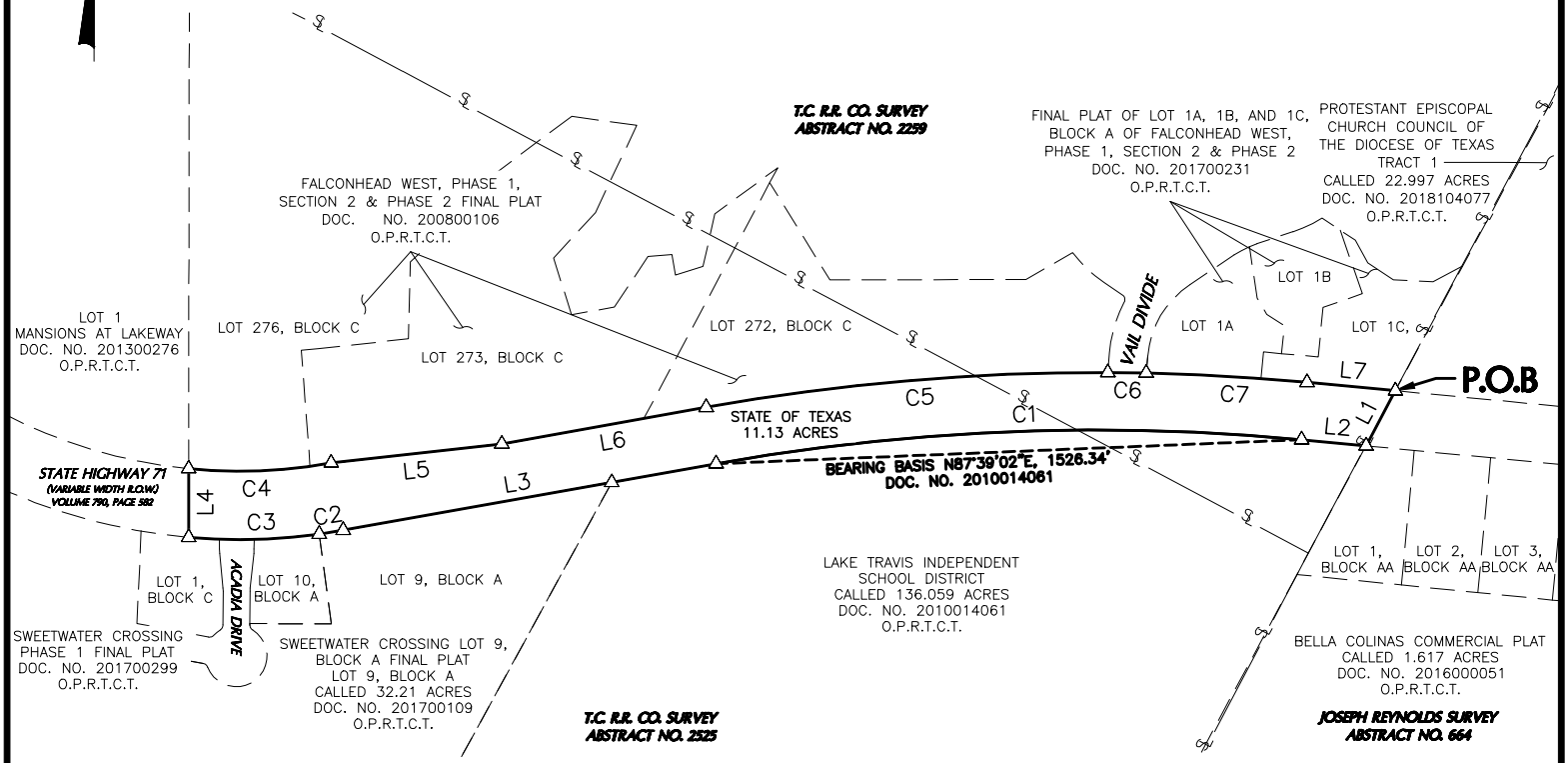
LEGEND

———	PROPERTY LINE
— — — —	ADJOINER PROPERTY LINE
——— ℄ ———	APPROXIMATE SURVEY LINE
△	CALCULATED POINT
P.O.B.	POINT OF BEGINNING
DOC. NO.	DOCUMENT NUMBER
R.O.W.	RIGHT-OF-WAY
O.P.R.T.C.T.	OFFICIAL PUBLIC RECORDS, TRAVIS COUNTY, TEXAS



LINE TABLE		
LINE	BEARING	DISTANCE
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0 1" 2"

GRAPHIC SCALE: 1" = 500'

11.13 ACRE TRACT EXHIBIT

CITY OF BEE CAVE, TRAVIS COUNTY, TEXAS

DOUCET

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Project:	2051-003
Sheet:	4 of 4
Field Book:	N/A
Party Chief:	N/A
Survey Date:	9/7/2023

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Exhibit B
Service Plan

CITY OF BEE CAVE
ANNEXATION SERVICE PLAN

11.13 ACRE TRACT OF LAND IN THE T.C. RR. CO. SURVEY, ABSTRACT NUMBER 2259, AND THE T.C. RR. CO. SURVEY, ABSTRACT NUMBER 2525, TRAVIS COUNTY, TEXAS, SAID 11.13 ACRE TRACT OF LAND BEING A PORTION OF STATE HIGHWAY 71 (A VARIABLE WIDTH RIGHT-OF-WAY), DESCRIBED IN A DEED TO THE STATE OF TEXAS IN VOLUME 790, PAGE 582, DEED RECORDS, TRAVIS COUNTY, TEXAS, TO BE ANNEXED INTO THE CITY ON NOVEMBER 14, 2023.

SERVICES TO BE RENDERED AS OF THE EFFECTIVE DATE OF CITY'S ANNEXATION ORDINANCE FOR THE ANNEXED PROPERTY

Pursuant to Section 43.056 of the Texas Local Government Code, Municipal facilities and services to the Annexed Property Area described above will be provided or made available on behalf of the City at the following levels and in accordance with the following schedule:

1. POLICE PROTECTION

A. *Existing Services*: Currently, the Area is under the jurisdiction of Travis County Sheriff's Office.

B. *Services to be Provided*: The City and its Police Department will provide police protection to the newly annexed Area at the same or similar level of service now being provided to other areas of the City with similar topography, land use and population as that within the newly annexed Area. It is anticipated that the implementation of police patrol activities can be effectively accommodated within the current budget and staff appropriation. The City has a Municipal Court that is a Municipal Court of Record and of competent jurisdiction to handle Class C Misdemeanors.

2. FIRE PROTECTION

A. *Existing Services*: Currently, the Area is under the jurisdiction of Emergency Service District Number 6/Lake Travis Fire and Rescue ("LTFR").

B. *Services to be Provided*: The City does not provide fire protection services. LTFR will continue to provide fire protection service. The City is not aware that the annexation of this property will change or impact fire protection services provided to the Area by LTFR. The LTFR Station #3 is located next to the City's Police Departments. The distance from Station #3 to the subject property is approximately 2.9 miles. The distance from the LTFR Station #2 is 5 miles and from Station # 1 is 9.3 miles.

3. EMERGENCY MEDICAL SERVICES

A. *Existing Services*: Currently, the Area is under the jurisdiction of Travis County and the City of Austin.

B. *Services to be Provided*: The City does not provide emergency medical services. Travis County and the City of Austin will continue to provide emergency medical services. The City is not aware that the annexation of this property will change or impact emergency medical services provided to the Area.

4. SOLID WASTE COLLECTION

A. *Existing Services*: None

B. *Services to be Provided*: Solid waste collection services are provided by several commercial companies in the area. As of the preparation of this Service Plan, Bee Cave does not specify which company will be used, though it is in the midst of a Request for Proposal process for provision of solid waste services. There is a solid waste collection and transfer station located within 3.5 miles of the subject property. Upon compliance with all City ordinances, policies and regulations, solid waste collection will be provided to citizens in the newly annexed Area now being provided to other areas of the City with similar topography, land use and population within the City.

5. BUILDING CODES AND INSPECTION

A. *Existing Services:* None

B. *Services to be Provided:* The City will provide code enforcement services within the Annexed Property in accordance with the City's Code of Ordinances. This includes issuing building permits for any new construction and remodeling, and enforcing all other applicable codes which regulate building construction within the City. Costs are determined by ordinance. The City uses the 2015 International Building Code for mechanical, fire, building, plumbing and miscellaneous other items. It uses the 2017 International Electric Code for electrical work. Wastewater rules are the latest version of those published by the Texas Commission on Environmental Quality.

6. PLANNING AND ZONING

A. *Existing Services:* The City currently has extraterritorial jurisdiction over the subdivision of land, signage and nonpoint source pollution abatement regulations related to the development of property.

B. *Services to be Provided:* The City Council, the Planning and Zoning Commission, and City staff regulate development and land use through the administration of the City's Code of Ordinances which will extend to the newly annexed Area on the effective date of the annexation. These services can be effectively accommodated within the current budget and staff appropriation.

7. FLOODPLAIN MANAGEMENT

A. *Existing Services:* None

B. *Services to be Provided:* The Planning & Development Department of the City provides floodplain management services, and these services will extend to the newly annexed Area. These services can be effectively accommodated within the current budget and staff appropriation.

8. ANIMAL CONTROL

A. *Existing Services:* None

B. *Services to be Provided:* The City and its Police Department will provide animal control services to the newly annexed Area at the same or similar level of service now being provided to other areas of the City with similar topography, land use and population as that within the Annexed Property. It is anticipated that the implementation of animal control services can be effectively accommodated within the current budget and staff appropriation.

9. NUISANCE CONTROL

A. *Existing Services:* The City has jurisdiction over Nuisances within City limits and property located within 5,000 feet of City limits, which encompasses this annexed area.

B. *Services to be Provided:* The City, its Police Department, and Planning & Development Department will provide nuisance control services through the administration of the City's Code of Ordinances to the newly annexed Area at the same or similar level of service now being provided to the newly annexed Area and to other areas of the City with similar topography, land use and population. It is anticipated that the continuation of nuisance control services can be effectively accommodated within the current budget and staff appropriation.

10. WATER SERVICES

A. *Existing City Services*: Currently, water service is provided by the West Travis County Public Utility Agency ("WTCPUA").

B. *Services to be Provided:* Retail water service will be provided by the WTCPUA. Persons utilizing water wells shall be permitted to continue to utilize the same until such time, if ever, that service is requested from the WTCPUA or such persons become required by operation of law to connect to the WTCPUA's water systems. New development on lots or tracts to which WTCPUA water service is not readily available shall be permitted to utilize water wells unless and until WTCPUA water service becomes available at that location. Operation and maintenance of water will be provided by the WTCPUA on the same basis and at the same level as provided

throughout the City with comparable topography, land use and population density in accordance with existing Ordinances; including Ordinances governing subdivisions in effect on the date of development which require a developer, at the developer's cost, to extend and install water lines.

11. <u>SANITARY SEWER SERVICE</u>

A. *Existing City Services:* Currently, wastewater service is provided by the WTCPUA.

B. *Services to be Provided:* Retail wastewater service will be provided by the WTCPUA. Sanitary Sewer Service shall be provided by the same means by which the WTCPUA extends such services to any other area of the City and shall at no time be at a lower level of services currently provided in the Annexed Property. Persons currently receiving such service(s) from the WTCPUA shall continue to receive the same, consistent with City ordinances in effect on the date of development. Persons utilizing septic systems shall be permitted to continue to utilize the same until such time, if ever, that service is requested from the WTCPUA, or such persons become required by operation of law to connect to the WTCPUA's wastewater system. New development on lots or tracts of sufficient size to support septic systems shall be allowed to install septic systems unless WTCPUA sanitary sewer service is or becomes available at that location. Operation and maintenance of wastewater facilities will be provided by the WTCPUA on the same basis and at the same level as provided throughout the City with comparable topography, land use and population density in accordance with Ordinances; including Ordinances which require a developer, at the developer's cost, to extend and install wastewater lines.

12. <u>MAINTENANCE OF WATER AND WASTEWATER FACILITIES</u>

A. *Existing Services*: Currently, water and wastewater services are provided by the WTCPUA.

B. *Services to be Provided*: The City does not provide water or wastewater services, nor maintain the respective facilities of the WTCPUA. The City is not aware that the annexation of this property will change or impact water and wastewater services provided to the Area by the WTCPUA.

13. <u>MAINTENANCE OF ROADS AND STREETS</u>

A. *Existing Services*: There is a State road in the Area to be annexed. The City has a Municipal Maintenance Agreement ("MMA") with Texas Department of Transportation ("TxDOT") to maintain the road and right of way.

B. *Services to be Provided*: The right-of-way and road will continue to be owned by the TxDOT, and maintained by the City, in partnership with TxDOT pursuant to the

MMA.

14. MAINTENANCE OF PARKS, PLAYGROUNDS AND SWIMMING POOLS

A. *Existing Services*: There are no public parks, playgrounds, or public swimming pools located in the Annexed Property.

B. *Services to be Provided*: Bee Cave has a 50 acre park with playgrounds, walking trail and facilities that can be used for picnics, etc. and an approximately 144 acre primitive park. The City has a Sculpture Park located adjacent to the Police Department. Also, within the City limits, the Lake Travis Youth Association provides baseball and soccer fields. The City has City Administrative Offices. The City Hall portion of those offices is available for limited local use, i.e., civic events, meetings, etc. Within close proximity to the subject property are several golf courses, tennis courts, etc. These are not operated by the City, but are available through various kinds of membership arrangements.

15. LIBRARY SERVICE

A. *Existing service:* Yes.

B. *Services to be Provided:* The City of Bee Cave has a municipal library located in City Hall at 4000 Galleria Parkway. It is available to the public through membership. It is located 3.8 miles northwest of the subject property. Lake Travis Community Library, located at 1938 Lohmans Crossing, is also available to the public through membership. The library at Lake Travis Independent School District High School is open to students within the District.

16. ELECTRICAL SERVICE AND STREET LIGHTING

A. *Existing service:* Electric service is provided by Austin Energy.

B. *Services to be Provided:* Austin Energy provides electricity to the area. There are no street lights provided by Bee Cave. Lighting within the annexed area will be subject to requirements and restrictions provided in City ordinances, or State Law, as applicable.

17. LAND USE

A. *Existing City Services:* The City currently has extraterritorial jurisdiction over the subdivision of land, signage and nonpoint source pollution abatement regulations related to the development of property.

B. *Services to be Provided:* The Annexed Property will simultaneously be zoned upon annexation by City Council to Public District . If the Annexed Property is not zoned

simultaneously, it is anticipated that the decision regarding zoning will be made soon after the annexation ordinance is passed and will be in accordance with the Ordinances of the City and the Comprehensive Plan as amended from time to time. The zoning process includes notice and public hearings. The planning and zoning jurisdiction, of the City including land use regulations etc., not already applicable in the ETJ will extend to the Annexed Property on the effective date of the annexation ordinance.

18. GAS SERVICE

A. *Existing City Services:* Propane and natural gas services are provided by several commercial companies in the area. Bee Cave does not specify which company will be used.

B. *Services to be Provided:* Property owners within the annexed areas will have the same options as prior to annexation. Upon compliance with all City ordinances, policies and regulations, gas service will be provided to citizens in the newly annexed Area now being provided to other areas of the City with similar topography, land use and population within the City.

19. CONSTRUCTION OF ANY CAPITAL IMPROVEMENTS

Section 43.056(e) of the Texas Local Government Code requires that the City include a program under which the City will initiate after the effective date of the annexation the acquisition or construction of capital improvements necessary for providing municipal services adequate to serve the Area. Any capital improvements to be constructed in the area being annexed shall be constructed pursuant to the terms of the City's Ordinances and policies. No capital improvements are contemplated or necessary at this time. However, if it becomes necessary to construct capital improvements to implement this Service Plan, the City shall provide such service no later than four and one-half (4½) years after the effective date of the annexation. The City reserves the right to amend this service plan to extend the period of construction in a manner that ensures that construction proceeds with all deliberate speed consistent with generally accepted engineering and architectural standards and practices and consistent with comparable topography, land use and population density, and service needs existing as of the date of this annexation.

20. FUTURE CAPITAL IMPROVEMENTS

Construction of other capital improvements shall be considered by the City in the future as the need dictates on the same basis as such capital improvements are considered throughout the City in accordance with Ordinances of the City, including Ordinances which require a developer to install or construct such capital improvements including but not limited to roads, streets, water and sewer lines.

21. UNIFORM LEVEL OF SERVICES MAY NOT BE REQUIRED

Nothing in this Service Plan shall require the City to provide a uniform level of full municipal services to each area of the City, including the Annexed Property, if different characteristics of topography, land use, and population density are considered a sufficient basis for providing different levels of service. Funding capital improvement and infrastructure necessary to provide municipal services to the Annexed Property shall be subject to and in accordance with the Ordinances of the City in effect on the date of the development including those which require that a developer install or construct such capital improvements to the property being developed.

22. TERM

This service plan shall be valid for a term of ten (10) years.

City Council Meeting
11/14/2023
Agenda Item Transmittal

Agenda Item:	**10.**
Agenda Title:	**Public hearing, discussion, and possible action on Ordinance 522 amending the City of Bee Cave Unified Development Code (UDC) regulations including but not limited to Signs, Landscaping and Screening Standards, Tree Preservation, Drainage and Water Quality, and Lighting.**
Council Action:	
Department:	**City Manager**
Staff Contact:	**Megan Will, Director of Planning & Development**

1. INTRODUCTION/PURPOSE

2. DESCRIPTION/JUSTIFICATION

a) Background

In June 2022 Bee Cave adopted a Unified Development Code (UDC) that consolidated the city's planning and development regulations in a single ordinance. The UDC was also the City first comprehensive update of the development regulations in over 15 years.

In the year since adoption, staff has been monitoring implementation of the UDC and keeping track of instances where concepts and processes described in the UDC could be clarified, elements of previous ordinances inadvertently left out of the UDC, and changes that would alleviate unnecessary difficulties or conflicts that have been encountered when applying the code as written. Staff worked with the City Attorney's office to craft amendments to the UDC to address these issues.

b) Issues and Analysis

See attached Summary of Recommended Amendments.

3. FINANCIAL/BUDGET

Amount Requested	Fund/Account No.

Cert. Obligation	GO Funds
Other source	Grant title
Addtl tracking info	

4. TIMELINE CONSIDERATIONS

5. RECOMMENDATION

Staff and the Planning & Zoning Commission recommend approval of Ordinance 522.

ATTACHMENTS:

Description	Type
Revised UDC Amendments Nov. 2023	Backup Material
Ord. 522 UDC Amendments Nov. 2023	Ordinance
UDC Amendments Nov. 2023	Backup Material

Topic	UDC Sec.	Revisions/Action	Notes / Reasoning for Amendment
Procedure for Amending Technical Manuals	1.1.16	§ 1.1.16 Technical manuals. A. Unless differentiated, "UDC" also refers to any Technical Manual adopted by the City but maintained separately from the UDC. Unless specifically exempted, a Technical Manual adopted by the City applies to all development in the City Limits and Extraterritorial Jurisdiction (ETJ). These are policy documents adopted by reference and may be amended at any time by the City. B. Other criteria manuals which are included by reference in the UDC under the term "Technical Manual" are: Engineering Criteria Manual, Transportation Criteria Manual, Drainage Criteria Manual, Technical Construction Standards, & Specifications (TCSS) [and] Technical Manual Amendments. Where the UDC refers to manuals adopted or propagated by a state or federal agency, it will use the full title of the manual. C. The Planning Director, City Engineer, Fire Marshal and Building Official are responsible for interpreting, developing, and processing updates to departmental technical manuals as necessary to carry out the intent of the UDC. ~~A public hearing will be conducted before City Council to allow public input before updates are approved by the Council.~~	Resolve conflict between parts A and C clarifying that Technical Manuals may be amended by staff and do not require a CC action or a public hearing.

Topic	UDC Sec.	Revisions/Action	Notes / Reasoning for Amendment
Notice Requirements	1.2.5	§ 1.2.5 Summary of approval authorities and public notice. Table 1.2-1: Summary of Approval Authorities, Public Notice provides a summary of the review and approval procedures discussed in the UDC. See Section 1.4.3 for procedures related to required public notices. § 1.4.3 General notification requirements. In accordance with the requirements shown in Table 12-1 *Summary of approval authorities and public notice* , public hearing notice shall be made as follows: A. Mailed property owner notice. 1. When mailed property owner notice is required, written notice of public hearings shall be sent to all owners of real property within two hundred (200) feet of the subject property of the Application. 2. Such notice shall be given not fewer than eleven (11) calendar days before the date of the public hearing by posting such notice, properly addressed and postage paid, to each taxpayer as the ownership appears on the last approved City tax roll or County tax roll for the area affected. ~~(i)~~ ~~The City Council shall conduct a public hearing before adopting any proposed rezoning or text amendment.~~ B. When newspaper published notice is required, notice of the time and place of the public hearing for the Application ~~based on Table 1.2-1: Summary of Approval Authorities, Public Notice, and Appeals~~ must be published in a newspaper of	1.2.5 needs to cross reference to 1.4.3 so there's direction on how mail and newspaper notice is made; 1.4.3 needs to be amended to incorporate ZBOA notices ZV notice to all owners 10 days prior, newspaper 10 days prior to ZBOA mtg RZ notice to owners 10 days prior to PZ mtg; notice in newspaper 16 days prior to CC mtg

Topic	UDC Sec.	Revisions/Action	Notes / Reasoning for Amendment
Temporary Banners for Residential Districts (i.e. neighborhood garage sale signs)	4.2.2.C.5	**New section 4.2.2.C.5** 5. Temporary ground banners in residential districts. (i) In a single-family residential district (R-1, R-2, R-3) or property developed for single-family residential use, one (1) temporary ground banner per road frontage for a period not to exceed fifteen (15) days once per six (6) month period in compliance with this Subsection 4.2.2.C.5. Temporary ground banners are prohibited in all other circumstances. (ii) A temporary ground banner shall not be used as a substitute for a permanent sign. (iii) All temporary ground banners must not have a solid, durable backing, but must resist folding or twisting and be anchored or fastened to the ground. (iv) The property owner must remove, replace, or repair any torn or frayed banner, or re-set a temporary ground banner that twists or deflects more than three (3) degrees off center. (v) Temporary ground banners are prohibited in the public Right-of-Way or on private property without the consent of the property owner. (vi) Temporary ground banners must be located outside of the sight visibility zone (see subsection 6.4). (vii) The size of a temporary ground banner shall not exceed twenty-four (24) square feet.	At the request of many HOAs that use banners to advertise yard sales. However the city want to retain the prohibition in commercial areas/uses.

Topic	UDC Sec.	Revisions/Action	Notes / Reasoning for Amendment
Application of landscaping standards	5.1.1	§ 5.1.1 Landscaping standards. A. Landscaping requirements applicable to all development within city limits. 1. Landscaping plan required. Construction of a Multi-Family, Mixed-Use, or Non-Residential development may not commence until a Landscape Plan is approved as a component of the required Site Plan (see subsection 3.5.4) that demonstrates conformance with this subsection 5.1.1 and contains any technical information required by the Planning Director.	To clarify where these standards apply. This can be inferred by references to zoning districts in subsequent sections of the article, but stating it explicitly here matches formatting in other sections
Tree Preservation Requirements	5.1.1.A.3	3. Credit for preservation of existing trees and trees planted to fulfill mitigation requirements. All development must preserve or replace at least sixty percent (60%) of the caliper inches of trees present on site prior development, according to an approved Tree Survey~~,~~. T~~t~~he caliper inches of ~~all Celtis Occidentalis (Hackberry), Juniperus Virginiana (Eastern Red Cedar), Melia Azedarach (Chinaberry), and Juniperus Ashei (Common Cedar) twelve (12) caliper inches and larger The caliper inches of~~ tree species listed in Table 6.1-1 Exempted Trees when measuring twelve (12) inches caliper or larger and all other trees four (4) inches caliper or larger shall be counted towards the required sixty percent (60%).	5.1.1A.3 is meant to, but does not include all exempted trees as listed in 6.1.4. 5.1.1A.3 should reference the Table in 6.1.4.

Topic	UDC Sec.	Revisions/Action	Notes / Reasoning for Amendment
Parking Lot Shading	5.1.1B.3(i)2	(2) ~~The shaded area is calculated based on the trees listed in the Criteria Manual~~ Shading shall be required for parking lots subject to this section. Canopy trees shall be provided to shade a minimum of twenty-five (25) percent of the parking lot or vehicular use area. The shade area provided by each tree shall be based on the area that the tree's mature canopy will encompass, as indicated in the Tree Canopy List in the Environmental Criteria Manual. Tree types not listed may be considered but shall be accompanied by a calculation of mature canopy area prepared by a registered landscape architect based on standard landscaping references. The shade area provided shall be calculated at 100% for preserved trees and 75% for newly planted trees.	Standard from Old Code inadvertently left out of UDC, table moved to ECM

Topic	UDC Sec.	Revisions/Action	Notes / Reasoning for Amendment
Parking Lot Screening	5.1.1B.3	**add the following section** (iii) Parking lot screening. All parking areas adjacent to roadways, all off-street loading areas and off-street parking areas containing three or more parking spaces shall have effective buffering from the street view and from adjacent properties. Landscaped buffers or landscaped berms at least three feet (3') in height shall be appropriate for screening these areas. Vegetation selected for the three-foot (3') height screen shall be of evergreen plant species, and they shall be spaced and massed so as to provide a solid screen within two (2) years, or two growing seasons, from the planting date. Plantings should include a variety of plant species with low maintenance requirements, selected from the plant materials listed in the Preferred Tree List in ECM. A combination of shrub and tree plantings is preferred; but in any case, a minimum of one (1) tree of a minimum four-inch (4") and a minimum eight feet (8') in height, and ten (10) shrubs of a minimum five (5) gallon size, are required for each thirty feet (30'). Ground cover should be planted on landscaped berms with appropriate plant container size and spacing that will provide full coverage within one (1) year of installation in order to prevent erosion. Berms shall be designed to transition to existing grades, and shall not exceed a slope of 3:1. A slope greater than this is generally difficult to mow and maintain.	Standard from Old Code inadvertently left out of UDC

Topic	UDC Sec.	Revisions/Action	Notes / Reasoning for Amendment
Building Perimeter Landscaping	5.1.1B4(i)	(i) Site Landscaping shall be provided ~~at the primary building entrance(s), along building perimeter except for areas directly abutting a door, loading bays, or garage bays~~ along the entire building perimeter except for areas directly abutting doors, loading bays, or garage bays. The width of the strip shall be measured according to the following schedule: [keep table as is]. (ii) - shifts a level to (1), (ii)(1)-(3) become (1)a., b, c (iii) - shifts a level to (2), (iii)(1)-(4), become (2)a,b,c,d etc. New (3) In the case that a side of a building is not viewable from a roadway, access easement, or adjacent building/use, the Director may waive the requirements of this section.	Need to clarify that perimeter landscaping is required along all building sides and add a way for Director to waive the requirement in the case a particular building side is not viewable from an adjacent ROW or property.
Detention and Retention Pond Screening	5.1.1B.4(ii)	**ADD new section 5.1.1B4 (ii)** (ii) Retention and Detention Ponds. (1) All retention and detention ponds shall have effective buffering from the street view and from adjacent properties. Screening shall be provided in the same manner as for parking areas, see Section 5.1.1B.3(iii). (2) Stormwater detention areas should be designed as freeform shapes to blend with the natural landscape and use natural rocks and boulders with spillways of natural rock to create visual appeal. (3) Detention ponds shall not be allowed within a required buffer zone or setback unless a waiver is granted at Site Plan.	Standard from Old Code inadvertently left out of UDC

Topic	UDC Sec.	Revisions/Action	Notes / Reasoning for Amendment
Retaining Walls	5.1.1(D)(4)	4. A Retaining Wall shall be maintained by the owner of the property where the Retaining Wall is located. If a Retaining Wall crosses one or more properties, it shall be maintained by a Property Owners' Association and placed within a retaining wall ~~maintenance~~ easement (See Section 2.5.13(I)) or common lot with sufficient width to provide access to the Retaining Wall. (i) A retaining wall ~~maintenance~~ easement is required for any retaining wall within five feet (5') of a property line. (ii) Retaining walls shall not straddle property lines unless approved by the City Engineer. (iii) The City will not assume maintenance responsibility for a retaining wall outside of City property or right-of-way.	Change maintenance easement to retaining wall easement since a retaining wall easement is defined in Section 2 of UDC.
Fences	5.1.2	See this document for changes.	Clarify that fences require permits and generally clean up confusing fence standards
Fences	5.1.2.A.4	**Add NEW Section** Temporary Fencing. Temporary construction site/security fencing may be permitted by the Building Official in accordance with Section 108 of the IBC. Signage on or attached to fencing is prohibited, see UDC 4.2.1.D.	Clarification of construction fencing standards and prohibition on signage attached to fences.
Waivers to Landscaping & Screening Standards	New Section 5.1.3	**Add NEW section 5.1.3** Same process/requirements as 7.3.3.I waivers for NPS regulations	Provides a process and criteria for City Council to grant waivers to requirements in Art. 5 (Landscaping) at Site Plan. Mirrors the process and criteria outlined in Art. 7 for NPS waivers. Site Plans with Waiver requests go to P&Z for recommendation and CC for approval.

Topic	UDC Sec.	Revisions/Action	Notes / Reasoning for Amendment
Specimen & Cluster Trees vs. Exempt Trees	6.1.5 definitions of Specimen Tree and Tree Cluster definitions	Tree, Specimen Any tree ~~of a species other than those listed in Section 6.1.4~~ that measures twelve (12) inches or greater, but less than twenty-four (24) inches in caliper at a point measuring four and one-half (4-1/2) feet above ground level. Tree Cluster Three or more trees ~~of a species other than those listed in Section 6.1.4~~ where any portion of the trunk or trunks of the trees are located less than ten (10) feet apart from one another and where each tree has a trunk measuring at least four (4) inches caliper at a point measuring four and one-half (4-1/2) feet above ground level.	As written there's a conflict between exempt trees listed in 6.1.4 (trash trees less than 12") and these definitions. There are a lot of cedars in the 75' highway buffer and the intent is to keep that area in a "natural" state, so it's appropriate that a large or multi-trunked cedar would count (not be exempt under 6.1.4) once it measures 12" or greater. This is consistent with the allowance in 5.1.1B1(ii)(4) for cedars & other exempted trees 12" and greater in that area to be used to fulfill the planting requirements on a 1:1 basis.

Topic	UDC Sec.	Revisions/Action	Notes / Reasoning for Amendment
Tree Mitigation	6.1.9	§ 6.1.9 Tree mitigation. A. Any Trees that are removed or damaged as a result of the approval of a Tree Removal Permit issued pursuant to Section 6.1.6.E must be mitigated on the same property or development area, unless the City Manager approves a fee in lieu. 1. The fee in lieu will be paid directly to the City to fund placement of trees at public parks or other approved public facilities throughout the City. B. Any Trees that are removed or damaged as a result of the approval of a Tree Removal Permit issued pursuant to Section 6.1.6.F must be mitigated pursuant to the ratios provided in Section 5.1.1 ~~Table 32,~~ C. Fee In Lieu of Tree Mitigation. 1. The City Manager may approve payment of a fee in lieu of replacement trees. 2. The fee shall be per the adopted fee schedule. 3. The fee in lieu option is available for only the following cases: (i) If the property or development area is heavily treed and the existing tree canopy would prohibit the growth of the replacement trees, or (ii) If the required replacement trees were to be installed, then the replacement trees would be planted under the canopy of an existing tree. D. Limitations of species and placement. Replacement Trees must be shown and reviewed on a Landscape Plan consistent with the requirements of Section 5.1.1 and provide placement	Clean up of typos and mis formatting

Topic	UDC Sec.	Revisions/Action	Notes / Reasoning for Amendment
Lighting in public ROW	6.2.1.C.2(i)	2. Exemptions. (i) Lighting within ~~public or private right-of-way or easement~~ a state-owned right-of-way for the principal purpose of illuminating streets or roads. No exemption shall apply to any lighting within the public or private right-of-way or easement when the purpose of the luminaire is to illuminate areas outside the public or private right-of-way or easement, unless otherwise stated in separate regulation.	As written, 6.2.1.C.2.(i) exempts all street lighting. As a Dark Sky Community the city has no public street lights and does not intend to install street lights in the future. However, the City cannot restrict lighting on TxDOT ROW, so the exemption should be limited to State-owned lights in the right of way. This specific amendment was requested by IDA as part of the city's Dark Sky Community certification.
Exempt Lighting - Replacement	6.2.1.C.2(ii)	(ii) Replacement of lighting where the lighting ~~Lighting~~ that is removed or destroyed is less than 30% of the total value of all lighting on a property	Additional edit in revision – edited for clarity.
Performance Standards	New Section 6.8	**Performance Standards.** In all zoning districts, any use indicated in the permitted use list shall conform in operation, location, and construction to the performance standards as administered by County, State and Federal agencies. All uses, including those which may be allowed by PDD or SUP, shall conform in operation, location, and construction to appropriate performance standards for noise, smoke, and particulate matter, odorous matter, fire, or explosive hazard material, toxic and noxious matter, vibration, and glare. All Federal and State pollution, noise, and requirements for toxic waste disposal shall be observed.	Sections of Old Code not included in the UDC because it was anticipated they would be integrated into Ch. 14 Offenses and Additional Provisions, specifically Art. 14.02 Nuisances. It was decided the standards are better located within the UDC.
Impervious Cover Transfers	7.3.2C.4(ii)	See this document for changes.	Provide standards for granting an impervious cover transfer, allow administrative transfers, and specify when Council approval is required. Also provides details of the process for requesting/obtaining approval of an IC transfer.

Topic	UDC Sec.	Revisions/Action	Notes / Reasoning for Amendment
Impervious Cover Transfers	7.3.2C.4(i)2(b)	(b) The maximum impervious cover limit may be increased by no more than ten (10) percentage points for transfer of development intensity, except as permitted in Section 7.3.2.C.3(i)(2)(b).	The **NO** is missing
WQBZ	7.3.2(5)(i)(3)	3. Calculation of peak flood level. The two-year peak flood level shall be calculated in accordance with the Engineering Technical Manual~~TCSS~~ manual.	Change TCSS to Engineering Technical Manual
Functionality Inspection	7.3.3(E)(3)	3. Functionality inspections shall be conducted during or within 72 hours following a rain event which has produced or is producing a depth of precipitation of at least 0.5 inches over a 24-hour period, as measured by a local LCRA/NOAA rain gauge, or alternative rain gauge as approved by the City Engineer. The following, if present, must be inspected and evaluated at each water quality facility in accordance with the Design Manual, including but not limited to:	Adding what type of rain event should precede a functionality inspection.
Definitions	Article 9	New Section 9.1 added as preamble to definitions.	A statement to clarify that definitions listed in Article 9 there are generally applicable throughout the UDC and that any definitions within specific Articles/Chapters/Sections are specific to that Article/Chapter/Section to account for any conflicts.

Topic	UDC Sec.	Revisions/Action	Notes / Reasoning for Amendment
Definition of Artisan Space	9.1.1 Terms beginning with "A."	Artisan Studio A work space ~~not more than 1,500 square feet in size~~ used by one or more painters, sculptors, graphic artists, illustrators, photographers, jewelers, or other artists ~~using a medium that is not a~~ including Ceramic, Pottery, or Glass Studio, that is not food production, is not the manufacture of large quantities of a standardized article, does not endanger the health, safety, and welfare of the artist or the general public, and that does not cause a nuisance to abutting property owners.	After reviewing the UDC definition of artisan studio / limitation on pottery, ceramics, glass blowing with LTFR staff is satisfied there aren't specific safety concerns that LTFR pre-occupancy review of a such a business wouldn't address. Additionally, the FNI staff that drafted the Code indicated the prohibition was something they intended to delete from the definition, but unfortunately didn't make the final edit prior to adoption. The size limitation was to differentiate a small-scale versus larger-scale operations that could be considered manufacturing. There's not a compelling reason to maintain the limitation if the amended definition includes a prohibition on manufacturing.
Definition of Community Center	9.1.3 Terms beginning with "C."	~~Community Center A building dedicated to social or recreational activities that serves the City or a Subdivision and is owned and operated by the City, a Property Owners' Association, or a non-profit organization dedicated to promoting the health, safety, and general welfare of the City.~~ *Community Center* A multipurpose meeting and recreational facility typically consisting of one or more meeting or multipurpose rooms, kitchens, and/or outdoor barbecue facilities that are available for use by various groups for such activities as meetings, parties, receptions, dances, etc. The facility is owned and operated by the City or a non-profit organization dedicated to promoting the health, safety, and general welfare of the City.	Resolve duplicate definitions by combining.

ORDINANCE NO. 522

AN ORDINANCE AMENDING ARTICLE 1, ARTICLES 4 – 7, AND ARTICLE 9 OF THE UNIFIED DEVELOPMENT CODE OF THE CITY OF BEE CAVE.

WHEREAS, the City of Bee Cave is lawfully incorporated as a Home Rule municipality and the City Council is the governing body of the City; and,

WHEREAS, it is the intent of the City of Bee Cave to protect the public health, safety, and welfare of its citizens; and

WHEREAS, municipalities may, under their police powers, enact reasonable regulations to promote the health, safety, and welfare of their citizens; and

WHEREAS, Texas Local Government Code Section 51.001(1) provides that the governing body of a municipality may adopt, publish, amend, or repeal an ordinance, rule or policy regulation that is for the good government, peace, or order of the municipality; and

WHEREAS, the Bee Cave City Council may regulate the development of property within Bee Cave's city limits and exterritorial jurisdiction; and

WHEREAS, the Bee Cave City Council, in compliance with the laws of the State of Texas and the City's municipal code, and the in the exercise of its legislative discretion, has determined it is appropriate, for good government and for the welfare and benefit of the public, to amend the Unified Development Code to update its provisions to keep up with the growth and development of the community.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BEE CAVE, TEXAS that Article 1, Article 4, Article 5, Article 6, Article 7 and Article 9 of the City of Bee Cave United Development Code shall be amended with strike-through text being deletions and underlined text being additions and all other provisions not addressed remain untouched and in full force and affect and shall read as follows:

* * *

1.1.16 TECHNICAL MANUALS

A. Unless differentiated, "UDC" also refers to any Technical Manual adopted by the City but maintained separately from the UDC. Unless specifically exempted, a Technical Manual adopted by the City applies to all development in the City Limits and Extraterritorial Jurisdiction (ETJ). These are policy documents adopted by reference and may be amended at any time by the City.

B. Other criteria manuals which are included by reference in the UDC under the term "Technical Manual" are: Engineering Criteria Manual, Transportation Criteria Manual, Drainage Criteria Manual, Technical Construction Standards, & Specifications (TCSS) Technical Manual Amendments. Where the UDC refers to manuals adopted or propagated by a state or federal agency, it will use the full title of the manual.

C. The Planning Director, City Engineer, Fire Marshal and Building Official are responsible for interpreting, developing, and processing updates to departmental technical manuals as

necessary to carry out the intent of the UDC. ~~A public hearing will be conducted before City Council to allow public input before updates are approved by the Council.~~

* * *

1.2.5 SUMMARY OF APPROVAL AUTHORITIES AND PUBLIC NOTICE

Table 1.2 1: Summary of Approval Authorities, Public Notice provides a summary of the review and approval procedures discussed in the UDC. See Section 1.4.3 for procedures related to required public notices.

* * *

1.4.3 GENERAL NOTIFICATION REQUIREMENTS

In accordance with the requirements shown in Table 12-1 Summary of approval authorities and public notice, public hearing notice shall be made as follows:

A. Mailed Property Owner Notice

1. When mailed property owner notice is required, written notice of all public hearings before the Planning and Zoning Commission and City Council shall be sent to all owners of real property within two hundred (200) feet of the subject property of the Application based on Table 1.2 1: Summary of Approval Authorities, Public Notice, and Appeals, as may be modified by the Section Reference listed in the Table.

2. Such notice shall be given not fewer than eleven (11) calendar days before the date of the Board or Commission public hearing by posting such notice, properly addressed and postage paid, to each taxpayer as the ownership appears on the last approved City tax roll or County tax roll for the area affected.

~~(i) The City Council shall conduct a public hearing before adopting any proposed rezoning or text amendment.~~

B. Newspaper Published Notice

~~N~~ When newspaper public notice is required, notice of the time and place of the public hearing ~~for an Application based on Table 1.2 1: Summary of Approval Authorities, Public Notice, and Appeals~~ must be published in a newspaper of general circulation in the City at least sixteen (16) days before the date of the public hearing before City Council and not fewer than eleven (11) calendar days before the date of the public hearing before the Zoning Board of Adjustment.

* * *

4.2.2 Permitted Signs

* * *

C. Temporary Signs

1. General Provisions

(i) The regulations of this subsection 4.2.2C apply to all uses equally. They are not intended to regulate or make any distinction regarding religious or political speech, or to impose restrictions on seasonal or religious decorations or symbols.

(ii) A reflective surface is prohibited on any temporary sign.

2. Temporary Wall Banner Signs

In all Non-Residential and Mixed-Use districts, each non-residential building or non-residential tenant space within a building with a valid Certificate of Occupancy may install one (1) banner meeting the following:

(i) No banner shall exceed twenty-four (24) square feet in size or fifteen percent (15%) of the building façade or tenant space, whichever is greater;

(ii) The property owner or business must securely affix the banner to the side of the building. The property owner or business must remove, replace, or repair any torn or frayed banner, or any banner that is detached from the side of the building;
(iii) Banners are prohibited in the public Right-of-Way, on the side of a temporary building, trailer, fence, freestanding wall, or retaining wall;
(iv) Each building or tenant space is allowed no more than one (1) banner per calendar year for a period not to exceed fifteen (15) days;
(v) In addition to subsection 4.2.2C.2(iv), a tenant may display a banner for up to thirty (30) days at the time a Certificate of Occupancy is issued. The banner may not be used at the same time as any other temporary signage.
3. Temporary Ground Signs
(i) In any district, each property is allowed one (1) temporary ground sign per road frontage per twelve (12) month period in compliance with this Subsection 4.2.2C.3.
(ii) A Temporary Ground Sign shall not be used as a substitute for a permanent sign.
(iii) All temporary ground signs must have a solid, durable backing that resists folding or twisting, and be anchored or fastened to the ground.
(iv) The property owner or business must replace or re-set a temporary ground sign that twists or deflects more than three (3) degrees off center.
(v) The property owner or business must remove any temporary ground sign if the sign remains on a property for longer than six (6) months or if the sign becomes worn, faded, or damaged.
(vi) Signs that are not made using wood or thick-gauge steel frame construction are not framed or use wire construction must be removed after three (3) months.
(1) The Planning Director may grant a three (3) month extension to subsection 4.2.2C.3(v) if the sign is in good condition and the property on which the sign is located is actively listed for sale or at least one building that sits on the property is actively listed for lease.
(vii) Temporary ground signs are prohibited in the public Right-of-Way or on private property without the consent of the property owner.
(viii) Temporary ground signs must be located outside of the sight visibility zone (see subsection 6.4).
(ix) The size of a temporary ground sign shall not exceed the maximum square footage in Table 4.2 1:
Table 4.2 1: Temporary Ground Sign Size Matrix

* * *[1]

4. Temporary Window Signs: See Section 4.2.2D.7(ii),
<u>5. Temporary Ground Banners in Residential Districts</u>
<u>(i) In a single-family residential district (R-1, R-2, R-3) or property developed for single-family residential use, one (1) temporary ground banner per road frontage for a period not to exceed fifteen (15) days once per six (6) month periods in compliance with this Subsection. Temporary ground banners are prohibited in all other circumstances.</u>
<u>(ii) A temporary ground banner shall not be used as a substitute for a permanent sign.</u>
<u>(iii) All temporary ground banners must not have a solid, durable backing but must resist folding or twisting and be anchored or fastened to the ground.</u>

[1] Note to publisher, table to remain unaltered.

(iv) The property owner must remove, replace, or repair any torn or frayed banner, or re-set a temporary ground banner that twists or deflects more than three (3) degrees off center.
(v) Temporary ground banners are prohibited in the public right-of-way or on private property without the consent of the property owner.
(vi) Temporary ground banners must be located outside of the sight visibility zone (see subsection 6.4).
(vii) The size of a temporary ground banner shall not exceed twenty-four (24) square feet.

* * *

5.1.1 LANDSCAPING STANDARDS

A. Landscaping Requirements Applicable to All Development within City Limits

1. Landscaping Plan Required

Construction of a Multi-Family, Mixed-Use, or Non-Residential development may not commence until a Landscape Plan is approved as a component of the required Site Plan (see subsection 3.5.4) that demonstrates conformance with this subsection 5.1.1 and contains any technical information required by the Planning Director.

2. Redevelopment Sites

For existing sites that are non-conforming under this Article 5 and undergoing expansion or redevelopment, see subsection 3.4.11E.4.

3. Credit for Preservation of Existing Trees and Trees Planted to Fulfill Mitigation Requirements

All development must preserve or replace at least sixty percent (60%) of the caliper inches of trees present on site prior to development according to an approved Tree Survey. ~~, t~~The caliper inches of ~~all Celtis Occidentalis (Hackberry), Juniperus Virginiana (Eastern Red Cedar), Melia Azedarach (Chinaberry), and Juniperus Ashei (Common Cedar)~~ tree species listed in Table 6.1-1 Exempted Trees when measuring twelve (12) caliper inches and or larger and all other trees four (4) inches caliper or larger shall be counted towards the required sixty percent (60%).

* * *

B. Nonresidential, Mixed-Use, and Multi-Family Residential Landscaping Requirements.

* * *

3. Parking Lot Landscaping

Parking lot landscaping is required within the area within the parking lot boundaries. Sidewalks and designated loading or unloading areas for service vehicles shall not be considered part of the parking lot.

(i) Parking Lot Shading

(1) The requirements of this subsection 5.1.1B.3(i) apply to any parking lot with more than five (5) spaces, regardless of zoning district.

(2) ~~The shaded area is calculated based on the trees listed in the Criteria Manual.~~ Shading shall be required for parking lots subject to this section. Canopy trees shall be provided to shade a minimum of twenty-five (25) percent of the parking lot or vehicular use area. The shade area provided by each tree shall be based on the area that the tree's mature canopy will encompass, as indicated in the Tree Canopy List in the Environmental Criteria Manual. Tree types not listed may be considered but shall be accompanied by a calculation of mature canopy area prepared by a registered landscape architect based on standard landscaping references. The shade area provided shall be calculated at 100% for preserved trees and 75% for newly planted trees.

(3) Existing trees preserved in an island or walkway buffer (see subsections 3.4.2E.4 and E.0) may be credited toward new plantings required under this subsection 5.1.1B.3(i) and shall be calculated at one hundred (100) percent of the required shade coverage.
(4) Newly planted trees shall be a minimum of three (3) inches caliper and calculated at seventy-five (75) percent of the shade coverage.
(5) No protected tree shall be located in a well deeper than four (4) feet, or on a pedestal higher than four (4) feet, from the surrounding parking area.
(6) Where grade changes exceed ten percent (10%), parking lots shall be stepped to accommodate the preservation of existing interior trees in accordance with this paragraph.

* * *

(iii) Parking Lot Screening
(1) All parking areas adjacent to roadways, all off-street loading areas and off-street parking areas containing three or more parking spaces shall have effective buffering from the street view and from adjacent properties.
(2) Landscape buffers or landscaped berms at least three feet (3') in height shall be appropriate for screening these areas.
(3) Vegetation selected for the three-foot (3') height screen shall be of the evergreen plant species, and they shall be spaced and massed so as to provide a solid screen within two (2) years, or two (2) growing seasons, from the planting date. Plantings should include a variety of plant species with low maintenance requirements, selected from the plant materials listed in the Preferred Tree List in ECM. A combination of shrub and tree plantings is preferred; but in any case, a minimum of one (1) tree of a minimum four-inch (4") and a minimum of eight feet (8') in height., and ten (10) shurbs of a minimum of five (5) gallon size, are required for each thirty feet (30').
(4) Ground cover should be planted on landscaped berms with appropriate plant container size and spacing that will provide full coverage within one (1) year of installation in order to prevent erosion. Berms shall be designed to transition to existing grades and shall not exceed a slope of 3:1, as a slope greater than this is generally difficult to mow and maintain.
4. Site Landscaping
All areas not included in a Roadway Buffer, Incompatible Use Buffer, or Parking Lot are subject to the landscaping requirements of this subsection 5.1.1B.4.
(i) Building Perimeter. ~~Site~~ Landscaping shall be provided ~~at the primary building entrance(s),~~ along ~~each~~ the entire building perimeter except for areas directly abutting a door, loading bays, or garage bays. The width of the strip shall be measured according to the following schedule:

* * *[2]

~~(ii)~~ (1) Calculation of Plantings
~~(1)~~ a. One (1) tree of two (2) inches caliper or greater is required for each 1,000 square feet of perimeter strip area of 5 feet or greater.
~~(2)~~ b. One (1) shrub is required for each thirty (30) square feet of perimeter strip area.
~~(3)~~ c. All areas not covered in plants shall consist of sod, mulch, river rock, or other ground cover to prevent erosion and weed penetration.
~~(iii)~~ (2) Alternative Compliance

[2] Note to publisher, table to remain unaltered.

The Planning Director may approve an Alternative Compliance Plan if it is submitted with the required Landscaping Plan and conforms to the provisions below:
~~(1)~~ a. The landscape strip may vary in depth so that certain sections of the strip fall below the minimum depth required, if the applicant demonstrates on the landscape plan that the total area provided is not less than the minimum required if the minimum depth was uniformly provided.
~~(2)~~ b. Up to fifty percent (50%) of the required perimeter strip area and plantings may be provided in the form of additional parking lot landscape islands.
~~(3)~~ c. Up to one hundred percent (100%) of the required perimeter strip area may be provided abutting a detention or retention pond on the same or abutting property, under the following circumstances:
~~(a)~~ (i) The pond is integrated into the landscape and site design;
~~(b)~~ (ii) The minimum number of plantings required in the landscape strip area are provided within fifty (50) feet of the pond;
~~(c)~~ (iii) The area abutting the pond includes, at the time a Certificate of Occupancy is issued, amenities such as walking paths and benches with direct sidewalk access from all buildings in the development; and
~~(d)~~ (iv) The pond, plantings, and amenities are reserved as an easement on a recorded Final Plat.
(3) In the case that a side of a building is not viewable from a roadway, access easement, or adjacent building/use, the Planning Director may waive the requirements of this section.
(ii) Retention and Detention Ponds
(1) All retention and detention ponds shall have effective buffering from the street view and from adjacent properties. Screening shall be provided in the same manner as for parking areas. See Section 5.1.1.B.3(iii).
(2) Stormwater detention areas should be designed as free form shapes to blend with the natural landscape and use natural rocks and boulders with spillways of natural rock to create visual appeal.
(3) Detention ponds shall not be allowed within a required buffer zone or setback unless a waiver is granted at Site Plan.

* * *

D. Retaining Walls
1. Unless an alternate design is approved by the City Engineer, when property within or directly adjacent to a subdivision contains changes in elevation exceeding two and one-half feet (2.5') or the slope exceeds one unit vertical in three units horizontal, or both, a Retaining Wall shall be required at the locations specified herein prior to the acceptance of the Subdivision (see subsection 2.4.5):
(i) The grade change roughly follows a side or rear lot line;
(ii) The grade change is adjacent to a proposed building site boundary;
(iii) The grade change is adjacent to a watercourse or drainage easement;
(iv) The grade change is adjacent to a public or private road or shared driveway; or
(v) Where required by the City's Technical Manual.
2. Retaining Wall construction shall be in compliance with the provisions of the Building Code and the Criteria Manual.
3. Retaining Walls four (4) feet in height or greater require a Subdivision Construction Permit, Site Permit, or Building Permit, as applicable at the time of construction, and approval by the City Engineer.

4. A Retaining Wall shall be maintained by the owner of the property where the Retaining Wall is located. If a Retaining Wall crosses one or more properties, it shall be maintained by a Property Owners' Association and placed within a ~~maintenance~~ retaining wall easement, see Section 2.5.13(I), or common lot with sufficient width to provide access to the Retaining Wall.
(i) A ~~maintenance~~ retaining wall easement is required for any retaining wall within five feet (5') of a property line.
(ii) Retaining walls shall not straddle property lines unless approved by the City Engineer.
(iii) The City will not assume maintenance responsibility for a retaining wall outside of City property or right-of-way.
5. A Retaining Wall shall not be constructed parallel to or within any portion of a utility easement unless otherwise approved by the City Engineer pursuant to the parameters established in the Criteria Manuals.
6. Hillside Wall Standards
(i) For each eight (8) feet of vertical height, four (4) feet of horizontal offset (a stairstep design approach) shall be provided with native, drought-tolerant landscaping consisting of one (1) shrub per thirty-two (32) square feet of horizontal surface within the offset area and one Small Tree per five hundred (500) square feet;
(ii) Walls shall conform to the topography of the site; and
(iii) Walls shall incorporate the use of native materials and earth-tone colors to blend with natural surroundings.
5.1.2 FENCING AND SCREENING STANDARDS
A. Requirements Applicable to All Districts
1. Fences and Walls in Front Yards
(i) Opaque fences or walls are prohibited within a required front yard unless otherwise specified in this Section 5.1.2.
(ii) Fences or walls within a required front yard shall not exceed four (4) feet in height, except in the AG or P districts.
2. Fences and Walls in Rear and Side Yards
~~2.~~ (i) ~~All fences and screening walls~~ Fences and walls in rear and side yards shall be placed on a property line with the exception of fences within a common area or maintenance easement (see Subsection C below).
~~3.~~ (ii) No fence or wall in a rear or side yard may exceed eight (8) feet in height or utilize any hazardous device such as barbed wire or electrification, except in the AG or P districts.
~~4.~~3. All fences and screening walls shall be maintained by the owner of the property in a structurally-sound condition through regular staining, sealing, shoring, tuck pointing, and replacement of rotten, missing, or sagging members, pickets, panels, stringers, posts, or other component of the fence or wall.
~~5.~~4. Detention and retention ponds that are fenced must employ wrought iron or a living screen or a combination.
~~6.~~5. Fence and Screening Wall Types
(i) Type 1: Full masonry 6-8 feet (brick, stone, stamped concrete)
(ii) Type 2: Partial masonry (up to 30%) with metal (wrought iron, tubular steel, or equivalent – aluminum alternative if maintained by HOA)
(iii) Type 3: ~~C~~ Stained or painted cedar board with ~~trim cap and~~ rust proof metal posts with top caps, or rust proofed and powder coated, or rust proofed and powder coated tubular steel; or masonry; or a combination of each with a ~~wrought iron, living screen with minimum 6 foot~~

~~height and~~ maximum 25% transparency, ~~or combination of each~~ if approved by the City Engineer.

(iv) Type 4: ~~Undeveloped property fencing (wooden or steel posts in natural color tones with non-barbed wire or metal lattice)~~ Temporary fencing for construction site/security may be permitted by the Building Official in accordance with Section 108 of the IBC. Signage on or attached to temporary fencing is prohibited, see UDC 4.2.1.D.

6. When differing land uses or zoning districts abut, fences or walls shall be installed as indicated in Table 4.4-3.

Table 4.4 3: Required Fence or Screen by Abutting Use

* * *[3]

7. Undeveloped property may be fences with Type 1, 2, or 3 fencing, or fencing may consist of wooden or steel posts with non-barbed wire or metal lattice. Posts shall not be painted or coated in garish or harsh color tones.

8. A permit shall be obtained from the City prior to construction of any fence or screening wall.

~~7.~~9. Screening of Mechanical Equipment

(i) Mechanical equipment shall be screened from adjacent properties, from residential uses (including those within the same property), and any public or private right-of-way based on a view of the same building elevation measured from at least six (6) feet above the surface of the street or highest grade within the right-of-way.

(ii) Roof-mounted mechanical equipment shall be screened with a parapet wall that matches the face of the building or a screening wall that complements the color of the building. A screening wall may only be utilized if it is set back at least six (6) feet from the edge of the roof.

(iii) Ground-mounted mechanical equipment, including, but not limited to, condenser units and electrical and gas meters, shall be screened by a wall section that matches the face of the building or by a living screen of hedges that achieves a sufficient height to fully screen all mechanical equipment placed on the ground or mounted to the building face, within three growing seasons.

(iv) All cables, wires, utility lines, piping, drains, or other similar components shall be placed interior to the building or camouflaged using paint or material that matches the building face. All other mechanical equipment not listed above, fuel storage, materials storage, ground-mounted satellite dishes and antennae, service or delivery areas, and solid waste container areas shall be screened from the street by an appropriate vegetative screen or masonry wall, except to the extent needed to provide access.

B. Non-Residential and Mixed-Use Screening

1. Screening of Residential Properties

(i) A ~~Masonry~~ Type 1 fence or screening wall is required between residential (AG, R-1, R-2, R-3, R-4, R-5, and PDDs with underlying residential uses) and non-residential uses (MU-N, MU-C, MU-TC, CR, P, and PDDs with underlying non-residential uses).

(ii) All lots, or parts of lots, with one or more non-residential use and whose side or rear lot lines are adjacent to a residential district or use and not separated by a public or private street or roadway, shall be screened from such residential district or use ~~by a screening wall at least six feet (6') in height~~ a Type 1 fence or screening wall.

[3] Note to publisher, table to remain unaltered.

(iii) ~~Masonry screening walls shall be constructed of materials that provide a solid visual barrier. The Walls~~ A Type 1 fence or screening wall, including applicable footings, shall be placed entirely upon the lot wherein the non-residential use is located and be adjacent to the buffer strip required in Section 5.1.1.B.2.

(iv) Maintenance responsibility of such wall shall be borne by the non-residential property owner.

2. Screening of Outdoor Storage

(i) Outdoor storage shall be placed behind the building with which it is associated, if present, and screened from any public or private right-of-way and all adjacent properties by a ~~Masonry~~ Type 1 fence or screening wall extending at least six (6) feet above the nearest paved surface, unless such requirement is modified by a Specific Use Permit (SUP).

(ii) No outdoor storage shall extend higher than the top of the ~~nearest adjacent screening wall or fence~~ Type 1 fence or screening wall, or six (6) feet if no fence or screening wall is present.

C. Residential Fencing and Screening

1. Low-Density Residential Subdivision Fencing Requirements (Detached Single-Family, Duplex, and Townhome developments in R-1, R-2, and R-3 districts)

(i) All property lines or ~~S~~ subdivision boundaries that abut a Non-Residential or Mixed-Use district or a street classified as a Collector or higher shall provide a screening wall to a height of at least six (6) feet from the grade of the property line consistent with Table 4.4 3.

(ii) Screening walls that abut a street classified as a Collector or higher and are longer than 500 feet shall provide wall insets every 150 feet, with posts or panels separated by three (3) to six (6) feet and enclosed with a section of wrought iron fencing and a hedge or other plant material growing to a mature height of at least five (5) feet.

(iii) Screening walls required in this Subsection 1 or screening walls that provide screening for two (2) or more lots shall be placed within a separate lot or wall maintenance easement measuring at least ten (10) feet in width at the narrowest point and shall be conferred to the ownership or benefit of an HOA or special district and maintained by the HOA or special district.

(iv) Separate lots dedicated on a plat for the purposes of screening wall maintenance shall not be subject to the standards of Section 3.4.1.

2. Low-Density Residential Private Fencing Requirements (Detached Single-Family, Duplex, and Townhome developments in R-1, R-2, and R-3 districts)

(i) Interior residential fences and front-facing fences shall be constructed from stained or painted cedar with rustproofed metal posts with top caps; or rust-proofed and powder-coated wrought iron; or rust-proofed and powder-coated tubular steel; or masonry; or a combination if approved by the City Engineer.

(ii) Side and rear yard residential fences that face a public or private street of a Local classification or an open space area such as a pond or path shall ~~consist of rust-proofed wrought iron or tubular steel or a combination of Masonry wall and wrought iron or tubular steel~~ be Type 3, with the exception of cedar fencing, and a combination with living screens shall not be permitted.

(iii) ~~No other type of opaque fence will be allowed for side and rear yards, but t~~ The property owner may grow a living wall consisting of hedges, vines, or other plant material if it does not damage the fence.

(iv) Side and rear yard fences that face a street classified as a Collector or higher shall be Type 3 and may ~~install~~ include a cedar fence ~~in accordance with this subsection C~~, provided the fence does not impede access to the interior face of a subdivision screening wall.

3. High-Density Residential Fencing (3 units or more)

(i) Perimeter fencing shall ~~consist of a combination of wrought iron and Masonry~~ be Type 2 with a minimum height of four (4) feet and a maximum height of six (6) feet along property lines abutting public and private streets and a ~~Masonry~~ Type 1 wall a minimum of six (6) feet in height along all interior property lines.

~~(ii) Street-facing perimeter walls shall not utilize Masonry on more than thirty percent (30%) of the surface of the fence.~~

4. Alternative Compliance

(i) Use of Wooden Fence in High-Density Residential Development

(1) The developer may substitute a stained or painted board-on-board cedar fence with rustproof metal posts and top caps of the same height along interior lot lines shared with another high-density residential development.

(2) The developer may substitute a board-on-board cedar fence with rustproof metal posts and top caps of the same height along lot lines shared with a low-density residential development or non-residential or mixed-use development if a double row of large trees is also provided with spacing between thirty (30) and fifty (50) feet along the entire section of the cedar fence.

(ii) Use of Wrought Iron Fencing Adjacent to Shared Open Space

A developer may provide a wrought iron fence with vegetative screening that achieves full opacity and grows to a height of six (6) to eight (8) feet within three (3) years along an open space shared with a Low-Density Residential development in lieu of a Masonry wall.

(iii) Alternate Screening Plan

The Planning Director may approve an alternate screening plan for any residential development such as a landscaped berm or open space buffer, steep slope, or creek, if the plan meets the intentions of this subsection C. Residential Fencing and Screening and preserves or minimizes impacts to natural landscapes, habitat areas, steep slopes, or other areas of environmental sensitivity or viewsheds to such areas.

D. Retention and Detention Pond Fencing

Fencing of retention or detention ponds is limited to masonry wall, tubular steel, or wrought iron, no more than six (6) feet in height.

5.1.3 Waivers

1. General provisions.

(i) Unless otherwise proscribed within this Article, the City Council may approve a waiver to one or more provisions of Articles 5 if it makes an affirmative finding with regard to the following:

(1) That undue hardships will result from strict compliance with one or more provisions of this Article;

(2) That the purposes of these regulations may be served to a greater extent by an alternative proposal;

(3) The waiver does not have the effect of nullifying the intent and the purpose of the applicable regulations;

(4) Granting the waiver will not be detrimental to the public safety, health or welfare, and will not be injurious to other property or to the owners of other property, and the waiver will not prevent the orderly development or use of other property in the vicinity;

(5) The conditions upon which the request for a waiver is based are unique to the property for which the waiver is sought, and are not applicable generally to other property;
(6) Because of the particular physical surroundings, shape or topographical conditions of the specific property involved, a particular hardship to the property owner would result, as distinguished from a mere inconvenience, if the strict letter of these regulations is carried out; and
(7) An alternate design will generally achieve the same result or intent as the standards and regulations prescribed.
(ii) Such findings of the City Council, together with the specific facts upon which such findings are based, shall be incorporated into the official minutes of the City Council meeting at which a waiver is considered.
(iii) The City Council may grant a waiver from a provision of Article 5 when the relief granted is in harmony with the general purpose and intent of the Article and when the safety and welfare of the public will be secured and substantial justice done.
(iv) Financial hardship to the property owner or developer does not constitute undue hardship as defined in subsection (i) above.
2. Conditions. In approving a waiver, the City Council may require such conditions which, in its judgment, secure substantially the purpose described the applicable Section of Article 5.
3. Procedures.
(i) The applicant must submit a petition for a waiver in writing by the applicant with the Site Plan or development application. If the applicant does not submit a petition in writing, the associated application will not be considered complete (see section 1.4.2.E Application Considered Complete).
(ii) The petition shall state fully the grounds for the application and the facts relied upon by the petitioner.
(iii) Where a hardship is identified pursuant to this section which requires issuance of a waiver from a provision in this Article, the Planning and Zoning Commission may, in its consideration of an associated Site Plan or other development application it is required to consider, recommend to the City Council a waiver from the provision in this Article 5.
(iv) The City Council may grant final approval to a waiver from a provision of this Article provided that no new information or reasonable alternative plan exists which, at the determination of the City Council, voids the need for a waiver.
(v) The City Council's decision is final.

6.1.5 DEFINITIONS

Alteration (noun): Means any act that causes or may reasonably be expected to cause a tree protected under this section to die, including, but not limited to, any of the following: uprooting any portion of the tree's root system; severing the main trunk of the tree; inflicting damage upon the tree's root system by machinery, storage of materials, or the compaction of soil above the root system of a tree; changing the natural grade of the critical root zone of a tree or of an area that sits uphill from the critical root zone of the tree so as to divert the flow of water to or away from the critical root zone; applying herbicides or other chemicals lethal to trees within the area of the critical root zone, including portions of the tree that extend above ground; placement of impermeable material over any portion of the critical root system of a tree; and trenching within the critical root zone.

Alter (verb): A tree protected under this section is considered to be altered if one or more of the following occurs: Severing or partially severing the main trunk of a single-trunk tree or more

than twenty-five percent (25%) of the trunks of a multi-trunk tree; more than twenty-five percent (25%) of the critical root zone is affected by a means listed in 6.1.5A or more than twenty-five percent (25%) of its canopy is removed.
Canopy: The upper vegetative cover of a tree (see Figure 6.1.5 1).
Critical Root Zone: The area of undisturbed natural soil around a tree defined by a horizontal circle drawn at grade with the center being the center of the tree trunk of a single-trunk tree or approximate center of all trunks of a multi-trunk tree and a radius equal to one foot (1') from the tree trunk for each diameter inch of trunk size (see Figure 6.1.5 1).
Figure 6.1.5-1: Canopy, Critical Root Zone, and Drip Line

* * *[4]

Drip Line: An area within a concentric circle having a radius extending outward from the approximate center of the tree and measuring one half (1/2) of the Tree's height (see Figure 6.1.5 1).
Multi-Trunk Tree: A tree with more than one trunk that has a visible connection above ground. For the purposes of measuring trunk diameter for a multi-trunk tree, the full diameter of the largest trunk shall be combined with the sum of the diameters of all other trunks divided by 2 (i.e., If the largest trunk measures 6 inches in diameter and the sum of all other trunk diameters is 12 inches, total diameter of the multi-trunk tree is 12 inches or 6+12/2).
Poisonous or Hazardous Materials: An object or substance with qualities harmful to Trees, including, but not limited to, paint; soil not matching the soil profile and content of the property on which the Tree sits; petroleum products, including diesel fuel, gasoline, and engine oil; concrete or stucco mix or wash; fibrous insulation; foul, brackish, or dirty water; corrosive or acidic substances or objects that may produce such substances; or any other material which may be reasonably expected to harm Trees.
Removal: Any act that has the effect of destroying a tree, including completely or partially severing the trunk of a Tree, removing more than twenty-five percent (25%) of the Canopy, or otherwise Altering a tree so that it dies or becomes fatally injured.
Tree: Any self-supporting woody perennial plant of a species that will commonly attain a trunk diameter of two (2) or more inches at a point measuring four and one-half (4 ½) feet above ground level and an overall height of at least ten (10) feet at maturity.
Tree, Heritage: Any tree of a species other than those listed in Section 6.1.4 that measures twenty-four (24) inches in caliper or greater at a point measuring four and one-half (4 ½) feet above ground level.
Tree, Protected: Any tree of a species other than those listed in Section 6.1.4 that measures four (4) inches or greater, but less than eight (8) inches in caliper at a point measuring four and one-half (4 ½) feet above ground level.
Tree, Significant: Any tree of a species other than those listed in Section 6.1.4 that measures eight (8) inches or greater, but less than twelve (12) inches in caliper at a point measuring four and one-half (4 ½) feet above ground level.
Tree, Specimen: Any tree ~~of a species other than those listed in Section 6.1.4~~ that measures twelve (12) inches or greater, but less than twenty-four (24) inches in caliper at a point measuring four and one-half (4 ½) feet above ground level.
Tree Cluster: Three or more trees ~~of a species other than those listed in Section 6.1.4~~ where any portion of the trunk or trunks of the trees are located less than ten (10) feet apart from one

[4] Note to publisher, figure to remain unaltered.

another and where each tree has a trunk measuring at least four (4) inches caliper at a point measuring four and one-half (4 ½) feet above ground level.
Tree Removal Permit: A permit issued under this section that authorizes a person or entity to Remove or Alter a tree protected under this section.

* * *

6.1.9 TREE MITIGATION

A. Any Trees that are removed or damaged as a result of the approval of a Tree Removal Permit issued pursuant to Section 6.1.6E must be mitigated on the same property or development area, unless the City Manager approves a fee in lieu.

1. The fee in lieu will be paid directly to the City to fund placement of trees at public parks or other approved public facilities throughout the City.

B. Any Trees that are removed or damaged as a result of the approval of a Tree Removal Permit issued pursuant to Section 6.1.6F must be mitigated pursuant to the ratios provided in Section 5.1.1 ~~Table 32, Fee In Lieu of Tree Mitigation~~.

C. Fee in Lieu of Tree Mitigation

~~(i)~~1. The City Manager may approve payment of a fee in lieu of replacement trees.
~~(ii)~~2. The fee shall be per the adopted fee schedule.
~~(iii)~~3. The fee in lieu option is available for only the following cases:
~~(1)~~(i) If the property or development area is heavily treed and the existing tree canopy would prohibit the growth of the replacement trees, or
~~(2)~~(ii) If the required replacement trees were to be installed, then the replacement trees would be planted under the canopy of an existing tree.
~~C~~D. Limitations of species and placement. Replacement Trees must be shown and reviewed on a Landscape Plan consistent with the requirements of Section 5.1.1 and provide placement of Trees consistent with the requirements of those sections.

* * *

6.2.1 PURPOSE AND APPLICABILITY

A. Purpose

The purpose of these lighting regulations is to:

1. Permit the use of outdoor lighting that does not exceed the maximum levels specified in Illuminating Engineering Society (IES) recommended practices for night-time safety, utility, security, productivity, enjoyment, and commerce.
2. Minimize adverse offsite impacts of lighting such as Light Trespass and obtrusive light.
3. Curtail Light Pollution, reduce skyglow and improve the nighttime environment for astronomy.
4. Help protect the natural environment from the adverse effects of night lighting from gas or electric sources.
5. Conserve energy and resources to the greatest extent possible.

B. Applicability as to Location

This section applies within the City limits.

C. Applicability as to Type

1. Except as described below, all outdoor lighting installed after the date of effect of this UDC shall comply with these requirements. This includes, but is not limited to, new lighting, replacement lighting or any other lighting whether attached to structures, poles, the earth, or any other location.
2. Exemptions

(i) Lighting within ~~public or private right-of-way or easement~~ a state-owned right-of-way for the principal purpose of illuminating streets or roads. No exemption shall apply to any lighting within the public or private right-of-way or easement when the purpose of the luminaire is to illuminate areas outside the public or private right-of-way or easement, unless otherwise stated in separate regulation.
(ii) Replacement of lighting where the lighting ~~Lighting~~ that is removed or destroyed is less than 30% of the total value of all lighting on a property
(iii) Repairs to existing luminaires not exceeding twenty-five percent (25%) of total installed luminaires.
(iv) Temporary lighting for theatrical, filming on location, and performance areas with applicable City permits.
(v) Underwater lighting in swimming pools and other water features.
(vi) Temporary lighting and seasonal lighting, such as string, festoon, bistro, and similar lighting, provided that the emission of such lighting does not exceed 125 lumens per linear foot of line or square foot of space. These lights must be rated at or below 2700 Kelvin.
(vii) Lighting that is only used under emergency conditions.
(viii) Low Voltage Landscape Lighting.
3. Preemption
All lighting shall follow provisions in this ordinance; however, any special requirements for lighting listed below shall take precedence.
(i) Lighting specified or identified in a Specific Use Permit.
(ii) Lighting required by federal or state laws or regulations.

* * *

6.8 Performance Standards
6.8.1 In all zoning districts, any use indicated in the permitted use chart, see Section 3.3.5, shall conform in operation, location, and construction to the performance standards above, as well as all administered by County, State, and Federal agencies. All uses, including those which may be allowed by PDD or SUP shall conform in operation, location, and construction to appropriate standards for noise, smoke, and particulate matter, odorous matter, fire, or explosive hazard material, toxic and noxious matter, vibration, and glare.
6.8.2 All Federal and State pollution, noise, and requirements for toxic waste disposal shall be observed.
7.3.2 CONTROL MEASURES

* * *

C. Performance Standards
Except as otherwise provided in this section 7.3, all development subject to this section 7.3 shall achieve the following performance standards:
1. Removal of Annual Pollutant Load
(i) For new and re-development, the standard of treatment for surface water runoff shall be as follows:
(1) Total suspended solids (TSS): 90% removal.
(2) Total phosphorus (TP): 90% removal.
(3) Oil and grease (O&G): 90% removal.
(4) Total zinc (Zn): 90% removal (evaluated for crumb rubber turf installations only)
(ii) For development using on-site irrigation with treated wastewater effluent or with septic system effluent, see Section 2.5.17.

(iii) Background and developed sites pollutant concentrations and pollutant loads:
(1) Background pollutant concentrations shall be as defined in the Engineering Technical Manual.
(2) Standard pollutant concentrations for developed sites shall be as defined in the Engineering Technical Manual.
(3) Calculation of annual pollutant loading shall comply with the criteria given in the Engineering Technical Manual.
2. Water Quality Volume
The minimum volume of stormwater runoff for water quality control shall be the first one-half inch (0.5") of runoff plus an additional one-tenth inch (0.1") for each ten percentage point increase of the gross impervious cover over twenty percent (20%) of the contributing drainage area to the water quality control. Water quality volume shall be calculated in accordance with the Engineering Technical Manual.
3. Impervious Cover Limits by Land Use
Impervious cover limits in this subsection 3 are expressed as percentage of the Net Site Area.
(i) Impervious cover shall not exceed the following:
(1) New development shall not exceed forty percent (40%).
(2) Redevelopment of sites developed prior to adoption of Ordinance 00-08-29-B: a maximum of 60% impervious cover may be permitted via (a), (b), or a combination of (a) and (b) below:
(a) The applicant submits a survey no older than one year prior to the date of application delineating existing impervious cover. A percolation test may be required to validate impervious cover greater than 40% existing on site currently; or
(b) The City approves a transfer of impervious cover pursuant to Section 7.3.2.C.4. Sites that are eligible under this Subsection 7.3.2.C.3(i)(2) may transfer more than the equivalent of ten (10) percentage points of impervious cover provided that in no case the total impervious cover of the site exceeds sixty percent (60%).
4. Allowable Increases to Impervious Cover Limits
(i) The impervious cover limits of subsection 3(i) above of this section may be increased by the following amounts under the following conditions:
(1) Isolation of roof runoff and irrigation (for non-residential and multi-family uses). The maximum impervious cover limits may be increased up to five (5) percentage points if roof runoff is isolated, and used for irrigation, wet pond make-up water, or gray water applications in accordance with subsection L below, subject to approval by the City Engineer.
(2) Transfer of development intensity: multifamily residential use and nonresidential use. An applicant who complies with a provision of this subsection qualifies for the development intensity transfer:
(a) For each one (1) acre of land that an applicant leaves undeveloped and undisturbed in an area zoned by the City for nonresidential use and does not include in impervious calculations elsewhere, the applicant may transfer up to one (1) acre of impervious cover. For each one (1) acre of land that an applicant leaves undeveloped and undisturbed in an area zoned by the City for residential use and does not include in impervious calculations elsewhere, the applicant may transfer up to one (1) acre of impervious cover. For each one (1) acre of land that an applicant leaves undeveloped and undisturbed in the ETJ of the City and does not include in its impervious calculations elsewhere, the applicant may transfer up to one (1) acre of impervious cover.

(b) The maximum impervious cover limit may be increased by no more than ten (10) percentage points for transfer of development intensity, except as permitted in Section 7.3.2C.3(i)(2)(b) .

(ii) An applicant who qualifies for a development density transfer must comply with the following requirements to affect the transfer:

(1) The transferring tract and the receiving tract must be located within the City limits or the ETJ of the City;

(2) If the transferring tract includes a water quality buffer zone or critical environmental feature, these features/zones must be deducted from the tract's transferrable area in accordance with the Net Site Area definition;

(3) The receiving tract must comply with or exceed the water quality control standards of this section 7.3;

(4) The receiving tract may have or be granted any variances, deviations, or waivers related to water quality.

(5) If the receiving tract is zoned R-1, R-2, or R-3, the transfer must be approved by City Council.

(6) The transferring and the receiving tracts must be platted either prior to or concurrently with the transfer;

~~(5)~~(7) A restrictive covenant that describes the development intensity transfer, and runs with the transferring and receiving tracts, ~~and is approved by the City Council,~~ must be filed in the deed records of the County; and

~~(6)~~(8) If any tract must be platted at the time of transfer to satisfy ~~(4)~~(6) above, the corresponding plat(s) must include reference to the restrictive covenant memorializing ~~the City Council's approval of~~ the development intensity transfer required in ~~(5)~~(7) above.

(9) A Transfer of Development Intensity cannot be approved for a transferring or receiving tract until the property owner provides evidence demonstrating payment of indebtedness (see Subsection 1.4.2.D).

(iii) Fees, forms, and procedures.

(1) The City's adopted Fee Schedule may establish fees relating to the Transfer of Development Intensity review and approval process.

(2) The City is hereby authorized to prepare application forms and restrictive covenant templates that include requirements for information, checklists, exhibits, contact information for the property owners, applicants, and technical consultants, and any other information deemed necessary by the City to review the application for compliance with City codes. These application forms and restrictive covenant templates may be revised or changed at any time without notice consistent with the UDC.

(3) The Planning Director and City Engineer shall review the application for a Development Density Transfer for compliance with the requirements listed in this section. The Planning Director or City Engineer will inform the applicant of any deficiencies and provide instructions for the resubmittal of a corrected application.

(a) If all requirements are met, and the receiving tract is not zoned R-1, R-2, or R-3 the application will be forwarded to the City Manager. The City Manager may approve or deny the Development Density Transfer or may defer the Development Density Transfer to City Council for approval or denial.

(b) If all requirements are met, and the receiving tract is zoned R-1, R-2, or R-3 the application will be forwarded to the City Council for approval or denial.

(iv) Effect of approval.
Approval of a Development Density Transfer is not a guarantee that a rezoning, variance or waiver request, or a development permit of any type will be approved for the receiving property.
5. Water Quality Buffer Zones (WQBZ) and Critical Environmental Feature (CEF) Buffer Zones.
(i) Water Quality Buffer Zones (WQBZ)
A water quality buffer zone is established along each waterway as follows:
(1) Upland waterways. The WQBZ shall extend a minimum of eighty-five feet (85') from the outer limit of the peak two-year flood level paralleling each side of the waterway. The WQBZ shall parallel all reaches of each waterway with at least thirty (30) acres of contributing drainage area.
(2) Little Barton Creek and Barton Creek. The WQBZ shall extend a minimum of three hundred feet (300') from the outer limit of the peak two-year flood level, paralleling each side of the waterway.
(3) Calculation of peak flood level. The two-year peak flood level shall be calculated in accordance with the Engineering Technical Manual ~~TCSS manual~~.
(ii) Critical environmental features (CEF). The CEF Buffer Zone shall extend a minimum of one hundred fifty feet (150') around the outside periphery of critical environmental features. The buffer zone for a CEF can be reduced to fifty (50') with administrative approval by City staff which may incorporate conditions at the discretion of the City Engineer.
(iii) Overlapping water quality buffer zones. If two (2) or more WQBZs overlap, then the widest zone shall be established.
(iv) Activity in Water Quality Buffer Zones (WQBZ) and Critical Environmental Feature Buffer Zone
(1) Development Features
All development activities, including temporary construction activities and landscaping activities, shall be restricted from the WQBZ and CEF buffer zones, except the following development activities and improvements, which may be allowed if approved by the City Engineer:
(a) Roadway and driveway crossings;
(b) Paths in accordance with the adopted Bee Cave Connectivity Plan;
(c) Maintenance and restoration of natural vegetation;
(d) Removal of trash, debris, and pollutants;
(e) Utilities, as subject to the restrictions of subsection (2), below
(f) Fences that do not obstruct flood flows;
(g) Public and private parks and open space, with development in the parks and open space limited to hiking, jogging, or walking paths, and excluding stables and corrals for animals;
(h) Private drives to allow access to property not otherwise accessible.
(i) The back slope of earthen embankments related to permanent Water Quality BMPs; and
(j) Infiltration trenches.
(2) Utilities
(a) All utilities, other than wastewater, shall be located outside the WQBZ and CEF buffer zone, except for crossings.
(b) Wastewater lift stations shall be located outside the WQBZ and CEF buffer zone.
(c) On-site wastewater disposal systems shall be located outside the WQBZ and CEF buffer zone.

(d) Wastewater trunk lines and lateral lines shall be located outside the WQBZ and CEF buffer zone to the maximum extent practical except for necessary crossings. All wastewater lines located within the WQBZ and CEF buffer zones shall be approved by the City Engineer on a case-by-case basis.

(e) In no case shall any wastewater line be located less than one hundred feet (100') from the centerline of Little Barton Creek or Barton Creek or fifty feet (50') from the centerline of an upland waterway except for crossings, unless approved by the City Engineer, and unless the applicant has shown that installation outside of this zone is physically prohibitive or environmentally unsound.

(f) All wastewater trunk lines located in the WQBZ and CEF buffer zone shall meet design standards and construction specifications of testing to allow zero (0) leakage.

(3) All water quality control discharges and stormwater discharges onto a WQBZ or CEF buffer zone shall:

(a) Have diffused sheet flow;

(b) Have peak velocities of less than five (5) feet per second at the 2-year design storm.

* * *

7.3.3 ADMINISTRATION AND ENFORCEMENT

* * *

E. Functionality Inspections

1. In addition to the inspection and permitting process provided in subsection 7.3.3D, each owner of on-site water quality control facilities shall obtain from a qualified professional registered engineer a functionality inspection no less than once every five (5) years.

2. The first functionality test is due on or before the expiration of five (5) years from the date the facility was accepted by the City and every five (5) years thereafter.

3. Functionality inspections shall be conducted during or within 72 hours following a rain event which has produced or is producing a depth of precipitation of at least 0.5 inches over a 24-hour period, as measured by a local LCRA/NOAA rain gauge, or alternative rain gauge as approved by the City Engineer. The following, if present, must be inspected and evaluated at each water quality facility in accordance with the Design Manual, including but not limited to:

(i) Dams, berms, levees
(ii) Spillways
(iii) Inlets
(iv) Pipes, culverts, and appurtenances
(v) Outlets
(vi) Bank erosion
(vii) Sedimentation
(viii) Tree/vegetation management
(ix) Trash and debris removal
(x) Water quality impairments
(xi) Backup power
(xii) Reservoir drawdown capability
(xiii) Security issues
(xiv) Emergency spillway/service spillway
(xv) Service outlet structure
(xvi) Service inlet structure
(xvii) Downstream hazard conditions

(xviii) Seepage on downstream slope
(xix) Downstream embankment general condition
(xx) Upstream embankment
(xxi) Crest of embankment
(xxii) Irrigation area

4. The purpose of the functionality inspection shall be to determine if each water quality control facility is:

(i) Operating properly;
(ii) Pumps, electrical systems, and all appurtenances applicable to the BMP's are functional;
(iii) Structurally integrity protected;
(iv) Accomplishing the purposes for which it was designed and installed; and
(v) Can be improved or modified in a manner that is likely to improve its functionality or efficiency.

5. The engineer conducting the functionality inspection shall prepare and file with the City and the owner a written report that includes the engineer's evaluation of whether the water quality facility is accomplishing the purposes described in subsection 4 above, including any analysis of optional actions, cost/benefit, any risk associated with the facility, and any other factor that, in the engineer's opinion, should be brought to the attention of the owner and the City.

6. The owner is responsible for the operation and maintenance of a water quality management facility and shall make records of all maintenance installation and repairs.

7. Records of the inspection, maintenance and repairs must be completed, signed by the responsible engineer, and retained for a minimum of five (5) years for review upon City request.

8. The owner of the water quality facility shall be responsible for all costs associated with procuring the functionality inspection and shall provide a written copy of the engineer's inspection report not later than thirty (30) days after the sooner of the fifth (5th) anniversary of the date the facility was first installed and permitted or the last functionality inspection.

9. Failure to obtain a functionality inspection may result in revocation of the owner's permit and such other enforcement or penalties of this UDC, and other local ordinances and state and federal laws and regulations as the City may determine to be appropriate.

10. In the event that the inspection reveals that the water quality facility is not accomplishing the purposes for which it was constructed, or that new or additional BMPs, WQCs, or facilities are necessary for proper functioning of the facility or the accomplishment of its intended purposes, the owner shall be required to implement such BMPs or WQCs or to construct such facilities and, to the extent necessary, amend the applicable SWPPP, NPDES permit, water quality control maintenance plan, NPS pollution control permit, or restrictive covenant as a condition to renewal of the owner or operator's annual operating permit.

11. Deficiencies must be addressed within ninety (90) days from the date identified unless additional time is approved by the City Engineer.

12. The person responsible for facility inspection must provide documentation to the City demonstrating that each deficiency identified in the inspection report has been corrected.

* * *

<u>9.1 For the purposes of this Unified Development Code, and all articles thereof, the following definitions apply.</u>

9.1.1 TERMS BEGINNING WITH "A"

Accessory Dwelling Unit

An independent dwelling unit on a lot zoned for Single-Family Residential operated concurrently with a primary dwelling unit (see Section 3.4.8B.1).

Accessory Building

A Building that is subordinate to the Principal Building and sits on the same lot or property or that contains an Accessory Use.

Accessory Use

A use that is subordinate to or incidental to a Principal Use on the same property or lot and does not physically occupy more than twenty-five percent (25%) of a building or lot.

Adequate Public Facilities

Facilities capable of supporting and servicing the physical area and designated intensity of a proposed Subdivision as determined by the facility provider, including the City, PUA, WCID-17, or other utility, and based upon specific levels of service identified in the UDC and the City's adopted Technical Manual.

Agricultural Uses

Uses that involve the growing of crops or tending of domesticated animals associated with farm or agricultural uses, including associated structures, stables, pastures, and runs.

Alcoholic Beverage Sales, Off-Premises Consumption

The sale of any beverage containing more than one-half of one percent of alcohol by volume, which is capable of use for beverage purposes, either alone or when diluted; and includes, but is not limited to, liquor, wine, malt liquor, mixed beverage or beer, to be consumed off site, such as a grocery store or liquor store.

Alcoholic Beverage Sales, On-Premises Consumption

The sale of any beverage containing more than one-half of one percent of alcohol by volume, which is capable of use for beverage purposes, either alone or when diluted; and includes, but is not limited to, liquor, wine, malt liquor, mixed beverage or beer, to be consumed on site, such as a restaurant or night club.

Alley

A public right-of-way or private easement used for utility installation and/or secondary access to individual properties which have their primary access from an adjacent public or private street.

Alteration

Any revision or change of any extent or type whatsoever, other than the addition of signatures, dates, seals, or similar fill-ins within existing certificates or acknowledgements.

Ambulance Service

A facility for the dispatch, storage, and maintenance of emergency medical care vehicles.

Amending Plat

See Plat, Amending.

Amenity Center

A building or facility owned or operated by a corporation, association, person, or persons for a place of meeting, social, cultural, educational, or recreational purposes, to which membership or residency requirements is required for participation.

Animal Grooming

A facility where animals are groomed and bathed with no long-term sheltering or kenneling and with no outdoor facilities

Animal-Related Uses

Uses involving the care or treatment of animals, including Animal Grooming, Animal Veterinary Office or Shelter (with Outside Yard/Kennels), Animal Veterinary Office or Shelter (without Outside Yard/Kennels); Day Care, Pet; Pet Adoption Center; or Pet Store.

Animal Veterinary Office or Shelter (with Outside Yard/Kennels)

- Facility with a fenced yard or outside kennels in which dogs, cats, or other domestic animals are accepted for medical treatment, grooming, bathing, or other treatment for which payment is received.
- Facility with a fenced yard or outside kennels in which three (3) or more dogs, cats, or other domestic animals are held for adoption or accepted for boarding for which payment is received. Sometimes referred to as "doggy day care" or a "pet hotel".

Animal Veterinary Office or Shelter (without Outside Yard/Kennels)

- Facility entirely indoors in which dogs, cats, or other domestic animals are accepted for medical treatment, grooming, bathing, or other treatment for which payment is received.
- Facility entirely indoors in which three (3) or more dogs, cats, or other domestic animals are held for adoption or accepted for boarding for which payment is received. Sometimes referred to as "doggy day care" or a "pet hotel".

Amusements (Indoors)

An amusement enterprise wholly enclosed in a building that does not generate noise perceptible at the bounding property line and including, but not limited to, a facility that includes one or more of the following: climbing walls, video game arcade, shooting range, batting cages, indoor skydiving, bowling alley, or billiard parlor.

Amusement (Outdoors)

An amusement enterprise offering entertainment or games of skill wherein any portion of the activity takes place in the open and includes one or more of the following: paintball, go-cart racing, miniature golf course, or similar outdoor use.

Appliance Sales or Repair

The indoor sale or routine repair of household appliances such as dishwashers, ovens, ranges, clothes washing machines, clothes dryers, and other similar devices.

Applicant

Anyone authorized to submit an application for Development, including, but not limited to, a property owner or the owner's designee or a Subdivider or Developer or their agent, attorney, architect, engineer, surveyor, or contractor.

Application

Notice to the City provided on an acceptable form from the City that begins the Development or Subdivision process. For the purposes of TLGC Chapter 242, the date an applicant submits an application for review of administrative completeness determines the regulations the City will use to review the application.

Architect

An individual who is either licensed to practice architecture in the U.S. and/or associate architect as defined by the American Institute of Architecture.

Architectural Lighting

Lighting designed to reveal architectural beauty, shape or form with any other purpose for the lighting being incidental.

Art Gallery or Museum

An institution for the collection, display, or distribution of objects of art or artifacts of cultural, scientific, or historic significance, that is sponsored by a public or quasi-public or non-profit agency, and is open to the general public or by invitation or appointment.

Artisan Studio

A work space ~~not more than 1,500 square feet in size~~ used by one or more painters, sculptors, graphic artists, illustrators, photographers, jewelers, or other artists ~~using a medium that is not a~~ including Ceramic, Pottery, or Glass Studios, that is not food production, is not the manufacture of large quantities of a standardized article, does not endanger the health, safety, and welfare of the artist or the general public, and that does not cause a nuisance to abutting property owners.

Assisted Living Home

A licensed residential facility that provides food & shelter, personal guidance, care, habilitation services, & supervision for 7 or more persons with a disability as defined by Chapter 123 of the Texas Human Resources Code, the Americans with Disabilities Act or the Fair Housing Act.

Astronomic Time Switch

An automatic lighting control device that switches outdoor lighting relative to time of solar day with time of year correction.

Auto Driving School

A school that instructs students to operate an automobile or light truck, including classroom instruction and driving on a public street.

Auto Parts Sales

Retail sales of new auto parts, not including tires.

Auto/Vehicle Repair

A shop that maintains, repairs, or rebuilds engines, transmissions, differentials, suspension components, electrical or computer components, EV or hybrid batteries or components, brakes, or other major components, or performs repair or maintenance of vehicle bodies, with all repair conducted inside an enclosed building and not including salvaging of parts or long-term holding or storage of inoperable or disassembled vehicles. May include Quick Lube.

Average Grade

The average of the highest and lowest existing ground elevation points around the structure's foundation.

* * *

9.1.3 TERMS BEGINNING WITH "C"

Cafeteria

A restaurant where prepared food is served to customer from a serving area adjacent to the kitchen which allows the customer to see the food before it is served, and where food is typically purchased before it is consumed and eaten on-premises.

Caliper

The diameter of a tree as measured at a point that is four and one-half feet (4.5') above ground level.

Car Service

A for-hire service that provides private vehicles under 16,000 pounds GVWR to individuals or companies on a prearranged basis. Also includes secondary storage of vehicles used for providing the car service but not servicing or repair of any vehicles.

Car Wash

A facility, structure, or group of structures, which may include tunnels, awnings, and canopies, for washing automobiles and light trucks (under 16,000 pounds GVWR) in accordance with State regulations, 6.7 of this UDC, and the City's Technical Manual, and which may include secondary facilities or services for drying, vacuuming, and detailing automobiles and light trucks. Does not include self-service or coin operated facilities where vehicle owners use equipment provided by the facility to wash their vehicle.

Carpentry Shop

A shop involving woodworking and assembly of wood products.

Caterer or Catering Service

A business that provides prepared foods, meals, and refreshments for public or private events.

Cemetery or Mausoleum

Property used for interring the dead.

Ceramic, Pottery, or Glass Studio

A studio that is not a manufacturer that produces ceramic, pottery, or glass goods and that does not create a nuisance to abutting properties or the general public by creating dust, odor, or fumes. May operate as a "make your own" facility open to the public where the public makes their own goods or paints, decorates, or otherwise manipulates finished goods.

Certificate of Completeness

Certification by the Responsible Official that an application for Plat, Plan, Permit, or other application subject to the requirements of TLGC Chapter 245 meets the requirements for that application to be considered complete under this UDC.

Certificate of Convenience and Necessity

A Certificate of Convenience and Necessity (CCN) gives a retail public utility the exclusive right to provide retail water and sewer utility service to an identified geographic area or the "certificated service area." Chapter 13 of the Texas Water Code requires a CCN holder to provide continuous and adequate service to the area within the boundaries of its certificated service area. Neither the PUD nor the City shall provide retail water or sewer service within an area being lawfully served by another utility unless that district or municipality has a CCN for the area.

Certificate of Occupancy

Certificate issued by the building official for the use of a building, structure, or land, when it is determined by the building official that the building, structure, or proposed land use is listed in the official Use Charts (see Section 3.3.5) and complies with the provisions of all applicable codes of the City of Bee Cave.

Check Cashing

A business that cashes checks for a nominal fee related to the amount on the face of the check and does not provide credit access, payment advances, or loans.

City

The City of Bee Cave, Texas.

City Code

The Code of Ordinances of the City, including but not limited to the City Charter. This term does not refer to the Unified Development Code (UDC)

City Council

The elected governing body of the City of Bee Cave, Texas. Also referred to as "Council".

City Engineer

The individual holding the office of City Engineer of the City of Bee Cave, Texas, who shall actively maintain licensure in good standing as a professional engineer under the laws of the State of Texas. Those duties assigned by this UDC to the City Engineer which relate to the development review process may be reassigned by the City Manager, in whole or in part, to one or more licensed professional engineers, as needed to adjust workflow or to provide specific expertise.

City Limits

The boundary of the incorporated limits of the City.

City Manager

- The chief executive officer and head of the administrative branch of the City government.
- The acting City Manager; or
- Any employee or administrative officer of the City to whom such chief executive officer or acting City Manager shall have delegated certain authority, but only to the extent of such delegation.

Clinic (Inpatient)

A facility that performs advanced medical procedures or those requiring an overnight stay or 24-hour monitoring that does not fall under the definition of Hospital.

Clinic (Outpatient)

A facility that treats patients with non-emergency or non-life-threatening conditions such as a cold or fever. May include limited imaging such as x-ray. Patients are typically seen and treated by a general physician or nurse practitioner who may prescribe medication or treatment. Facilities such as "Urgent Care" clinics fall under this definition (for facilities that treat emergency situations, including facilities capable of receiving patients transported by ambulance, see Emergency Care Facility).

Clinic (Specialty Outpatient)

A clinic that performs medical procedures not requiring an overnight stay or 24-hour monitoring, including dentists, orthopedists, ophthalmologists, plastic surgeons, ENTs, dialysis, and elective and non-elective inpatient surgeries.

College or University

An academic institution of higher learning that is recognized by the State or accredited or recognized by an accrediting institution and offers a program or series of programs of academic study culminating in the granting of a degree or credential.

~~Community Center~~

~~A building dedicated to social or recreational activities that serves the City or a Subdivision and is owned and operated by the City, a Property Owners' Association, or a non-profit organization dedicated to promoting the health, safety, and general welfare of the City.~~

Community Center

A multipurpose meeting and recreational facility typically consisting of one or more meeting or multipurpose rooms, kitchens, and/or outdoor barbecue facilities that are available for use by various groups for such activities as meetings, parties, receptions, dances, etc. The facility is owned and operated by the City, or a non-profit organization dedicated to promoting the health, safety, and general welfare of the City.

~~Community Center~~

~~A multipurpose meeting and recreational facility typically consisting of one or more meeting or multipurpose rooms, kitchens, and/or outdoor barbecue facilities that are available for use by various groups for such activities as meetings, parties, receptions, dances, etc.~~

Community Center, Residential
A multipurpose meeting and recreational facility, with features including, but not limited to fitness centers, meeting rooms, restrooms, swimming pools, sport courts, and reserved for the use of residents of a particular neighborhood or development. Such facilities are typically owned by a property owners association or similar entity.
Community Home
A licensed residential facility that provides food & shelter, personal guidance, care, habilitation services, and supervision for no more than 6 persons with a disability as defined by Chapter 123 of the Texas Human Resources Code, the Americans with Disabilities Act or the Fair Housing Act.
Comprehensive Plan
The City's Comprehensive Plan adopted in accordance with Texas Local Government Code, Chapter 213, and all the associated studies, recommendations, and maps within it, including the Future Land Use Map.
Computer Sales and Repair
A business that sells, buys, upgrades, or repairs computers and similar electronic personal devices such as laptops, tablets, and associated parts and peripheral components, with all work and storage being indoors.
Concept Plan
A graphic representation of the general layout and development scheme currently contemplated for the property subject to request to rezone to a higher-intensity zoning district. The Planning Director is responsible for maintaining and making available a checklist of items to be included in a Concept Plan, this checklist may be revised or changed at any time without notice consistent with the UDC.
Conference Center
A facility with predominantly indoor rentable or leasable space for conferences, events, conventions, meetings, and other similar gatherings that are booked in advance, along with supporting facilities such as lobbies, mezzanines, kitchens for food preparation, catering, or vending, loading docks, and storage or staging areas. These facilities are of a scale to be able to host one or more separate events at the same time.
Consignment Shop
A business that is not a Pawn Shop or junk shop that offers secondhand merchandise such as clothes, jewelry, or furniture for sale on behalf of the owner of the merchandise and takes a fee for selling the merchandise.
Construction Limit Line
The line marking the boundary of disturbance from construction.
Construction Release
Certification by the City Engineer that Construction Plans and all planned activities associated with construction of a Subdivision and Public Facilities meet all requirements of this UDC.
Contractor
Any person, other than the owner, engaging in land development activities on land located within the City Jurisdiction.
Contractor's Office
A facility for administrative functions and storage of equipment and materials used in the on-site physical improvement or repair of properties and structures, including construction, plumbing, heating and cooling, electrical, and similar professions.

Convenience Store
A small retail store that is less than 6,500 square feet that offers goods such as packaged foods, beverages, tchotchkes, and limited personal and household items, but that offers little to no fresh foods, hygiene, or healthcare goods. May offer limited food preparation on site as a secondary use or be connected to a Restaurant.
Country Club
A chartered membership club catering primarily to its membership, providing one or more of the following recreational and social activities such as: golf, swimming, riding and tennis; with amenities such as a club house, locker room, or pro shop.
Cross Access Easement
An easement shown on a Plat or other recorded instrument that assigns benefit and right of entry to the public at large or to an abutting property owner and allows passage to the beneficiary over and across the property on which the easement is located.

* * *

II.
CUMULATIVE CLAUSE

That this Ordinance shall be cumulative of all provisions of the City of Bee Cave, except where the provisions of this Ordinance are in direct conflict with the provisions of such other ordinance, in which event the conflicting provisions of such other ordinance are hereby repealed, while leaving the remainder of such other ordinance intact. To the extent of any conflict, this Ordinance is controlling.

III.
SEVERABILITY

That it is hereby declared to be the intention of the City Council of the City of Bee Cave. that the phrases, clauses, sentences, paragraphs, and sections of this Ordinance are severable, and if any phrase, clause, sentence, paragraph, or section of this Ordinance should be declared unconstitutional or invalid by final judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs, or sections of the Ordinances, since the same would have been enacted by the City Council without incorporation in this ordinance of any such unconstitutional or invalid phrases, sentences, paragraphs, or sections.

IV.
PROPER NOTICE AND MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was adopted was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government

V.
EFFECTIVE DATE

This ordinance shall be effective upon passage and publication as required by state and local law.

DULY PASSED AND APPROVED, on the _____ day of _____, 2023 at a regular meeting of the City Council of the City of Bee Cave, Texas, which was held in compliance with the Open Meetings Act, Gov't. Code §551.001, et. Seq. at which meeting a quorum was present and voting.

CITY OF BEE CAVE:

_____
Kara King, Mayor

ATTEST:

_____
Kaylynn Holloway, City Secretary

[SEAL]
APPROVED AS TO FORM:

_____
City Attorney
Ryan Henry, Law Offices of Ryan Henry, PLLC

Topic	UDC Sec.	Revisions/Action	Notes / Reasoning for Amendment
Procedure for Amending Technical Manuals	1.1.16	§ 1.1.16 Technical manuals. A. Unless differentiated, "UDC" also refers to any Technical Manual adopted by the City but maintained separately from the UDC. Unless specifically exempted, a Technical Manual adopted by the City applies to all development in the City Limits and Extraterritorial Jurisdiction (ETJ). These are policy documents adopted by reference and may be amended at any time by the City. B. Other criteria manuals which are included by reference in the UDC under the term "Technical Manual" are: Engineering Criteria Manual, Transportation Criteria Manual, Drainage Criteria Manual, Technical Construction Standards, & Specifications (TCSS) [and] Technical Manual Amendments. Where the UDC refers to manuals adopted or propagated by a state or federal agency, it will use the full title of the manual. C. The Planning Director, City Engineer, Fire Marshal and Building Official are responsible for interpreting, developing, and processing updates to departmental technical manuals as necessary to carry out the intent of the UDC. ~~A public hearing will be conducted before City Council to allow public input before updates are approved by the Council.~~	Resolve conflict between parts A and C clarifying that Technical Manuals may be amended by staff and do not require a CC action or a public hearing.

Topic	UDC Sec.	Revisions/Action	Notes / Reasoning for Amendment
Notice Requirements	1.2.5	§ 1.2.5 Summary of approval authorities and public notice. Table 1.2-1: Summary of Approval Authorities, Public Notice provides a summary of the review and approval procedures discussed in the UDC. See Section 1.4.3 for procedures related to required public notices. § 1.4.3 General notification requirements. In accordance with the requirements shown in Table 12-1 *Summary of approval authorities and public notice* , public hearing notice shall be made as follows: A. Mailed property owner notice. 1. When mailed property owner notice is required, written notice of public hearings shall be sent to all owners of real property within two hundred (200) feet of the subject property of the Application. 2. Such notice shall be given not fewer than eleven (11) calendar days before the date of the public hearing by posting such notice, properly addressed and postage paid, to each taxpayer as the ownership appears on the last approved City tax roll or County tax roll for the area affected. ~~(i)~~ ~~The City Council shall conduct a public hearing before adopting any proposed rezoning or text amendment.~~ B. When newspaper published notice is required, notice of the time and place of the public hearing for the Application ~~based on Table 1.2-1: Summary of Approval Authorities, Public Notice, and Appeals~~ must be published in a newspaper of	1.2.5 needs to cross reference to 1.4.3 so there's direction on how mail and newspaper notice is made; 1.4.3 needs to be amended to incorporate ZBOA notices ZV notice to all owners 10 days prior, newspaper 10 days prior to ZBOA mtg RZ notice to owners 10 days prior to PZ mtg; notice in newspaper 16 days prior to CC mtg

Topic	UDC Sec.	Revisions/Action	Notes / Reasoning for Amendment
Temporary Banners for Residential Districts (i.e. neighborhood garage sale signs)	4.2.2.C.5	**New section 4.2.2.C.5** 5. Temporary ground banners in residential districts. (i) In a single-family residential district (R-1, R-2, R-3) or property developed for single-family residential use, one (1) temporary ground banner per road frontage for a period not to exceed fifteen (15) days once per six (6) month period in compliance with this Subsection 4.2.2.C.5. Temporary ground banners are prohibited in all other circumstances. (ii) A temporary ground banner shall not be used as a substitute for a permanent sign. (iii) All temporary ground banners must not have a solid, durable backing, but mut resist folding or twisting and be anchored or fastened to the ground. (iv) The property owner must remove, replace, or repair any torn or frayed banner, or re-set a temporary ground banner that twists or deflects more than three (3) degrees off center. (v) Temporary ground banners are prohibited in the public Right-of-Way or on private property without the consent of the property owner. (vi) Temporary ground banners must be located outside of the sight visibility zone (see subsection 6.4). (vii) The size of a temporary ground banner shall not exceed twenty-four (24) square feet.	At the request of many HOAs that use banners to advertise yard sales. However the city want to retain the prohibition in commercial areas/uses.

Topic	UDC Sec.	Revisions/Action	Notes / Reasoning for Amendment
Application of landscaping standards	5.1.1	§ 5.1.1 Landscaping standards. A. Landscaping requirements applicable to all development within city limits. 1. Landscaping plan required. Construction of a Multi-Family, Mixed-Use, or Non-Residential development may not commence until a Landscape Plan is approved as a component of the required Site Plan (see subsection 3.5.4) that demonstrates conformance with this subsection 5.1.1 and contains any technical information required by the Planning Director.	To clarify where these standards apply. This can be inferred by references to zoning districts in subsequent sections of the article, but stating it explicitly here matches formatting in other sections
Tree Preservation Requirements	5.1.1.A.3	3. Credit for preservation of existing trees and trees planted to fulfill mitigation requirements. All development must preserve or replace at least sixty percent (60%) of the caliper inches of trees present on site prior development, according to an approved Tree Survey~~,~~. T~~t~~he caliper inches of ~~all Celtis Occidentalis (Hackberry), Juniperus Virginiana (Eastern Red Cedar), Melia Azedarach (Chinaberry), and Juniperus Ashei (Common Cedar) twelve (12) caliper inches and larger The caliper inches of~~ tree species listed in Table 6.1-1 Exempted Trees when measuring twelve (12) inches caliper or larger and all other trees four (4) inches caliper or larger shall be counted towards the required sixty percent (60%).	5.1.1A.3 is meant to, but does not include all exempted trees as listed in 6.1.4. 5.1.1A.3 should reference the Table in 6.1.4.

Topic	UDC Sec.	Revisions/Action	Notes / Reasoning for Amendment
Parking Lot Shading	5.1.1B.3(i)2	(2) ~~The shaded area is calculated based on the trees listed in the Criteria Manual~~ Shading shall be required for parking lots subject to this section. Canopy trees shall be provided to shade a minimum of twenty-five (25) percent of the parking lot or vehicular use area. The shade area provided by each tree shall be based on the area that the tree's mature canopy will encompass, as indicated in the Tree Canopy List in the Environmental Criteria Manual. Tree types not listed may be considered but shall be accompanied by a calculation of mature canopy area prepared by a registered landscape architect based on standard landscaping references. The shade area provided shall be calculated at 100% for preserved trees and 75% for newly planted trees.	Standard from Old Code inadvertently left out of UDC, table moved to ECM

Topic	UDC Sec.	Revisions/Action	Notes / Reasoning for Amendment
Parking Lot Screening	5.1.1B.3	**add the following section** (iii) Parking lot screening. All parking areas adjacent to roadways, all off-street loading areas and off-street parking areas containing three or more parking spaces shall have effective buffering from the street view and from adjacent properties. Landscaped buffers or landscaped berms at least three feet (3') in height shall be appropriate for screening these areas. Vegetation selected for the three-foot (3') height screen shall be of evergreen plant species, and they shall be spaced and massed so as to provide a solid screen within two (2) years, or two growing seasons, from the planting date. Plantings should include a variety of plant species with low maintenance requirements, selected from the plant materials listed in the Preferred Tree List in ECM. A combination of shrub and tree plantings is preferred; but in any case, a minimum of one (1) tree of a minimum four-inch (4") and a minimum eight feet (8') in height, and ten (10) shrubs of a minimum five (5) gallon size, are required for each thirty feet (30'). Ground cover should be planted on landscaped berms with appropriate plant container size and spacing that will provide full coverage within one (1) year of installation in order to prevent erosion. Berms shall be designed to transition to existing grades, and shall not exceed a slope of 3:1. A slope greater than this is generally difficult to mow and maintain.	Standard from Old Code inadvertently left out of UDC

Topic	UDC Sec.	Revisions/Action	Notes / Reasoning for Amendment
Building Perimeter Landscaping	5.1.1B4(i)	(i) Site Landscaping shall be provided ~~at the primary building entrance(s), along building perimeter except for areas directly abutting a door, loading bays, or garage bays~~ along the entire building perimeter except for areas directly abutting doors, loading bays, or garage bays. The width of the strip shall be measured according to the following schedule: [keep table as is]. (ii) - shifts a level to (1), (ii)(1)-(3) become (1)a., b, c (iii) - shifts a level to (2), (iii)(1)-(4), become (2)a,b,c,d etc. New (3) In the case that a side of a building is not viewable from a roadway, access easement, or adjacent building/use, the Director may waive the requirements of this section.	Need to clarify that perimeter landscaping is required along all building sides and add a way for Director to waive the requirement in the case a particular building side is not viewable from an adjacent ROW or property.
Detention and Retention Pond Screening	5.1.1B.4(ii)	**ADD new section 5.1.1B4 (ii)** (ii) Retention and Detention Ponds. (1) All retention and detention ponds shall have effective buffering from the street view and from adjacent properties. Screening shall be provided in the same manner as for parking areas, see Section 5.1.1B.3(iii). (2) Stormwater detention areas should be designed as freeform shapes to blend with the natural landscape and use natural rocks and boulders with spillways of natural rock to create visual appeal. (3) Detention ponds shall not be allowed within a required buffer zone or setback unless a waiver is granted at Site Plan.	Standard from Old Code inadvertently left out of UDC

Topic	UDC Sec.	Revisions/Action	Notes / Reasoning for Amendment
Retaining Walls	5.1.1(D)(4)	4. A Retaining Wall shall be maintained by the owner of the property where the Retaining Wall is located. If a Retaining Wall crosses one or more properties, it shall be maintained by a Property Owners' Association and placed within a retaining wall ~~maintenance~~ easement (See Section 2.5.13(I)) or common lot with sufficient width to provide access to the Retaining Wall. (i) A retaining wall ~~maintenance~~ easement is required for any retaining wall within five feet (5') of a property line. (ii) Retaining walls shall not straddle property lines unless approved by the City Engineer. (iii) The City will not assume maintenance responsibility for a retaining wall outside of City property or right-of-way.	Change maintenance easement to retaining wall easement since a retaining wall easement is defined in Section 2 of UDC.
Fences	5.1.2	See this document for changes.	Clarify that fences require permits and generally clean up confusing fence standards
Fences	5.1.2.A.4	**Add NEW Section** Temporary Fencing. Temporary construction site/security fencing may be permitted by the Building Official in accordance with Section 108 of the IBC. Signage on or attached to fencing is prohibited, see UDC 4.2.1.D.	Clarification of construction fencing standards and prohibition on signage attached to fences.
Waivers to Landscaping & Screening Standards	New Section 5.1.3	**Add NEW section 5.1.3** Same process/requirements as 7.3.3.I waivers for NPS regulations	Provides a process and criteria for City Council to grant waivers to requirements in Art. 5 (Landscaping) at Site Plan. Mirrors the process and criteria outlined in Art. 7 for NPS waivers. Site Plans with Waiver requests go to P&Z for recommendation and CC for approval.

Topic	UDC Sec.	Revisions/Action	Notes / Reasoning for Amendment
Specimen & Cluster Trees vs. Exempt Trees	6.1.5 definitions of Specimen Tree and Tree Cluster definitions	Tree, Specimen Any tree ~~of a species other than those listed in Section 6.1.4~~ that measures twelve (12) inches or greater, but less than twenty-four (24) inches in caliper at a point measuring four and one-half (4-1/2) feet above ground level. Tree Cluster Three or more trees ~~of a species other than those listed in Section 6.1.4~~ where any portion of the trunk or trunks of the trees are located less than ten (10) feet apart from one another and where each tree has a trunk measuring at least four (4) inches caliper at a point measuring four and one-half (4-1/2) feet above ground level.	As written there's a conflict between exempt trees listed in 6.1.4 (trash trees less than 12") and these definitions. There are a lot of cedars in the 75' highway buffer and the intent is to keep that area in a "natural" state, so it's appropriate that a large or multi-trunked cedar would count (not be exempt under 6.1.4) once it measures 12" or greater. This is consistent with the allowance in 5.1.1B1(ii)(4) for cedars & other exempted trees 12" and greater in that area to be used to fulfill the planting requirements on a 1:1 basis.

Topic	UDC Sec.	Revisions/Action	Notes / Reasoning for Amendment
Tree Mitigation	6.1.9	§ 6.1.9 Tree mitigation. A. Any Trees that are removed or damaged as a result of the approval of a Tree Removal Permit issued pursuant to Section 6.1.6.E must be mitigated on the same property or development area, unless the City Manager approves a fee in lieu. 1. The fee in lieu will be paid directly to the City to fund placement of trees at public parks or other approved public facilities throughout the City. B. Any Trees that are removed or damaged as a result of the approval of a Tree Removal Permit issued pursuant to Section 6.1.6.F must be mitigated pursuant to the ratios provided in Section 5.1.1 ~~Table 32,~~ C. Fee In Lieu of Tree Mitigation. 1. The City Manager may approve payment of a fee in lieu of replacement trees. 2. The fee shall be per the adopted fee schedule. 3. The fee in lieu option is available for only the following cases: (i) If the property or development area is heavily treed and the existing tree canopy would prohibit the growth of the replacement trees, or (ii) If the required replacement trees were to be installed, then the replacement trees would be planted under the canopy of an existing tree. D. Limitations of species and placement. Replacement Trees must be shown and reviewed on a Landscape Plan consistent with the requirements of Section 5.1.1 and provide placement	Clean up of typos and mis formatting

Topic	UDC Sec.	Revisions/Action	Notes / Reasoning for Amendment
Lighting in public ROW	6.2.1.C.2(i)	2. Exemptions. (i) Lighting within ~~public or private right-of-way or easement~~ a state-owned right-of-way for the principal purpose of illuminating streets or roads. No exemption shall apply to any lighting within the public or private right-of-way or easement when the purpose of the luminaire is to illuminate areas outside the public or private right-of-way or easement, unless otherwise stated in separate regulation.	As written, 6.2.1.C.2.(i) exempts all street lighting. As a Dark Sky Community the city has no public street lights and does not intend to install street lights in the future. However, the City cannot restrict lighting on TxDOT ROW, so the exemption should be limited to State-owned lights in the right of way. This specific amendment was requested by IDA as part of the city's Dark Sky Community certification.
Exempt Lighting - Replacement	6.2.1.C.2(ii)	(ii) Replacement of lighting where the lighting ~~Lighting~~ that is removed or destroyed is less than 30% of the total value of all lighting on a property	Additional edit in revision – edited for clarity.
Performance Standards	New Section 6.8	**Performance Standards.** In all zoning districts, any use indicated in the permitted use list shall conform in operation, location, and construction to the performance standards as administered by County, State and Federal agencies. All uses, including those which may be allowed by PDD or SUP, shall conform in operation, location, and construction to appropriate performance standards for noise, smoke, and particulate matter, odorous matter, fire, or explosive hazard material, toxic and noxious matter, vibration, and glare. All Federal and State pollution, noise, and requirements for toxic waste disposal shall be observed.	Sections of Old Code not included in the UDC because it was anticipated they would be integrated into Ch. 14 Offenses and Additional Provisions, specifically Art. 14.02 Nuisances. It was decided the standards are better located within the UDC.
Impervious Cover Transfers	7.3.2C.4(ii)	See this document for changes.	Provide standards for granting an impervious cover transfer, allow administrative transfers, and specify when Council approval is required. Also provides details of the process for requesting/obtaining approval of an IC transfer.

Topic	UDC Sec.	Revisions/Action	Notes / Reasoning for Amendment
Impervious Cover Transfers	7.3.2C.4(i)2(b)	(b) The maximum impervious cover limit may be increased by no more than ten (10) percentage points for transfer of development intensity, except as permitted in Section 7.3.2.C.3(i)(2)(b).	The **NO** is missing
WQBZ	7.3.2(5)(i)(3)	3. Calculation of peak flood level. The two-year peak flood level shall be calculated in accordance with the Engineering Technical Manual~~TCSS~~ manual.	Change TCSS to Engineering Technical Manual
Functionality Inspection	7.3.3(E)(3)	3. Functionality inspections shall be conducted during or within 72 hours following a rain event which has produced or is producing a depth of precipitation of at least 0.5 inches over a 24-hour period, as measured by a local LCRA/NOAA rain gauge, or alternative rain gauge as approved by the City Engineer. The following, if present, must be inspected and evaluated at each water quality facility in accordance with the Design Manual, including but not limited to:	Adding what type of rain event should precede a functionality inspection.
Definitions	Article 9	New Section 9.1 added as preamble to definitions.	A statement to clarify that definitions listed in Article 9 there are generally applicable throughout the UDC and that any definitions within specific Articles/Chapters/Sections are specific to that Article/Chapter/Section to account for any conflicts.

Topic	UDC Sec.	Revisions/Action	Notes / Reasoning for Amendment
Definition of Artisan Space	9.1.1 Terms beginning with "A."	Artisan Studio A work space ~~not more than 1,500 square feet in size~~ used by one or more painters, sculptors, graphic artists, illustrators, photographers, jewelers, or other artists ~~using a medium that is not a~~ including Ceramic, Pottery, or Glass Studio, that is not food production, is not the manufacture of large quantities of a standardized article, does not endanger the health, safety, and welfare of the artist or the general public, and that does not cause a nuisance to abutting property owners.	After reviewing the UDC definition of artisan studio / limitation on pottery, ceramics, glass blowing with LTFR staff is satisfied there aren't specific safety concerns that LTFR pre-occupancy review of a such a business wouldn't address. Additionally, the FNI staff that drafted the Code indicated the prohibition was something they intended to delete from the definition, but unfortunately didn't make the final edit prior to adoption. The size limitation was to differentiate a small-scale versus larger-scale operations that could be considered manufacturing. There's not a compelling reason to maintain the limitation if the amended definition includes a prohibition on manufacturing.
Definition of Community Center	9.1.3 Terms beginning with "C."	~~Community Center A building dedicated to social or recreational activities that serves the City or a Subdivision and is owned and operated by the City, a Property Owners' Association, or a non-profit organization dedicated to promoting the health, safety, and general welfare of the City.~~ *Community Center* A multipurpose meeting and recreational facility typically consisting of one or more meeting or multipurpose rooms, kitchens, and/or outdoor barbecue facilities that are available for use by various groups for such activities as meetings, parties, receptions, dances, etc. The facility is owned and operated by the City or a non-profit organization dedicated to promoting the health, safety, and general welfare of the City.	Resolve duplicate definitions by combining.

City Council Meeting
11/14/2023
Agenda Item Transmittal

Agenda Item:	**11.**
Agenda Title:	**Discuss and consider action on Ordinance No. 523 amending Appendix A (Fee Schedule) of the Bee Cave Code of Ordinances.**
Council Action:	
Department:	**Planning and Development**
Staff Contact:	**E. Megan Will, Director of Planning & Development**

1. INTRODUCTION/PURPOSE

The purpose of this agenda item is for the Council to discuss and consider action on amendments to the city's Fee Schedule for building and development fees.

2. DESCRIPTION/JUSTIFICATION

a) Background

The last major update of the City's Fee Schedule related to building permit fees was Ordinance 60 passed in 2010, however many of the building permit fees have remained the same since adoption of the the City's 1995 Fee Schedule. The fee schedule updates adopted in December 2022 were focused on establishing fees for a number of new planning and development application types created with the adoption of the Unified Development Code (UDC) in June 2022.

b) Issues and Analysis

Planning & Development staff reviewed the fee schedules for other municipalities to aid in updating building permit fees to rates consistent with what is being charged in the Austin metropolitan area, see attached comparison. However, it should be noted that like Bee Cave, a few cities in the region have not updated their fees for some time. P&D staff also considered the typical staff time required to preform the review and inspections associated with each permit type and established minimum fees to help cover these costs.

Staff is also recommending a few amendments to the planning and development fees to establish fees for application types not previously included in the Fee Schedule such as Right of Way Utility Installation, Preliminary Plat Amendments, and Specific Use Permits. Additionally, there are recommended updates for a couple of Traffic Impact Assessment (TIA) associated applications that are subject to third party review where staff has found that the previously established fee is not adequately covering the third party review costs.

3. FINANCIAL/BUDGET

Amount Requested	Fund/Account No.
Cert. Obligation	GO Funds
Other source	Grant title
Addtl tracking info	

4. TIMELINE CONSIDERATIONS

5. RECOMMENDATION

Staff recommends approval of Ordinance 523.

ATTACHMENTS:

Description	Type
Ord. 523 Fee Schedule	Ordinance
Ord. 523 Exhibit A - Clean Copy	Ordinance
Ord. 523 Exhibit A - Redline	Ordinance
Building Permit Fee Comparison	Backup Material

ORDINANCE NO. 523

AN ORDINANCE OF THE CITY OF BEE CAVE AMENDING ARTICLES A2.000 AND A3.000, FEE SCHEDULE OF THE CODE OF ORDINANCES OF THE CITY; PROVIDING FOR UPDATED FEES AND NEW CATAGORIES OF FEES FOR BUILDING AND DEVELOPMENT RELATED FEES; PROVIDING FOR FINDINGS OF FACT; A SAVINGS CLAUSE, SEVERABILITY, REPEALER, EFFECTIVE DATE, AND PROPER NOTICE AND MEETING.

WHEREAS, the City of Bee Cave is lawfully incorporated as a Home Rule municipality and the City Council is the governing body of the City; and,

WHEREAS, the City recognizes its responsibility and authority to impose various fees and charges that are necessary to cover the City's cost for administering and overseeing the regulatory programs of the City and for the government of the City, its interest, welfare, and good order of the City as a body politic.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BEE CAVE, TEXAS:

SECTION 1. Appendix A, "Fee Schedule" is hereby amended and attached hereto as Exhibit A. Such Fee Schedule is adopted and incorporated herein for all purposes. Attachment A also constitutes a reauthorization for the charging of any and all fees listed.

SECTION 2. Findings of Fact. All of the above premises are hereby found to be true and correct legislative and factual findings of the City of Bee Cave and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 3. Savings Clause. The repeal of any ordinance or part of ordinances effectuated by the enactment of this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such ordinance or as discontinuing, abating, modifying or altering any penalty accruing or to accrue, or as affecting any rights of the City under any section or provisions of any ordinances at the time of passage of this ordinance.

SECTION 4. Severability. If any provision, section, sentence, clause or phrase of this Ordinance or application of the same to any person or set of circumstances is for reason held to be unconstitutional, void, invalid, or unenforceable, the validity of the remaining portions of this ordinance or its application to other persons or sets of circumstances shall not be affected thereby, it being the intent of the City Council of the City of Bee Cave in adopting, and the Mayor in approving this Ordinance, that no portion thereof or provision or regulation contained herein shall become inoperative or fail by reason of any unconstitutionality or invalidity of any portion, provision or regulation.

SECTION 5. Repealer. The provisions of this Ordinance shall be cumulative of all other ordinances or parts of ordinances governing or regulating the same subject matter as that covered

herein, provided, however, that all prior ordinance or parts of ordinances inconsistent or in conflict with any of the provisions of this Ordinance are hereby expressly repealed to the extent that such inconsistency is apparent. This Ordinance shall not be construed to require or allow any act which is prohibited by any other ordinance.

SECTION 6. Effective Date. This Ordinance shall take effect immediately from and after its passage and publication as may be required by governing law.

SECTION 7. Notice and Meeting Clause. It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public and that public notice of the time, place and purpose of said meeting was given as required by the Open Meetings Act, Chapter 551 of the Texas Government Code.

PASSED AND APPROVED THIS _____ DAY OF _____, 2022.

CITY OF BEE CAVE:

_____
Kara King, Mayor

ATTEST:

_____
Kaylynn Holloway, City Secretary

[SEAL]

APPROVED AS TO FORM:

_____
City Attorney
Ryan Henry, Law Offices of Ryan Henry, PLLC

EXHIBIT A

ARTICLE A1.000
GENERAL PROVISIONS

§ A1.001 **Payment of building and development related fees.**

(a) All permit fees, reinspection fees, and other associated fees shall be paid prior to obtaining a final inspection and certificate of occupancy.

(b) Development application fees, including engineering and legal fee deposits and traffic impact analysis review deposits, shall be paid when a complete application is submitted, prior to technical review by staff.

(c) Any applicable publication and notification fees shall be paid before an application is considered for approval by the appropriate decision-making body.

(d) Any applicable recordation fees are due prior to filing documents with the county clerk.

(e) Any outstanding fee balance shall be paid in full prior to the execution of the associated ordinance, plat, or document, or issuance of the associated permit.

(f) All fees are nonrefundable.

(g) *Fees where original application denied.* If any application for a permit for which a fee has been paid pursuant to this appendix **A** is denied, a new application shall be filed, and the fees required by this appendix **A** shall be paid.

(h) *Fees where construction started before permit application.* If construction of any facility for which a fee is required to be paid pursuant to this appendix **A** is commenced before the permit is granted, the foregoing fees shall be doubled for that facility. The minimum charge shall be $300.00.

(i) *Fees for violation of a stop-work order.* If construction on any facility is commenced or continued in violation of a stop-work order issued by the city, the owner of the facility shall be required to pay an amount equal to the construction fees.

§ A1.002 **Technology fee.**

(a) *Building.* Charged by the cost of the permit issued in article **A2.000**.

Permit Cost	Fee
$1.00–$100.99	$5.00
$101.00–$250.99	$7.00
$251.00–$500.99	$10.00
$501.00–$1,000.99	$20.00
$1,001.00–$2,500.99	$50.00

Permit Cost	Fee
$2,501.00–$5,000.99	$75.00
$5,001.00–$10,000.99	$100.00
$10,000.00 +	$125.00

(b) *Development.* Charged by the cost of the application in article **A3.000**.

Application Cost	Fee
$1.00–$100.99	$5.00
$101.00–$250.99	$7.00
$251.00–$500.99	$10.00
$501.00–$1,000.99	$20.00
$1,001.00–$2,500.99	$50.00
$2,501.00–$5,000.99	$75.00
$5,001.00–$10,000.99	$100.00
$10,000.00 +	$125.00

ARTICLE A2.000
BUILDING RELATED FEES

§ A2.001 **Building related fees.**

(a) Building plan review fees:

(1) Residential:

(A) $100.00, under 5,000 sq. ft.;

(B) $200.00 over or equal to 5,000 sq. ft.

(2) Nonresidential: $0.15/per square foot; minimum $150.00.

(3) Shell Building: $150.00, flat rate. Includes limited plumbing & electrical review.

(b) Building permits:

(1) Residential: $0.10 per square foot; minimum $150.00.

(2) Nonresidential: $0.15 per square foot; minimum of $150.00 (see subsection **(p)** for parking garage fees).

(c) Reinspection fees: $150.00 each (see subsection **(l)(2)** for safety related pool reinspection fees).

(d) Signs:

(1) Temporary application: $50.00 each.

(2) Permanent signs other than those listed below: $75.00 plus $0.50 per sq ft of sign area and $25.00 for electrical permit, if applicable.

(A) Order boards: $250.00 plus $25.00 for electrical permit.

(B) Electronic message boards: $500.00 (applies to public school campuses only) plus $25.00 for electrical permit.

(3) Sign package application:

(A) New: $1,000.00.

(B) Amendment: $500.00.

(C) Each sign covered by an approved sign package are subject to applicable permit fees at the time of permitting.

(4) Sign variance: $250.00 each.

(e) Contractor registration fee: $50.00 each. All contractors and subcontractors must register with the city annually.

(f) Plumbing Permit:

(1) Residential: $0.30 per square foot; minimum $150.00.

(2) Nonresidential: $0.30 per square; minimum $150.00.

(3) Water/sewer yard line: Same as applicable plumbing permit fee.

(5) Landscape sprinkler: $0.05 per linear foot for outside system. Charged if done after initial construction, if part of initial build this is included in the plumbing permit fee.

(g) Electrical Permit:

(1) Residential: $0.30 per square foot including porches, patios, and accessory buildings; minimum $150.00.

(2) Nonresidential: $0.30 per square foot; minimum $150.00.

(h) Mechanical Permit:

(1) Residential: $0.30 per square foot; minimum $150.00.

(2) Nonresidential: $0.30 per square foot; minimum $150.00.

(i) Fence:

(1) Residential: $50.00 each.

(2) Nonresidential: $150.00 each.

(j) Flat work permit fee (driveways, sidewalks, parking lots, etc.): $50.

(k) OSSF (septic):

(1) Private sewage system, single-family: $300.00 per system, new and modification of systems.

(3) Private sewage system, commercial/multiple family: $500.00 per system, new and modification of systems.

(l) Swimming pool:

(1) Permit fee: $500 plus plumbing and electrical permit fees as applicable.

(2) Reinspection fee for safety and security violation: $350.00 each.

(m) Parking garage: Permit and plan review fees shall be charged at rate of 5% of the applicable nonresidential fees.

(n) Tree removal permit:

(1) Residential: No charge, permit required.

(2) Nonresidential: $150.00.

(3) Unpermitted tree removal, permit after the fact: $500.00 per caliper inch removed.

(o) Certificate of Occupancy without a building permit: $200.00.

(p) Demolition permit: $50.00.

ARTICLE A3.000
DEVELOPMENT RELATED FEES

§ A3.001 **Subdivision applications.**

(a) Subdivision applications. Sum of all applicable fees included within this section.

(b) *Letter of certification (LOC).*

(1) Preliminary plat or development plat: $1,250.00 plus $50.00 per lot/unit (condo) or per acre, whichever is greater.

(2) Preliminary plat amendment: $250.00 plus $50.00 per lot/unit (condo) or per acre, whichever is greater.

(3) Final plat: $850.00 plus $25.00 per lot/unit (condo) or per acre, whichever is greater.

(4) Replat: $850.00 plus $25.00 per lot/unit (condo) or per acre, whichever is greater.

(5) Amending plat: $350.00 plus $25.00 per lot/unit (condo) or per acre, whichever is greater.

(6) Short form final plat: $500.00 plus $25.00 per lot/unit (condo) or per acre, whichever is greater.

(7) Minor plat: $350.00 plus $25.00 per lot/unit (condo) or per acre, whichever is greater.

(8) Development plat: $2,500.00.

(9) Subdivision construction plans: One and a half percent (1.5%) of infrastructure cost estimate, maximum of $30,000.00, and $2,500.00 engineering deposit.

(10) LOC review beyond the 3rd review cycle (i.e. 4th submittal): Ten percent (10%) of the base application fee per additional review.

(c) *Plat review fees.* If a letter of certification application is not required, the fees shall be as listed below plus the applicable letter of certification fees.

Plat Type	Fee
Preliminary plat	$500.00
Preliminary Plat Amendment	$250.00
Final plat	$250.00
Short form final plat	$150.00
Minor plat	$150.00
Replat	$250.00
Amending Plat	$150.00
Development Plat	$500.00

(d) Subdivision construction plan review fee: $500.00 or $500.00 plus the applicable letter of certification fee if no letter of certification is required.

(e) Subdivision construction plan revision: Revised plan sheets 1–4: $500.00; additional revised plan sheets $250.00 each.

(f) Subdivision construction plan amendment: Three percent (3%) of the infrastructure construction amendment cost estimate; maximum of $10,000.00.

(g) Subdivision construction plan inspection: Two percent (2%) of the infrastructure cost estimate excluding utilities. Due at plan approval prior to scheduling required pre-construction meeting.

(h) Petition for subdivision waiver: $150.00 per waiver plus $250.00 city council meeting fee.

(i) Easements, restrictive covenants, and other separate instrument document review and recordation: $250.00 each plus applicable recordation fees, see section **A3.010**.

(j) Easement, plat or right-of-way vacations (full or partial):

(1) Easement: $300.00 plus applicable recordation fees, see section **A3.010**.

(2) Plat: $500.00 + $50.00/lot or unit or $50.00/acre whichever is greater, plus applicable recordation fees, see section **A3.010**.

(3) Right-of-way: $500.00 plus applicable recordation fees, see section **A3.010**.

(k) Trip generation, traffic impact analysis, and related reviews: If required, see section **A3.007** for applicable fees.

(l) Parkland dedication fee in lieu: The fee shall be based on the county appraisal district's current market value of the subject property, prorated on a per acre basis for the required parkland dedication acreage. See UDC, section 6.3.

(m) Notification and publication: If required, see section **A3.009** for applicable fees.

(n) Recordation: See section **A3.010**.

(o) GIS digitizing fee: See section **A3.014**.

§ A3.002 **Concept plan and zoning.**
Fees charged shall be the sum all applicable fees included within this section.

(1) Amendment to zoning map (rezoning): $1,500.00.

(2) Concept plan review: $5,000.00, when required as part of a rezoning or PDD amendment application. Review beyond the 3rd review cycle (i.e., 4th submittal) will incur an additional fee of $500.00 per additional review.

(3) Amendment to zoning text: $1,500.00 and $2,000.00 legal deposit. The applicant shall provide an initial deposit to cover third-party review fees incurred by the city. If the actual cost of these fees is less than the deposit, the applicant will be reimbursed the balance; if it exceeds the deposit the applicant is responsible for the balance. Professional review fees are as set forth in section **A3.008**.

(4) Establishment of a new zoning district: $150.00 per acre (minimum 80 acres) and $5,000.00 legal and engineering deposit. The applicant shall provide an initial deposit to cover third-party review fees incurred by the city. If the actual cost of these fees is less than the deposit, the applicant will be reimbursed the balance; if it exceeds the deposit the applicant is responsible for the balance. Professional review fees are as set forth in section **A3.008**.

(5) Planned development district amendment:

(1) Major $3,000.00 and $200.00 per acre and $2,000.00 legal and engineering deposit. The applicant shall provide an initial deposit to cover third-party review fees incurred by the city. If the actual cost of these fees is less than the deposit, the applicant will be reimbursed the balance; if it exceeds the deposit the applicant is responsible for the balance. Professional review fees are as set forth in section **A3.008**.

(2) Minor $1,500.00.

(6) Vested rights petition: $750.00 and $2,000.00 legal deposit. The applicant shall provide an initial deposit to cover third-party review fees incurred by the city. If the actual cost of these fees is less than the deposit, the applicant will be reimbursed the balance; if it exceeds the deposit the applicant is responsible for the balance. Professional review fees are as set forth in section **A3.008**.

(7) Zoning variance: $500.00 per request. Each section of code from which a deviation is necessary is a separate request.

(8) Specific use permit: $500.00

(9) Special exception: $500.00.

(10) Public hearing postponement: $250.00 and publication and notification fees as applicable for re-noticing, see section **A3.009** below. Fee shall be charged when an applicant requests postponement of a public hearing for an application after the public hearing notice has been sent to the newspaper for publication or notification letters have been sent to property owners.

(11) Comprehensive plan amendments:

(1) Future land use map changes: Fees assessed based on acreage of land affected.

(A) Less than 5 acres $2,500.00.

(B) 5 acres to 25 acres $5,000.00.

(C) More than 25 acres $10,000.00.

(2) Thoroughfare plan changes: $5,000.00.

(3) Text changes: $2,500.00.

(12) Trip generation, traffic impact analysis, and related reviews: If required, see section **A3.007** for applicable fees.

(13) Publication and notification: If required, see section **A3.009** for applicable fees.

(14) Recordation: If required, See section **A3.010** for applicable fees.

(15) GIS digitizing fee: See section **A3.014**.

§ A3.003 **Site plan.**

(a) Site plan application and review — sum of all applicable fees included within this section.

(1) Site plan review fee:

(A) New site plan:

(i) 0 to 5 acres: $10,000.00.

(ii) >5 to 25 acres: $15,000.00.

(iii) >25 to 100 acres: $25,000.00.

(iv) >100 acres: $35,000.00.

(v) Review beyond the 3rd review cycle (i.e. 4th submittal): Ten percent (10%) of the base application fee per additional review.

(B) Site plan revision: $500.00 revised plan sheets 1–4 and $250.00 each additional revised plan sheet.

(C) Site plan amendment: $1,000.00.

(2) Trip generation, traffic impact analysis, and related reviews: If required, see section **A3.007** for applicable fees.

(3) GIS digitizing fee: See section **A3.014**.

(4) Tree replacement fee-in-lieu: Applied if fee-in-lieu is approved. $250.00 per caliper inch.

(5) Permit cut in street or right-of-way: If required at site plan, see section **A3.005** for applicable fees.

(6) Site plan waiver request: $150.00 per request and $250.00 city council meeting fee. Each section of code from which a deviation is necessary is a separate request.

(7) Easements, restrictive covenants, and other separate instrument document review and recordation: $250.00 each plus applicable recordation fees, see section **A3.010**.

(8) Site preparation/grading/excavation without an approved subdivision construction plan or site plan: $500.00 and $50.00 per acre or portion thereof.

§ A3.004 **Nonpoint source pollution control.**

(a) Nonpoint source pollution plan review fee: Based on acreage.

(1) 0 to 5 acres: $5,000.00.

(2) >5 acres to 25 acres: $10,000.00.

(3) >25 acres to 100 acres: $15,000.00.

(4) >100+ acres: $25,000.00.

(5) Review beyond the 3rd review cycle (i.e. 4th submittal): Ten percent (10%) of the base application fee per additional review.

(b) Annual nonpoint source pollution control operating permit: Assessed annually.

(1) 0 to 5 acres: $250.00

(2) >5 acres to 25 acres: $500.00.

(3) >25 acres to 100 acres: $1,000.00.

(4) >100 acres: $1,500.00.

(c) NPS waiver request: $500.00 per request and $250.00 city council meeting fee. Each section of the code from which a deviation is necessary is a separate request.

§ A3.005 **Right-of-way permits.**

(a) Right-of-way cut: $100.00 per cut.

(b) Street cut: $200.00 per street cut.

(c) Right-of-way use permit:

(1) Short-term, less than 24 hours:

(A) $25.00 neighborhood or nonprofit organization.

(B) $50.00 commercial purposes.

(2) Long term, more than 24 hours: $100.00 and $100.00 per week per lane per block.

(d) Right-of-way license agreement: $250.00.

(e) Right-of-way utility installation: $50 per plan sheet

§ A3.006 **Wireless communication facilities.**

(a) Stealth wireless communications facility: $2,500.00 each; NTE $3,000.00.

(b) Attached wireless communications facility: $3,000.00 each; NTE $3,500.00.

(c) Replacement of existing structure:

(1) Like structure: $4,000.00; NTE $4,000.00.

(2) Attached: $2,500.00; NTE $3,000.00.

(d) Colocation on existing antenna support: $5,000.00 each; NTE $4,000.00.

(e) Colocation on stealth structure: $2,500.00 each; NTE $2,500.00.

(f) New antenna support structure: $7,500.00 each; NTE $7,500.00.

(g) Satellite earth station: $500.00 each.

(h) AM/FM/TV/DTV antenna support structure: $10,000.00 each; NTE $10,000.00.

(i) Amateur wireless facility application fee: $100.00 each.

(j) Cash bond: $5,000.00, flat rate; must post this to cover removal costs.

§ A3.007 **Traffic impact analysis review.**

(a) Trip generation report (i.e. trip gen worksheet) review: $250.00 per submittal.

(b) Turn lane analysis or circulation study review: $500.00 and $1,500.00 engineering deposit. The applicant shall provide an initial deposit to cover third-party review fees incurred by the city. If the actual cost of these fees is less than the deposit, the applicant will be reimbursed the balance; if it exceeds the deposit the applicant is responsible for the balance. Professional review fees are as set forth in section **A3.008**.

(c) Traffic impact analysis worksheet review and scoping meeting: $1500.00.

(d) Traffic impact analysis review (new or amended): $800.00 and $2,500.00 engineering deposit. The applicant shall provide an initial deposit to cover third-party review fees incurred by the city. If the actual cost of these fees is less than the deposit, the applicant will be reimbursed the balance; if it exceeds the deposit the applicant is responsible for the balance. Professional review fees are as set forth in section **A3.008**.

§ A3.008 **Professional review fees.**

For applications where legal and engineering deposits apply hourly rates shall be charged as invoiced to the city by the third-party provider.

§ A3.009 **Publication and notification fees.**

(a) Legal notice in newspaper: $250.00, each. This fee includes cost to publish public hearing notice in Lake Travis View. If publication is the Austin American Statesman is required, the applicant is responsible for the actual cost of the notice.

(b) Property owner notification letters: $2.50 each property owner. When multiple noticed properties have the same owner, a single letter will be sent.

§ A3.010 **Recordation.**
Recordation (e.g. plats, separate instruments, license agreements): $25.00 plus applicable current county clerk recordation fees. Fees as of 12/1/22 as follows:

(1) Plats: $48.00 first page; $27.00 each additional page.

(2) Other documents: $26.00 first page; $4.00 each additional page.

§ A3.011 **Street name change fees.**
Street name change requests; sum of all applicable fees included below:

(1) $250.00 flat fee per request.

(2) Publication and notification fees, if applicable, see section **A3.009**.

(3) The estimated cost of the manufacture and installation of new street name signs, calculated under section **16.05.004(a)** and **(b)**.

§ A3.012 **Annexation fees.**
Annexation: $750.00 plus applicable publication and notification fees, see section **A3.009** and GIS digitizing fee, see section **A3.014**.

§ A3.013 **Development agreement fees.**
Development agreement - sum of all applicable fees included within section below.

(1) $2,000.00 flat fee, new agreement, or amendment.

(2) Traffic impact analysis review: If required, see section **A3.007** for applicable fees.

(3) Legal and engineering fee deposit: The applicant shall provide an initial deposit to cover professional fees incurred by the city. If the actual cost of these fees is less than the deposit, the applicant will be reimbursed the balance; if it exceeds the deposit, the applicant is responsible for the balance. Professional review fees are set at the rates in section **A3.008**.

    (A) New development agreement: $5,000.00.

    (B) Amended development agreement: $500.00.

(4) Recordation: See section **A3.010** for applicable fees.

§ A3.014 **GIS digitizing fees.**
$50.00 applied to any annexation, zoning, subdivision, development intensity transfer or site plan application.

§ A3.015 **Miscellaneous fees.**
(a) Preapplication meeting: No charge for first meeting, $500.00 for second and each additional meeting.

(b) Application comment review meeting: No charge for first meeting; $500.00 for second and each additional meeting.

(c) Zoning verification letter: $50.00 per lot or parcel.

(d) Floodplain development permit (CLOMR/LOMR):

(1) $2,500.00 CLOMR or LOMR without an approved CLOMR.

(2) $1,500.00 LOMR with an approved CLOMR.

(3) $500.00 LOMA.

(e) Water quality easement swap: $250.00.

(f) Development intensity transfer: Sum of fees below plus applicable recordation fees, see section **A3.010** and GIS digitizing fee, see section **A3.014**.

(1) Administrative Approval: $500.00

(2) City Council Approval: $750.00

(g) Appeal of administrative action: $500.00.

EXHIBIT A

ARTICLE A1.000
GENERAL PROVISIONS

§ A1.001 **Payment of building and development related fees.**

(a) All permit fees, reinspection fees, and other associated fees shall be paid prior to obtaining a final inspection and certificate of occupancy.

(b) Development application fees, including engineering and legal fee deposits and traffic impact analysis review deposits, shall be paid when a complete application is submitted, prior to technical review by staff.

(c) Any applicable publication and notification fees shall be paid before an application is considered for approval by the appropriate decision-making body.

(d) Any applicable recordation fees are due prior to filing documents with the county clerk.

(e) Any outstanding fee balance shall be paid in full prior to the execution of the associated ordinance, plat, or document, or issuance of the associated permit.

(f) All fees are nonrefundable.

(g) *Fees where original application denied.* If any application for a permit for which a fee has been paid pursuant to this appendix **A** is denied, a new application shall be filed, and the fees required by this appendix **A** shall be paid.

(h) *Fees where construction started before permit application.* If construction of any facility for which a fee is required to be paid pursuant to this appendix **A** is commenced before the permit is granted, the foregoing fees shall be doubled for that facility. The minimum charge shall be $300.00.

(i) *Fees for violation of a stop-work order.* If construction on any facility is commenced or continued in violation of a stop-work order issued by the city, the owner of the facility shall be required to pay an amount equal to the construction fees.

§ A1.002 **Technology fee.**

(a) *Building.* Charged by the cost of the permit issued in article **A2.000**.

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$251.00–$500.99	$10.00
$501.00–$1,000.99	$20.00
$1,001.00–$2,500.99	$50.00

Permit Cost	Fee
$2,501.00–$5,000.99	$75.00
$5,001.00–$10,000.99	$100.00
$10,000.00 +	$125.00

(b) *Development.* Charged by the cost of the application in article **A3.000**.

~~Permit~~ Application Cost	Fee
$1.00–$100.99	$5.00
$101.00–$250.99	$7.00
$251.00–$500.99	$10.00
$501.00–$1,000.99	$20.00
$1,001.00–$2,500.99	$50.00
$2,501.00–$5,000.99	$75.00
$5,001.00–$10,000.99	$100.00
$10,000.00 +	$125.00

ARTICLE A2.000
BUILDING RELATED FEES

§ A2.001 **Building related fees.**

(a) Building plan review fees:

(1) Residential:

(A) $100.00~~75.00~~, under 5,000 sq. ft.;

(B) $~~150.00~~200.00 over or equal to 5,000 sq. ft.

(2) Nonresidential: $0.15/per square foot; minimum $150.00.

(3) Shell Building: $~~75~~150.00, flat rate. Includes limited plumbing & electrical review.

(b) Building permits:

(1) Residential: $0.10 per square foot.

(2) Nonresidential: $0.15~~0~~ per square foot, ~~of total foundation and floor area~~ minimum of $150.00 (see subsection **(p)** for parking garage fees).

~~(c) Temporary concession stand: $250.00 each. Buildings, minimum $25.00.~~

~~(d) Road construction inspection fees: $50.00 per linear foot.~~

(~~e~~c) Reinspection fees: $150.00 each (see subsection **(~~e~~l)(2)** for safety related pool reinspection fees).

(~~f~~d) Signs:

(1) Temporary application: $50.00 each.

(2) Permanent signs other than those listed below: $75.00 plus $0.50 per sq ft of sign area and $25.00 for electrical permit, if applicable.

(A) Order boards: $250.00 plus $25.00 for electrical permit.

(B) Electronic message boards: $500.00 (applies to public school campuses only) plus $25.00 for electrical permit.

(3) Sign package application:

(A) New: $1,000.00.

(B) Amendment: $500.00.

(C) Each sign covered by an approved sign package are subject to applicable permit fees at the time of permitting.

(4) Sign variance: $250.00 each.

(~~g~~e) Contractor registration fee: $~~2~~50.00 each. All contractors and subcontractors must register with the city annually.

(~~h~~f) Plumbing Permit:

(1) Residential: $0.~~1~~30 per square foot~~ for total foundation/floor area~~; minimum $~~2~~150.00.

(2) Nonresidential: $0.30~~15~~ per square~~ foot for total foundation/floor area~~; minimum $~~2~~150.00.

(3) Water/sewer yard line: Same as applicable plumbing permit fee~~$25.00 each~~.

~~(4) Outside utility construction: $0.05 per linear foot, both residential construction and nonresidential construction.~~

(5) Landscape sprinkler: $0.05 per linear foot for outside system. Charged if done after initial construction, if part of initial build this is included in the plumbing permit fee.

(~~i~~g) Electrical Permit:

(1) Residential: $0.3~~1~~0 per square foot ~~of total foundation/floor area~~ including porches, patios, and accessory buildings; minimum $150~~25~~.00.

(2) Nonresidential: $0.30~~15~~ per square foot~~ of total foundation/floor area~~; minimum $150~~25~~.00.

(h) Mechanical Permit:

(1) Residential: $0.30 per square foot; minimum $150.00.

(2) Nonresidential: $0.30 per square foot; minimum $150.00.

(~~j~~i) Fence:

(1) Residential: $50.00 each.

(2) Nonresidential: $150.00 each.

~~(k) Mechanical:~~

~~(1) Residential: $0.10 per square foot for total foundation/floor area; minimum $25.00.~~

~~(2) Nonresidential: $0.15 per square foot for total foundation/floor area; minimum $25.00.~~

~~(3) Gasoline pumps: No fee.~~

~~(4) Underground bulk: $75.00 per tank.~~

(~~l~~j) Flat work permit fee (driveways, sidewalks, parking lots, etc.): $~~0.05 per square foot~~50.

(~~m~~k)OSSF (septic):

(1) Private sewage system, single-family: $300.00 per system, new and modification of systems.

~~(2) PSS, SF reinspection: $100.00 per system, includes new license.~~

(3) Private sewage system, commercial/~~multiple family~~multiple family: $500.00 per system, new and modification of systems.

~~(4) PSS, CMF reinspection: $200.00 per system, includes new licenses.~~

~~(n) Infrastructure reviews:~~

~~(1) Streets: $0.75 per linear foot.~~

~~(2) Water: $0.25 per linear foot.~~

~~(3) Wastewater: $0.25 per linear foot.~~

~~(4) Drainage: $0.75 per linear foot.~~

(~~o~~l) Swimming pool:

(1) Permit fee: ~~$150.00 each.~~ $500 plus plumbing and electrical permit fees as applicable.

(2) Reinspection fee for safety and security violation: $350.00 each.

(~~p~~m)Parking garage: Permit and plan review fees shall be charged at rate of 5% of the applicable nonresidential fees.

(~~q~~n) Tree removal permit:

(1) Residential: No charge, permit required.

(2) Nonresidential: $150.00.

Commented [EW1]: Covers placement / striping inspection

Commented [EW2]: Covered by increased Site/NPS fees, no longer separate fees.

(3) Unpermitted tree removal, permit after the fact: $500.00 per caliper inch removed.

(o) Certificate of Occupancy without a building permit: $200.00.

(p) Demolition permit: $50.00.

ARTICLE A3.000
DEVELOPMENT RELATED FEES

§ A3.001 **Subdivision applications.**

(a) Subdivision applications. Sum of all applicable fees included within this section.

(b) *Letter of certification (LOC).*

(1) Preliminary plat or development plat: $1,250.00 plus $50.00 per lot/unit (condo) or per acre, whichever is greater.

(2) Preliminary plat amendment: $250.00 plus $50.00 per lot/unit (condo) or per acre, whichever is greater.

(3) Final plat: $850.00 plus $25.00 per lot/unit (condo) or per acre, whichever is greater.

(4) Replat: $850.00 plus $25.00 per lot/unit (condo) or per acre, whichever is greater.

(5) Amending plat: $350.00 plus $25.00 per lot/unit (condo) or per acre, whichever is greater.

(6) Short form final plat: $500.00 plus $25.00 per lot/unit (condo) or per acre, whichever is greater.

(7) Minor plat: $350.00 plus $25.00 per lot/unit (condo) or per acre, whichever is greater.

(8) Development plat: $2,500.00.

(9) Subdivision construction plans: One and a half percent (1.5%) of infrastructure cost estimate, maximum of $30,000.00, and $2,500.00 engineering deposit.

(10) LOC review beyond the 3rd review cycle (i.e. 4th submittal): Ten percent (10%) of the base application fee per additional review.

(c) *Plat review fees.* If a letter of certification application is not required, the fees shall be as listed below plus the applicable letter of certification fees.

Plat Type	Fee
Preliminary plat	$500.00
Preliminary Plat Amendment	$250.00
Final plat	$250.00

Plat Type	Fee
Short form final plat	$150.00
Minor plat	$150.00
Replat	$250.00
Amending Plat	$150.00
Development Plat	$500.00

(d) Subdivision construction plan review fee: $500.00 or $500.00 plus the applicable letter of certification fee if no letter of certification is required.

(e) Subdivision construction plan revision: Revised plan sheets 1–4: $500.00; additional revised plan sheets $250.00 each.

(f) Subdivision construction plan amendment: Three percent (3%) of the infrastructure construction amendment cost estimate; maximum of $10,000.00.

(g) Subdivision construction plan inspection: Two percent (2%) of the infrastructure cost estimate excluding utilities. Due at plan approval prior to scheduling required pre-construction meeting.

(h) Petition for subdivision waiver: $150.00 per waiver plus $250.00 city council meeting fee.

(i) Easements, restrictive covenants, and other separate instrument document review and recordation: $250.00 each plus applicable recordation fees, see section **A3.010**.

(j) Easement, plat or right-of-way vacations (full or partial):

(1) Easement: $300.00 plus applicable recordation fees, see section **A3.010**.

(2) Plat: $500.00 + $50.00/lot or unit or $50.00/acre whichever is greater, plus applicable recordation fees, see section **A3.010**.

(3) Right-of-way: $500.00 plus applicable recordation fees, see section **A3.010**.

(k) Trip generation, traffic impact analysis, and related reviews: If required, see section **A3.007** for applicable fees.

(l) Parkland dedication fee in lieu: The fee shall be based on the county appraisal district's current market value of the subject property, prorated on a per acre basis for the required parkland dedication acreage. See UDC, section 6.3.

(m) Notification and publication: If required, see section **A3.009** for applicable fees.

(n) Recordation: See section **A3.010**.

(o) GIS digitizing fee: See section **A3.014**.

§ A3.002 **Concept plan and zoning.**
Fees charged shall be the sum all applicable fees included within this section.

(1) Amendment to zoning map (rezoning): $1,500.00.

(2) Concept plan review: $5,000.00, when required as part of a rezoning or PDD amendment application. Review beyond the 3rd review cycle (i.e., 4th submittal) will incur an additional fee of $500.00 per additional review.

(3) Amendment to zoning text: $1,500.00 and $2,000.00 legal deposit. The applicant shall provide an initial deposit to cover third-party review fees incurred by the city. If the actual cost of these fees is less than the deposit, the applicant will be reimbursed the balance; if it exceeds the deposit the applicant is responsible for the balance. Professional review fees are as set forth in section **A3.008**.

(4) Establishment of a new zoning district: $150.00 per acre (minimum 80 acres) and $5,000.00 legal and engineering deposit. The applicant shall provide an initial deposit to cover third-party review fees incurred by the city. If the actual cost of these fees is less than the deposit, the applicant will be reimbursed the balance; if it exceeds the deposit the applicant is responsible for the balance. Professional review fees are as set forth in section **A3.008**.

(5) Planned development district amendment:

(1) Major $3,000.00 and $200.00 per acre and $2,000.00 legal and engineering deposit. The applicant shall provide an initial deposit to cover third-party review fees incurred by the city. If the actual cost of these fees is less than the deposit, the applicant will be reimbursed the balance; if it exceeds the deposit the applicant is responsible for the balance. Professional review fees are as set forth in section **A3.008**.

(2) Minor $1,500.00.

(6) Vested rights petition: $750.00 and $2,000.00 legal deposit. The applicant shall provide an initial deposit to cover third-party review fees incurred by the city. If the actual cost of these fees is less than the deposit, the applicant will be reimbursed the balance; if it exceeds the deposit the applicant is responsible for the balance. Professional review fees are as set forth in section **A3.008**.

(7) Zoning variance: $500.00 per request. Each section of code from which a deviation is necessary is a separate request.

~~(8) Appeal of administrative action: $500.00.~~

(8) Specific use permit: $500.00

(9) Special exception: $500.00.

(10) Public hearing postponement: $250.00 and publication and notification fees as applicable for re-noticing, see section **A3.009** below. Fee shall be charged when an applicant requests postponement of a public hearing for an application after the public hearing notice has been sent to the newspaper for publication or notification letters have been sent to property owners.

(11) Comprehensive plan amendments:

(1) Future land use map changes: Fees assessed based on acreage of land affected.

(A) Less than 5 acres $2,500.00.

(B) 5 acres to 25 acres $5,000.00.

(C) More than 25 acres $10,000.00.

(2) Thoroughfare plan changes: $5,000.00.

(3) Text changes: $2,500.00.

(12) Trip generation, traffic impact analysis, and related reviews: If required, see section **A3.007** for applicable fees.

(13) Publication and notification: If required, see section **A3.009** for applicable fees.

(14) Recordation: If required, See section **A3.010** for applicable fees.

(15) GIS digitizing fee: See section **A3.014**.

§ A3.003 **Site plan.**

(a) Site plan application and review — sum of all applicable fees included within this section.

(1) Site plan review fee:

(A) New site plan:

(i) 0 to 5 acres: $10,000.00.

(ii) >5 to 25 acres: $15,000.00.

(iii) >25 to 100 acres: $25,000.00.

(iv) >100 acres: $35,000.00.

(v) Review beyond the 3rd review cycle (i.e. 4th submittal): Ten percent (10%) of the base application fee per additional review.

(B) Site plan revision: $500.00 revised plan sheets 1–4 and $250.00 each additional revised plan sheet.

(C) Site plan amendment: $1,000.00.

(2) Trip generation, traffic impact analysis, and related reviews: If required, see section **A3.007** for applicable fees.

(3) GIS digitizing fee: See section **A3.014**.

(4) Tree replacement fee-in-lieu: Applied if fee-in-lieu is approved. $250.00 per caliper inch.

(5) Permit cut in street or right-of-way: If required at site plan, see section **A3.005** for applicable fees.

(6) Site plan waiver request: $150.00 per request and $250.00 city council meeting fee. Each section of code from which a deviation is necessary is a separate request.

(7) Easements, restrictive covenants, and other separate instrument document review and recordation: $250.00 each plus applicable recordation fees, see section **A3.010**.

(8) Site preparation/grading/excavation without an approved subdivision construction plan or site plan: $500.00 and $50.00 per acre or portion thereof.

§ A3.004 **Nonpoint source pollution control.**

(a) Nonpoint source pollution plan review fee: Based on acreage.

(1) 0 to 5 acres: $5,000.00.

(2) >5 acres to 25 acres: $10,000.00.

(3) >25 acres to 100 acres: $15,000.00.

(4) >100+ acres: $25,000.00.

(5) Review beyond the 3rd review cycle (i.e. 4th submittal): Ten percent (10%) of the base application fee per additional review.

(b) Annual nonpoint source pollution control operating permit: Assessed annually.

(1) 0 to 5 acres: $250.00

(2) >5 acres to 25 acres: $500.00.

(3) >25 acres to 100 acres: $1,000.00.

(4) >100 acres: $1,500.00.

(c) NPS waiver request: $500.00 per request and $250.00 city council meeting fee. Each section of the code from which a deviation is necessary is a separate request.

§ A3.005 **Right-of-way permits.**

(a) Right-of-way cut: $100.00 per cut.

(b) Street cut: $200.00 per street cut.

(c) Right-of-way use permit:

(1) Short-term, less than 24 hours:

(A) $25.00 neighborhood or nonprofit organization.

(B) $50.00 commercial purposes.

(2) Long term, more than 24 hours: $100.00 and $100.00 per week per lane per block.

(d) Right-of-way license agreement: $250.00.

(e) Right-of-way utility installation: $50 per plan sheet

§ A3.006 **Wireless communication facilities.**

(a) Stealth wireless communications facility: $2,500.00 each; NTE $3,000.00.

(b) Attached wireless communications facility: $3,000.00 each; NTE $3,500.00.

(c) Replacement of existing structure:

(1) Like structure: $4,000.00; NTE $4,000.00.

(2) Attached: $2,500.00; NTE $3,000.00.

(d) Colocation on existing antenna support: $5,000.00 each; NTE $4,000.00.

(e) Colocation on stealth structure: $2,500.00 each; NTE $2,500.00.

(f) New antenna support structure: $7,500.00 each; NTE $7,500.00.

(g) Satellite earth station: $500.00 each.

(h) AM/FM/TV/DTV antenna support structure: $10,000.00 each; NTE $10,000.00.

(i) Amateur wireless facility application fee: $100.00 each.

(j) Cash bond: $5,000.00, flat rate; must post this to cover removal costs.

§ A3.007 **Traffic impact analysis review.**

(a) Trip generation report (i.e. trip gen worksheet) review: $250.00 per submittal.

(b) Turn lane analysis or circulation study review: $500.00 and $1,500.00 engineering deposit. The applicant shall provide an initial deposit to cover third-party review fees incurred by the city. If the actual cost of these fees is less than the deposit, the applicant will be reimbursed the balance; if it exceeds the deposit the applicant is responsible for the balance. Professional review fees are as set forth in section **A3.008**.

(c) Traffic impact analysis worksheet review and scoping meeting: $1500.00.

(d) Traffic impact analysis review (new or amended): $800.00 and $2,500.00 engineering deposit. The applicant shall provide an initial deposit to cover third-party review fees incurred by the city. If the actual cost of these fees is less than the deposit, the applicant will be reimbursed the balance; if it exceeds the deposit the applicant is responsible for the balance. Professional review fees are as set forth in section **A3.008**.

§ A3.008 **Professional review fees.**

For applications where legal and engineering deposits apply hourly rates shall be charged as invoiced to the city by the third-party provider.

§ A3.009 **Publication and notification fees.**

(a) Legal notice in newspaper: $250.00, each. This fee includes cost to publish public hearing notice in Lake Travis View. If publication is the Austin American Statesman is required, the applicant is responsible for the actual cost of the notice.

(b) Property owner notification letters: $2.50 each property owner. When multiple noticed properties have the same owner, a single letter will be sent.

§ A3.010 **Recordation.**

Recordation (e.g. plats, separate instruments, license agreements): $25.00 plus applicable current county clerk recordation fees. Fees as of 12/1/22 as follows:

(1) Plats: $48.00 first page; $27.00 each additional page.

(2) Other documents: $26.00 first page; $4.00 each additional page.

§ A3.011 **Street name change fees.**

Street name change requests; sum of all applicable fees included below:

(1) $250.00 flat fee per request.

(2) Publication and notification fees, if applicable, see section **A3.009**.

(3) The estimated cost of the manufacture and installation of new street name signs, calculated under section **16.05.004(a)** and **(b)**.

§ A3.012 **Annexation fees.**
Annexation: $750.00 plus applicable publication and notification fees, see section **A3.009** and GIS digitizing fee, see section **A3.014**.

§ A3.013 **Development agreement fees.**
Development agreement - sum of all applicable fees included within section below.

(1) $2,000.00 flat fee, new agreement, or amendment.

(2) Traffic impact analysis review: If required, see section **A3.007** for applicable fees.

(3) Legal and engineering fee deposit: The applicant shall provide an initial deposit to cover professional fees incurred by the city. If the actual cost of these fees is less than the deposit, the applicant will be reimbursed the balance; if it exceeds the deposit, the applicant is responsible for the balance. Professional review fees are set at the rates in section **A3.008**.

(A) New development agreement: $5,000.00.

(B) Amended development agreement: $500.00.

(4) Recordation: See section **A3.010** for applicable fees.

§ A3.014 **GIS digitizing fees.**
$50.00 applied to any annexation, zoning, subdivision, zoning or site plan application.

§ A3.015 **Miscellaneous fees.**
(a) Preapplication meeting: No charge for first meeting, $500.00 for second and each additional meeting.

(b) Application comment review meeting: No charge for first meeting; $500.00 for second and each additional meeting.

(c) Zoning verification letter: $50.00 per lot or parcel.

(d) Floodplain development permit (CLOMR/LOMR)~~i~~:

(1) $2,500.00 CLOMR or LOMR without an approved CLOMR.

(2) $1,500.00 LOMR with an approved CLOMR.

(3) $500.00 LOMA.

(e) Water quality easement swap: $250.00.

(f) Development intensity transfer: Sum of fees below plus applicable recordation fees, see section **A3.010** and GIS digitizing fee, see section **A3.014**.

(1) Administrative Approval: $500.00

(2) City Council Approval: $750.00

(g) Appeal of administrative action: $500.00.

COBC Application	Current Fee (Established 1995 / 2010)	Proposed Fee	Lakeway (2019)	Westlake Hills (2022)	Cedar Park (2009/2019)	Pflugerville (2022)	Leander (2003 & later)	Dripping Springs (2022)	Kyle (2022)	San Marcos (2019&2023)	Marble Falls (2018 & later)	Buda (2022)
Residential Building Plan Review (<5000sqft)	$75.00	$100.00	$150.00		$25 w/master, $35 w/o master, $35 for master	$70.00	Up to 3000sqft-$50.00 without master and $20 with master		25% of permit cost+ $107.78 per hour		$60.00 (3000sqft or less)	$300.00
Residential Building Plan Review(≥5000sqft)	$150.00	$200.00	a: The permit fee is determined using the building gross area, the square foot construction cost established by the International Code Council and the permit fee multiplier (PFM). It is assessed during plan review. The PFM is variable based on the building and development services department annual budget and shall be updated annually with an effective date of October 1st. Minimum		$25 w/master, $35 w/o master, $35 for master	$70.00	over 3000sqft-$0.05 per sqft		25% of permit cost+ $107.78 per hour		$100.00 (3001sqft+)	$300.00
Non-Residential Building Plan Review	$0.15 per sqft	$0.15 per sqft min. $150	a		In-house structural review: Paid directly to I.C.C. (plus $100 base fee)	$100.00 per Plan + Up to $100,000.00 in value($355.00 for the first $100,000.00 in value +$2.00 for each additional $100,000.00 in value), $500,001.00 to $1,000,000.00 in value($1,155.00 for the first $500,000.00 in value +$1.70 for each additional $1,000.00 in value), or$1,000,001.00 and over in value ($2,004.00 for the first $1,000,000.00 in value +$1.14 for each	$0.13 per sqft(up to 10,000 sqft) plus $50.00 per 1000sqft over		25% of permit cost+ $107.78 per hour		$150-450 based on sqft	$0.35per sqft

COBC Application	Current Fee (Established 1995 / 2010)	Proposed Fee	Lakeway (2019)	Westlake Hills (2022)	Cedar Park (2009/2019)	Pflugerville (2022)	Leander (2003 & later)	Dripping Springs (2022)	Kyle (2022)	San Marcos (2019&2023)	Marble Falls (2018 & later)	Buda (2022)
Shell Building Plan Review	$75.00	$150 includes limited plumbing & electrical			60% of total plan review fee as calculated under subsections (C) through (G) above		$0.13 per sqft - 1st 10,000 sqft, plus $50.00 per 1000 sqft [over]		25% of permit cost+ $107.78 per hour			
Building Permits Non-Residential	$0.10 per sqft of total foundation	$0.15 sqft min. $150	$3,000.00 + $0.30 per sqft	$3,050.00 + $0.10 per sqft <7,000sqft; or$0.25 per sqft ≥7,000sqft		$0.32 per sqft (Single Family), $0.37 (Duplex), and $0.50 (Townhome)	$200 + $0.15per sqft ($40 minimum)	$942(0-1500sqft), $942+$.35per sqft upt to 10000(1501-10000), or $3760 for the first 10,000sqft+s $0.15 for each additional sqft	$154.92(900sqft or less)- $1006.98(3001sqft+) +$79.24 per additional 1000sqft or fraction	1/2 of permit fee (max $2,000.00)+$0.60per sqft(Single Family), $10per bedroom(Multi-family)	$0.10 per sqft	
Building Permits Residential	$0.10 per sqft of total foundation	$0.10 sqft min. $150	a	$3,050.00 + $0.10 per sqft <10,000sqft; or$0.25 per sqft ≥10,000sqft + $2,400.00 + $250.00 outdoor lighting review fee, if applicable.		$700.00+0.06 per sqft (Apartments & Hotels) or $266.00-($1000.00+$.18persq ft>5000sqft) depending on sqft (New&Finsih Out)	$400.00+$0.15 per sqft ($40.00 minimum)	Varies based on value of construction from $160($1-10000) to $$6,125.00 for first $1,000,000.00 plus $4.00 for each additional $1,000.00($1000001 and up)	$148.18(100sqft or less)- $5914.71(35001sqft+) +$152.15 per additional 1000sqft or fraction	1/2 of permit fee (max $2,000.00)+$0.75per sqft	$0.09 per sqft	
Temporary concession stand	$250.00 each. Buildings, minimum $25.00	Remove - covered under TSE fees										
Road construction inspection	$50.00 per linear foot	REMOVED - Included in SCP Inspection Fees										
Reinspection	$150.00 each	keep the same	$150.00 Each ($250.00 per hour with a minimum of a 2-hour charge outside normal business hours)		$25.00	$100.00	$100.00		$185(single family), $222.00(multifamily/ residential), $75.25or91.38 as applicable (For inspection out of sequence)	$250.00	$50.00	
Temporary Sign Application	$50.00 each	keep the same	$3.00 per sq. ft. with a minimum permit fee of $110.00	$25.00	$2.00 per sq. ft., $50.00 minimum.	$30.00					$10.00	

COBC Application	Current Fee (Established 1995 / 2010)	Proposed Fee	Lakeway (2019)	Westlake Hills (2022)	Cedar Park (2009/2019)	Pflugerville (2022)	Leander (2003 & later)	Dripping Springs (2022)	Kyle (2022)	San Marcos (2019&2023)	Marble Falls (2018 & later)	Buda (2022)
Permanent signs other than those listed below	$75.00 plus $0.50 per sq ft of sign area and $25.00 for electrical permit, if applicable	keep the same	$6.00 per sq. ft. with a minimum permit fee of $150.00		$2.00 per sq. ft., $50.00 minimum.	$100.00	$40.00 or $2.00per sqft (whichever is greater)	Varies by type from $25-275.00	Based on gross sqft $31.70-$412.06	$2.75per sqft(On-premises Sign) or $325.00(Off-premises Sign/Billboard)	Attached Sign (Non-Illuminated)$50 + $2/sq ft, Attached Sign (Illuminated) $60 + $2/sq ft, Monument Sign (Non-Illuminated) $50 + $2/sq ft, Monument Sign (Illuminated) $60 + $2/sq ft, Monument Sign, Multi-Tenant (Non-Illuminated) $150 + $2/sq ft, Monument Sign, Multi-Tenant (Illuminated) $175 + $2/sq ft, Monolith Sign (Non-Illuminated) $50 + $2/sq ft, Monolith Sign (Illuminated)	$100.00+$1.50 per sign area
Order boards	$250.00 plus $25.00 for electrical permit	keep the same										
Electronic message boards	$500.00 plus $25.00 for electrical permit	keep the same									Electronic Message Sign - Monument $200 + $2/sq ft, Electronic Message Sign - Standard $300 + $2/sq ft	Message for up to 30 days (Non-Profit only): $20.00
New Sign package application	$1,000.00	keep the same		$500.00				$200+cost of each varience+preapplication				
Sign package application Amendment	$500.00	keep the same		$250.00								
Sign variance	$250.00 each	keep the same		$250.00(Residential) /$500.00(Commercial):+$150.00 for notification				$150each				
Contractor registration	$25.00 each	$50 Sate prohibits charging for Plumbing & Electrical	$25.00 each					$100 or $50(OOSF)	$12.65	$162(General Contractor) or $57(Tradesman)		$100.00

COBC Application	Current Fee (Established 1995 / 2010)	Proposed Fee	Lakeway (2019)	Westlake Hills (2022)	Cedar Park (2009/2019)	Pflugerville (2022)	Leander (2003 & later)	Dripping Springs (2022)	Kyle (2022)	San Marcos (2019&2023)	Marble Falls (2018 & later)	Buda (2022)
Residential Plumbing	$0.10 per square foot for total foundation/floor area; minimum $25.00	$.30 sqft min $150	a	$500.00	$0.10 per sqft for total foundation/floor area; minimum $25.00	$60.00 per dwelling/unit	$0.15per sqft ($40 Minimum)	$120.00		$60.00	$0.08 per sqft	$125.00
Non-Residential Plumbing	$0.15 per square foot for total foundation/floor area; minimum $25.00	$.30 sqft min $150	a	$500.00	$0.15 per sqft for total foundation/floor area; minimum $35.00	$30.00 per unit + $266.00 (1-2500sqft),$500.00 (2501-5000sqft), or $750.00+$.02(per sqft > 5000)	$0.15 per sqft ($40.00 minimum)			$95.00	$100 + $10per fixture	$150.00
Water/sewer yard line	$25.00 each	same as plumbing permit fee			$0.10 Per Line ft	$250.00(1-2500Lft), $500.00(2501-5000Lft), or $750.00(>5000Lft)						
Outside utility construction	$0.05 per linear foot	REMOVED - Included in SCP Inspection Fees			$0.10 Per Line ft			$120				
Landscape sprinkler	$0.05 per linear foot for outside system	charged when done after the fact, if in initial build included in plumbing permit fee										
Residential Electric	$0.10 per sqft of total foundation/floor area including porches, patios, and accessory buildings; minimum $25.00	$.30 sqft min $150	a		$0.10 per sqft of total foundation/floor area including porches, patios, and accessory buildings; minimum $25.00	$60.00 per dwelling/unit	$0.15per sqf ($40 Minimum)	$120		$60	$0.06 per sqft	$125
Non-Residential Electric	$0.15 per sqft of total foundation/floor area; minimum $25.00	$.30 sqft min $150	a		$0.15 per sqft, $50 Remodel	$30.00 per unit + $266.00 (1-2500sqft),$500.00 (2501-5000sqft), or $750.00+$.02(per sqft > 5000)	$0.15 per sqft ($40.00 minimum)			$95.00	$200(<5000sqft), $400(5001-10000sqft), 0r $400+$10 per additional 1000sqft over 10000	$150
Residential Fence	$50.00 each	keep the same		$250.00			$10.00 per address			$75.00	$40.00	
Non-Residential Fence	$150.00 each	keep the same	$150.00	$500.00			$10.00 per address			$75.00	$50.00	

COBC Application	Current Fee (Established 1995 / 2010)	Proposed Fee	Lakeway (2019)	Westlake Hills (2022)	Cedar Park (2009/2019)	Pflugerville (2022)	Leander (2003 & later)	Dripping Springs (2022)	Kyle (2022)	San Marcos (2019&2023)	Marble Falls (2018 & later)	Buda (2022)
Residential Mechanical	$0.10 per sqft for total foundation/floor area; minimum $25.00	$.30 sqft min $150	a		$100 per living unit plus $25 per floor above 1st floor, $50 Remodel, and $25 HVAC Changeout/Addition	$60.00 per dwelling/unit	$0.15per sqf ($40 Minimum)	$120.00		$60.00	$0.04 per sqft	$125.00
Non-Residential Mechanical	$0.15 per sqft of total foundation/floor area; minimum $25.00	$.30 sqft min $150	a		$100 for 1st 2,500sqft, $75/ea. add 'l 2,500sqft, $50 Remodel, and $25 Coolers/Freezers	$30.00 per unit + $266.00 (1-2500sqft),$500.00 (2501-5000sqft), or $750.00+$.02(per sqft > 5000)	$0.15 per sqft ($40.00 minimum) & $40.00 each (Coolers/freezers)			$95.00	$100 + $5 per ton	$150.00
Gasoline Pump Mechanical	$0.00	REMOVED done though TCEQ / RRC - we get letter from outside source			$50.00		$50.00					
Underground Bulk Mechanical	$200.00 per system, includes new licenses	REMOVED done through utility - we get approval letter			$100.00		$100.00 each					
Flat work permit (driveways, sidewalks, parking lots, etc.)	$0.05 per sqft	falls under building review fees; not regulated by building code - but w/in zoning to prohibit building in setbacks, enforcement of ic rules; charging review fee; $50 permit fee for placement inspection			$35.00	$50.00(Residential)	$0.15 per sqft ($40.00 minimum)				$40(residential), $80(NR <1000sqft), $150(1001-3000sqft), or $250(3000+sqft)	$125(Residential) & $150 (Non-Residential)
OSSF (septic)												
Private sewage system, single-family	$300.00 per system, new and modification of systems	keep the same	Paid to Lower Colorado River Authority or Austin/Travis County Health Department					$450 or $550(engineered)			$160.00	

COBC Application	Current Fee (Established 1995 / 2010)	Proposed Fee	Lakeway (2019)	Westlake Hills (2022)	Cedar Park (2009/2019)	Pflugerville (2022)	Leander (2003 & later)	Dripping Springs (2022)	Kyle (2022)	San Marcos (2019&2023)	Marble Falls (2018 & later)	Buda (2022)
~~PSS, SF reinspection~~	~~$100.00 per system, includes new license~~	N/A REMOVED	Paid to Lower Colorado River Authority or Austin/Travis County Health Department					~~$200.00~~				
Private sewage system, commercial/multiple-family	$500.00 per system, new and modification of systems	keep as is	Paid to Lower Colorado River Authority or Austin/Travis County Health Department					$800.00				
PSS, CMF reinspection	$200.00 per system, includes new licenses	never charged, do not need fee, REMOVED	Paid to Lower Colorado River Authority or Austin/Travis County Health Department					$200.00				
~~Street Infrastructure review~~	~~$0.75 per linear foot~~	REMOVED - Included in SCP &SNPS Permit Fees	$150.00									
~~Water Infrastructure review~~	~~$0.25 per linear foot~~	REMOVED - Included in SCP &SNPS Permit Fees	$150.00									
~~Wastewater Infrastructure review~~	~~$0.25 per linear foot~~	REMOVED - Included in SCP &SNPS Permit Fees	$150.00			$250.00						
~~Drainage Infrastructure review~~	~~$0.75 per linear foot~~	REMOVED - Included in SCP &SNPS Permit Fees	$150.00									
Swimming pool Permit Fee	$150.00 each	$500 Permit Fee + Plumb & Ele Permit Fees - requires 5 inspections (~ $800 all in) layout, pre-pour/pre-gunnite, safety, yard line, final	$1050.00 (Residential)/a (Non-Residential)	$1,440.00 + $0.10 per sqft + application type fees($600, $1200, or $1800) + $125.00 outdoor lighting review fee, if applicable	$0.10 per sqft, minimum $25.00	$60.00(Above Ground/Hot Tub), $158.00(In-Ground No Heater), & $204.00(In-Ground W Heater)	$160(Inground)+$40(if heated) or $60(Above Ground)		$126.79	$250.00	$150(residential) or $250(Commercial)	$150(residential) or $500(Commercial)
Swimming Pool Reinspection fee for safety and security violation	$350.00 each	keep the same		$425.00					$75.25			

COBC Application	Current Fee (Established 1995 / 2010)	Proposed Fee	Lakeway (2019)	Westlake Hills (2022)	Cedar Park (2009/2019)	Pflugerville (2022)	Leander (2003 & later)	Dripping Springs (2022)	Kyle (2022)	San Marcos (2019&2023)	Marble Falls (2018 & later)	Buda (2022)
Parking garage Permit and Plan Review	Permit and plan review fees shall be charged at rate of 5% of the applicable nonresidential fees	keep the same										
Residential Tree removal permit	$0 (Permit Required)	keep the same	$150.00	$200.00 per caliper inch (10"-14") or $300.00 per caliper inch (>14")							$0.00	$125.00
Non-Residential Tree removal permit	$150.00	keep the same	$185.00	$200.00 per caliper inch (10"-14") or $300.00 per caliper inch (>14")								$150.00
Unpermitted tree removal, permit after the fact	$500.00 per caliper inch removed	keep the same		$500.00 per caliper inch								
Fees where construction started before permit application	fees shall be doubled	fees shall be doubled **(min $300)**	fees shall be doubled with a minimum of $150	$250.00				fees shall be doubled		Double the normal fee ($200 flat fee for homeowner's work without permit)	Up to 3 times the fee	
Fees for violation of a stop-work order	an amount equal to the construction fees	keep the same	Builders who are issued a stop-work order by the city on a permitted project shall may be charged $250.00 for the first offense and $500.00 for each subsequent offense.									

COBC Application	Current Fee (Established 1995 / 2010)	Proposed Fee	Lakeway (2019)	Westlake Hills (2022)	Cedar Park (2009/2019)	Pflugerville (2022)	Leander (2003 & later)	Dripping Springs (2022)	Kyle (2022)	San Marcos (2019&2023)	Marble Falls (2018 & later)	Buda (2022)
Technology Fees (Building)												
$1.00–$100.99	$5.00	no changes				$15.00 Technology Fee will be charged per application or permit in addition to the fees listed				$15.00 fee applied to all permits		
$101.00–$250.99	$7.00	no changes										
$251.00–$500.99	$10.00	no changes										
$501.00–$1,000.99	$20.00	no changes										
$1,001.00–$2,500.99	$50.00	no changes										
$2,501.00–$5,000.99	$75.00	no changes										
$5,001.00–$10,000.99	$100.00	no changes										
$10,000.00 +	$125.00	no changes										
Additional Fees												
CO w/out Building Permit	**NEW**	**$200.00**										
Demolition Permit	**NEW**	**$50.00**										
Right of Way Utility Installation (i.e. Google Fiber)	**NEW**	**$50 / plan sheet**										
Transfer of Development Intensity (i.e. IC Transfers)	**NEW**	**$500 admin approval $750 CC approval + recordation & GIS digitizing**										

COBC Application	Current Fee (Established 1995 / 2010)	Proposed Fee	Lakeway (2019)	Westlake Hills (2022)	Cedar Park (2009/2019)	Pflugerville (2022)	Leander (2003 & later)	Dripping Springs (2022)	Kyle (2022)	San Marcos (2019&2023)	Marble Falls (2018 & later)	Buda (2022)
Footnotes or Other Abbreviations			**Footnote a: The permit fee is determined using the building gross area, the square foot construction cost established by the International Code Council and the permit fee multiplier (PFM). It is assessed during plan review. The PFM is variable based on the building and development services department annual budget and shall be updated annually with an effective date of October 1st. Minimum assessment shall be $150.00.**									
Fee Schedule Used	https://ecode360.com/38502866		https://ecode360.com/39618064	https://ecode360.com/40402835	https://ecode360.com/38630398	https://www.pflugervilletx.gov/home/showpublisheddocument/107150380109062300 00	https://ecode360.com/39578328	https://www.cityofdrippingsprings.com/sites/g/files/vyhlif6956/f/uploads/basemaster_fee_schedule_04.22.21.pdf	https://www.cityofkyle.com/sites/default/files/fileattachments/finance/page/1058/approved_fee_schedule_fy_2023_08.25.2022.pdf	https://sanmarcostx.gov/DocumentCenter/View/31398/Ord-2023-04-Development-Fee-Schedule-2023 https://sanmarcostx.gov/DocumentCenter/View/10062/Building-Permit-Fees-PDF	https://marblefallstx.gov/440/Fee-Schedules	https://www.budatx.gov/DocumentCenter/View/10564/FY-23-Exhibit-B---Fee-Schedule

City Council Meeting
11/14/2023
Agenda Item Transmittal

Agenda Item:	**12.**
Agenda Title:	**Discuss and consider action on Resolution No. 2023-18 supporting the Highway Safety Improvement Program with the Texas Department of Transportation**
Council Action:	**Discuss and Consider Action**
Department:	**City Manager**
Staff Contact:	**Kevin Sawtelle, City Engineer**

1. INTRODUCTION/PURPOSE

Discuss and consider action on a "resolution of support by the governing body" to accompany the City's forthcoming application for TxDOT Highway Safety Improvements Program (HSIP) funding with applications due by November 17th.

2. DESCRIPTION/JUSTIFICATION

a) Background

The City is pursuing funding through TxDOT's HSIP for pedestrian improvements along Bee Cave Pkwy from Market Street adjacent to the Sonesta Hotel to the intersection with Bee Cave Road and along the south side of Bee Cave Road from the vicinity of the HEB parking lot to Tennison Hill Drive. The proposed improvements also include a pedestrian push button with associated beacons and crosswalk striping across Bee Cave Road. In a meeting held between City Staff and TxDOT, they indicated this scope of work would be a viable candidate for these funds.

b) Issues and Analysis

While not a requirement of the application, TxDOT indicated it would be beneficial to the application for Council to pass this resolution in support of the 10% of construction cost of the pedestrian trail the City would be responsible for if the funds were awarded. The pedestrian signal and associated improvements for that crossing at Bee Cave Road would be covered 100% by TxDOT. The City would also be responsible for all efforts in developing the construction plans such as surveying and design services.

3. FINANCIAL/BUDGET

Amount Requested	Fund/Account No.
Cert. Obligation	GO Funds
Other source	Grant title
Addtl tracking info	

4. TIMELINE CONSIDERATIONS

5. RECOMMENDATION

Staff recommends approval of Resolution 2023-18.

ATTACHMENTS:

Description	Type
HSIP Guidelines	Backup Material
Improvements Exhibit	Backup Material
Resolution 2023-18	Resolution Letter

Highway Safety Improvement Program Guidelines

Traffic Safety Division

July 2023

2023 HSIP Program Highlights

2023 HSIP Program Timeline

December 15, 2023	District Project Proposals Due for FYs 24-27
	District Confirms Existing Projects (scope, estimate, date)

District Communications – Category 8

The Traffic Safety Division (TRF) will coordinate approximately quarterly with districts to verify that all Category 8 traffic projects including Systemic Widening (SSW) and HSIP are current in TxDOTCONNECT and TRF's systems, verifying project information such as letting date, project limits, scope, cost estimate, construction start and end dates, and final construction cost. Any changes to projects MUST be reviewed by the Traffic Engineering (TE) section of TRF for approval based on program requirements and funding. No changes may be made in TxDOTCONNECT until approved by TRF.

District HSIP Project Proposals

Associated with the TxDOT Unified Transportation Plan (UTP) update, District total programming levels for FY 24 through FY 27 will be provided on TRF's HSIP SharePoint Site. Districts should look to fill in the funding gaps for FY 24 – FY 26 and submit new projects for FY 27.

By December 15, 2023, each district should submit an FY 2024 – FY 2027 HSIP project list including all projects already approved for HSIP funding as well as those being submitted for HSIP funding review. Each new project submission must include a complete packet of items required for review as detailed under Project Proposals. It is important that districts fully program each FY. The newest programming levels have already incorporated 15% above the projected programming amount for each FY to allow for flexibility.

Changes to Project Submission Process

For the 2023 Project Call, projects will be entered in TxDOTCONNECT.

Contacts

Contact TRF-TE-Safety@txdot.gov for additional questions.

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Overview

Introduction

Texas has approximately 322,153 miles of highway and streets of which the Texas Department of Transportation (TxDOT) maintains approximately 80,905 miles according to TxDOT's 2021 Roadway Inventory Annual Report published by TxDOT's Transportation Planning and Programming (TPP) Division.

The Texas Demographic Center projects population in Texas is expected to increase from 30,029,572 in 2022 to 47,342,417 in 2050. The citizens and visitors, and businesses, depend on the state to provide facilities that safely and efficiently transport people and goods throughout Texas. This is emphasized in TxDOT's Goals and Objectives, "Promote Safety: Champion a culture of safety. Reduce crashes and fatalities by continuously improving guidelines and innovations along with increased targeted awareness and education."

Texas Highway Safety Improvement Program

The Department considers the needs of the citizens as TxDOT plans, designs, constructs, operates, and maintains transportation facilities. However, due to many factors, a road segment or intersection may experience crashes.

In compliance with Title 23 USC, the Texas Highway Safety Improvement Program (HSIP) is a federally mandated program managed by TxDOT. The HSIP, directed by Texas' Strategic Highway Safety Plan (SHSP), works to achieve the main objective of significantly reducing traffic fatalities and serious injuries on all public roads by providing a standardized approach for identifying and reviewing specific traffic safety concerns throughout the state. Texas' SHSP identifies the emphasis areas and strategies that the HSIP will focus on to meet the state's objectives of reducing fatal and serious injury crashes in Texas.

The program requires a data-driven, strategic, results-focused approach to improving highway safety on all public roads, consistent with the SHSP. The HSIP implements the priorities identified in the SHSP and the goal is to achieve a significant reduction in fatalities and serious injuries on Texas roadways, including both on-system and off-system roads. The vision of zero deaths on Texas roadways is based on the belief that everyone, no matter how they travel, should be able to arrive at their destinations safely. The plan lists eight emphasis areas which have the greatest potential for reducing fatalities and injuries. The emphasis areas are roadway and lane departures, speed related, intersection safety, occupant protection, impaired driving, distracted driving, vulnerable road users, and post-crash care. Younger drivers and older drivers are incorporated into the eight emphasis areas to avoid duplication. Projects must address one of the eight emphasis areas and logically flow from the appropriate countermeasure(s) specified in the Texas SHSP. Funds are provided for construction and operational improvements for projects both on and off the state highway system (on- or off-system).

HSIP funded projects are also required to be evaluated for cost effectiveness. Completed projects are subject to cost/benefit analysis using three to five years of before and after crash data, average annual daily traffic for the years before and after the improvement, and actual construction costs.

To maximize the cost benefit of a safety improvement project, the process of planning, implementing, and evaluating HSIP projects requires partnering with all stakeholders at both the state and local level.

HSIP Project Selection

All Texas public roadways are eligible for participation under HSIP provided the proposed safety highway improvement project addresses emphasis areas identified in the most current Texas SHSP. There are also some items of work that may address a serious crash type, but are not eligible for HSIP funding. Some examples include bridge replacements and general maintenance projects of roadways, signs, signals, pavement markings, etc.

Consider the following when selecting HSIP projects

- Is the strategy, activity, or project consistent with the priorities of Texas' SHSP?
- Does the project address a serious crash risk such as a hot spot, systemic risk factor, road segment, or crash type that has been identified through a data driven process?
- Is the project likely to contribute to a significant reduction in fatalities and serious injuries?
- Is this project consistent with the District Annual Safety Plan?

Emphasis Areas from the SHSP

Roadway & Lane Departure

Speed Related

Intersection Safety

Occupant Protection

Impaired Driving

Distracted Driving

Vulnerable Road Users: Pedestrian & Pedalcyclist

Post-Crash Care

Younger Drivers

Older Drivers

Program Funding

The HSIP is federally funded. Program funds are eligible to cover 90 percent of project construction costs. State or local participation must cover the remaining 10 percent of project construction costs. Certain safety projects may qualify for increased federal share, Title 23, United States Code (23 U.S.C.), Section 120(c)(1), as designated by TRF. The HSIP is legislated under Section 148 of Title 23, United States Code (23 U.S.C. 148) and regulated under Part 924 of Title 23, Code of Federal Regulations (23 CFR Part 924).

The Texas HSIP provides funding for construction and operational safety improvements for locations both on and off the state highway system. HSIP is administered by the Texas Department of Transportation (TxDOT) Traffic Safety Division (TRF) and is part of the UTP (Category 8). When a potential highway safety project location is identified, it is important to work with your TxDOT District HSIP Coordinator.

HSIP funds are only eligible to cover construction dollars, i.e. only the funding line in the Construction grid of the Funding Tab in TxDOTCONNECT. Examples of commonly excluded costs include:

- Environmental permits
- Right of Way (ROW)
- Additional contingencies
- Design/engineering costs
- Additional work not covered by the scope of approved safety countermeasures

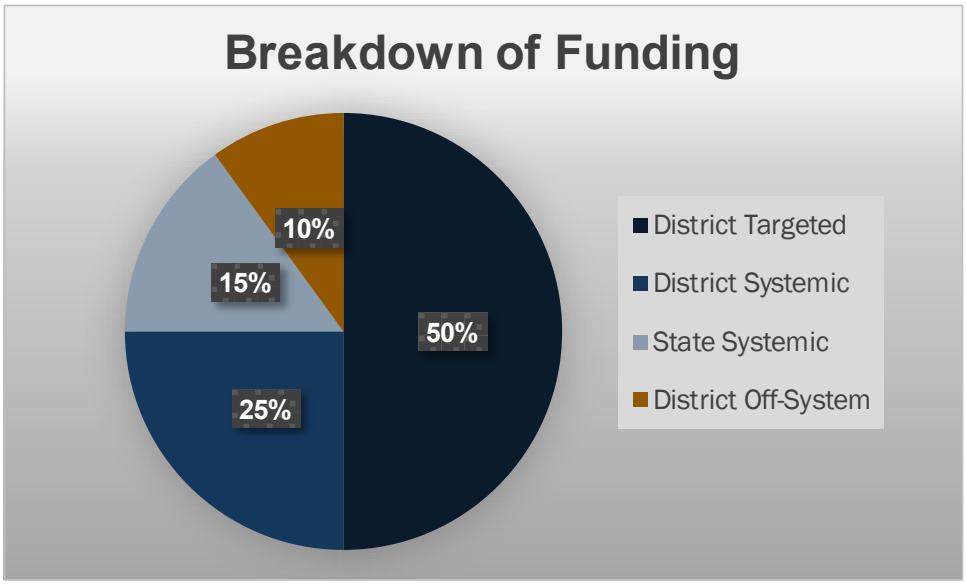
Programming Summary

Each year, TRF will provide districts with 4 years of projected funding levels. Districts should aim to fully program each FY. **The current programming levels have already incorporated 15% over the base programming levels.** This will allow flexibility in the event a project does not meet the requirements, awarded projects let at a lower cost than estimated, projects cancel, or additional funding becomes available. Controlling contracts under $20,000 may not qualify for HSIP funds.

Each District will be provided a proposed HSIP programming level which they should plan to spend each FY towards safety countermeasures supporting a reduction in fatal and serious injury crashes by an average of at least 3.25% each year.* The programmed funds are based upon the previous three years of KA crashes that occurred in each District.

Going forward, the program's UTP allocation will be programmed according to the following guidelines:

Table 1: Breakdown of Funding Programming



50% District Targeted

District Targeted component is the traditional approach used in safety analysis in which "hotspot" locations are identified based on crash history and appropriate countermeasures are implemented to reduce crashes. Targeted projects typically identify specific locations and targeted funding would provide for these "hotspot" on-system locations using KA on-system crash data.

25% District Systemic

Systemic or "system-based" projects take a broader view and evaluate risks across the district's roadway system. A systemic approach does not solely look at crash-data, particularly in low volume and/or rural roadways where crash densities are lower or inconsistent. Systemic funding provides each District a set amount toward district-wide systemic improvement projects using proven safety countermeasures to reduce risk of fatal and serious injury crashes.

15% Statewide Systemic

Each FY TRF will advance statewide systemic projects such as median barriers. Projects will be submitted from the districts for consideration and selected based on existing conditions, need, and available funding.

10% District Off-System

Off-system funds will be programmed by district in the same manner as the On-System Targeted but using KA off-system crash data.

If you are a new off-system partner, please reach out to your district contact regarding options for additional assistance with Design, ROW, and other construction-related costs.

Increased Federal Share (G Match)

TRF is continuing our efforts to encourage local participation in the HSIP program. To that end and in accordance with 23 USC §120(c)(1): Federal share payable, Increased Federal Share for Certain Safety Projects, TRF and FHWA have evaluated the HSIP countermeasures for eligibility for 100% federal funding for construction dollars. All projects must conform to the guidelines for HSIP projects, e.g. meeting minimum SII. Safety Engineering will consider off-system projects a priority for this increased share.

Examples of potentially eligible projects include:

- traffic control signalization,
- traffic circles (also known as "roundabouts"),
- pavement marking, or,
- installation of traffic signs, traffic lights, guardrails, impact attenuators, or concrete barrier end-treatments.

This section is included as a guideline to assist local governments in selecting safety projects that may qualify. G match project selections will be communicated when the district's program is approved.

Systemic Approach

A systemic approach involves widely implementing improvements based on high-risk roadway features correlated with specific severe crash types. This approach provides a more comprehensive method for safety planning and implementation. It is an approach that broadens traffic safety efforts by considering risk and crash history when identifying where to make low-cost safety improvements. A systemic approach helps to identify sites for potential safety improvements that typically would not be identified using a traditional site analysis approach. Districts can also refer to the FHWA's Systemic Safety Project Selection Tool as a resource, or TxDOT staff may visit the TRF SharePoint to review the FHWA Systemic Safety Webinar files.

A systemic approach to safety:

- Identifies a "problem" based on systemwide data, such as a rural lane departure crashes, urban pedestrian crashes, or rural unsignalized intersection crashes. These crashes are often spread across the network with few or no locations experiencing a "cluster" of crashes during a given period of 3-5 years, but which still present a safety risk to the travelling public.
- Looks for characteristics (e.g. geometry, volume, or location) frequently present in severe crashes. These characteristics are referred to as risk factors.
- Focuses on promptly deploying one or more low-cost countermeasure to address the underlying circumstance contributing to crashes on most roads sharing a set of risk factors. By addressing crash types experiencing low densities (crashes per intersection or mile) but high aggregate numbers, program funds can be dedicated toward low-cost solutions deployed across the system, affecting many locations.
- Identifies and prioritizes locations across the roadway network for implementation. Systemic projects should be widely implemented across the system. Projects should be along a roadway corridor/segment or at multiple locations throughout a region.

Additional information about many of the below safety measures can be found in the following resources:

FHWA Proven Safety Countermeasures
Solutions for Saving Lives on Texas Roads
Every Day Counts (EDC)

Approved systemic safety countermeasures are limited to the list below under the appropriate emphasis area. Systemic projects that address a unique location will not be approved. For example, intersection or curve projects should cover multiple intersections/curves located on the corridor or within a geographical region:

- Intersections: Implement systemic signing and marking improvements at stop-controlled intersections

  Includes any combination of doubled up signs, oversize advance signs, street name plaques, enhanced pavement markings, stop ahead warning signs, retroreflective sheeting on signposts, stop bar, sight distance improvements, and two-direction large arrow sign at T Intersections

- Intersections: Low-cost urban intersection improvements

  Includes additional low-cost items such as signal heads, protected left-turn signal phases, pavement markings, signing improvements, and signal-ahead warning signs.

- Intersections: Dedicated right and left turn lanes

  Particularly helpful at two-way stop-controlled intersections on high-speed mainline roadways.
  Includes adding right and left turn lanes at intersections along an entire corridor where none existed and lengthening existing turn lanes to provide appropriate deceleration and storage on high-speed roadways (>50mph).
  Include all intersection standard signing and pavement markings.

- Intersections: Signal head backplates with reflective borders
- Intersections: Leading Pedestrian Intervals (LPI)

  Eligible LPI projects will let to contract with the installation of APS.

- Intersections: Close Median Openings (Crossovers)
- Intersections: Rural Intersection Improvements

  Includes systemic signing and marking improvements at stop-controlled intersections (see above)
  Safety lighting.
  Rumble Strips on stop-controlled approaches.
  Installation of roadside flashers or embedded LEDs for Stop signs on controlled approaches and "Intersection Ahead" warning signs along uncontrolled approaches. Where Overhead Flashing Beacons (OFBs) previously funded by the HSIP are removed due to the installation of roadside flashers or embedded LEDs, the OFBs must have met the 10-year service life.

- Intersections: Two-Way Left-Turn Lanes (TWLTLs / Continuous Turn Lanes)
- Roadway Lane Departure: Median Barrier

  Installation of concrete or cable median barrier where no barrier of any kind currently exists;
  Placed in the median separating opposing mainlines of traffic;
  The existing median width must be less than or equal to 70ft; and,
  Cable median barriers are for use only on medians greater than 25ft in width; concrete median barriers can be used on all median widths.
  Locations of projects will be prioritized in as follows:

  By roadway type (Interstate, non-Interstate freeways, other principal arterials, all others)
  0-45' median widths in urban and rural areas
  Greater than 45ft median widths in rural areas
  Greater than 45ft median widths in urban areas

- Roadway Lane Departure: Roadway widening

  Rural two-lane, two-way undivided highways with a paved surface width less than or equal to 24ft;
  Widen to 28ft or more, add rumble strips

- Roadway Lane Departure: Continuous safety lighting along a corridor where no lighting is present
- Roadway Lane Departure: Enhanced Delineation on Curves

  Systemically treat curves within a geographical area or roadway type, not single locations
  Includes pavement markings, raised retroreflective pavement markers, post mounted delineation, larger chevrons/curve warnings signs/advisory speed plaques, or LED chevrons.
- Pedestrian: Safety lighting at urban intersections where pedestrian facilities are present and no lighting is present.
- Pedestrian: Installation of attachments to existing concrete barrier systems to deter prohibited pedestrian crossings on divided highways.
- Pedestrian: Uncontrolled crossing locations

  Use the Guide for Improving Pedestrian Safety at Uncontrolled Crossing Locations when submitting systemic projects for uncontrolled pedestrian crossing locations. To submit eligible systemic countermeasures specific to pedestrian crossings at uncontrolled locations, follow the guidelines provided in Step 4. Table 1 on page 16 of the linked document must be submitted with project proposals; identify (highlight or circle) the appropriate selection box based on each roadway's configuration, AADT, and Speed Limit for each roadway being submitted. In summary, the eligible improvements from Table 1 include:

  Crosswalk pavement markings
  Lighting at the crosswalk
  Raised crosswalks
  Signing – parking restrictions, advance crosswalk warning signs, in street pedestrian crossing signs, and yield here to pedestrians
  Curb extensions
  Rectangular Rapid-Flashing Beacon (RRFB)*
  Pedestrian Hybrid Beacon (PHB)*

  **Selections for PHBs and RRFBs must still meet the TxDOT guidelines dated September 18, 2018, and be reviewed by TRF.*
- Pedestrian: Median and crossing islands in urban and suburban areas

  Install medians or crossing islands where none existed previously on curb sections of urban and suburban multilane roadways where there is a significant mix of pedestrian and vehicle traffic and intermediate or high travel speeds.
  Includes mid-block areas, approaches to multi-lane intersections and areas near transit stops or pedestrian focused corridors.

Project submissions for the use of systemic funds not following the above criteria will not be approved during the regular program review. However, if your district has data to support an additional systemic countermeasure not listed, the district may submit that data to TRF, before submitting the complete program for statewide review, to request approval.

Crash counts and SII calculations are not required for the above systemic safety countermeasure project proposals, because they are proven effective including on roadways not experiencing clusters of crashes.

Deadline for Letting

Due to the nature of HSIP projects (safety), projects must be let to contract in a timely manner. Ensure the estimated let date entered into TxDOTCONNECT is achievable. Once a project is approved for letting in a fiscal year, every effort must be made to meet this date. TRF reviews and approves all letting date changes. Any project requesting an accelerated letting date will be considered.

However, projects requesting a delay in letting will not be allowed letting past the following three years from the time it was approved for funding. In either case, when a letting date changes outside of the approved FY, the district will need to show how it impacts HSIP funds in the requested FY. Federal safety funds not obligated by the federal lapse date are forfeited by the state.

Changes in Scope

A request for a change in scope must be submitted as soon as the change is known and prior to PS&E submittal. Submit an email request to TRF-TE-Safety@txdot.gov for approval concerning changes in scope. Provide a detailed explanation for the change requested, including required documentation that would have been submitted at project submission. TRF will review the request and notify the District if the request has been approved.

Note: Requests for changes in scope that results in redefining the project location or deviating from the emphasis area or countermeasures specified in the original project proposal may result in the request being denied.

Requests for Additional Funds

Off-system projects are not eligible to receive additional safety funds. The local government is responsible for all costs after the federal funding has reached its maximum authorized amount.

Overruns

No later than the time of PS&E submittal, notify TRF-TE-Safety@txdot.gov when the engineer's final estimate exceeds the project's authorized funds by including the Cat 8 Overrun Justification Form, available to TxDOT staff on the HSIP Sharepoint. TRF will review the request and notify the District if the request has been approved.

If the whole contract is Category 8 funded, and the engineer's final estimate for the whole contract is under the total authorized amount for the contract, an overrun justification is not required, but if the engineer's final estimate for the whole contract exceeds the total authorized amount for the contract, then an overrun justification form will need to be filled out and submitted. It will need to include justification for each CSJ with an overrun on the form.

If the contract includes projects other than HSIP Category 8 projects, and one or more of the HSIP projects has an overrun, an overrun justification form will need to be filled out and submitted for that project(s).

Change Orders

Submit an email request to TRF-TE-Safety@txdot.gov and include a copy of the Change Order Report from Site Manager along with all supporting documentation. TRF will review the request and notify the District if the request has been approved.

Development Authority (8DA)

TxDOT's Administration established a safety development authority category in the Unified Transportation Plan. The development authority category (Category 8DA) allows districts to design the PS&E, purchase ROW if necessary, relocate utilities and obtain environmental clearance for planned safety projects. Category 8DA does not fund the construction of these safety projects. The District needs to continue to pursue construction funding from other categories including STP, Category 8 HSIP, Energy Sector, etc.

Requests for 8DA funding should be those projects which are expected to meet HSIP criteria once ready to let but take significantly longer for planning; in general, larger projects like interchanges are unlikely to be eligible. Category 8DA funding lines are reviewed and approved by TRF; however, 8DA approval does not guarantee Category 8 construction funds nor does the project have to be funded with Category 8 funds.

Confidentiality of Data

Federal statutes 23 U.S.C. 148(h)(4) and 23 U.S.C. 407 make data and reports confidential if they are compiled for the purpose of evaluating safety of federal-aid highways. Data used in the HSIP should not be released. Any written request must be routed through the TxDOT Office of General Council (OGC).

TRF Responsibilities

Table 2: TRF Responsibilities

Step	Action
1.	Analyze the proposed highway safety improvement projects for eligibility, data accuracy, and overall conformance with program requirements.
2.	Analyze each targeted/hot spot project's Safety Improvement Index (SII) and review systemic projects for eligibility.
3.	Place projects in the HSIP according to priority and program federal funding. Forward the districts the list of highway safety projects selected for funding through HSIP.
4.	Oversee overruns of project authorized funds at the divisional PS&E review stage in accordance with the current TxDOT policy. >> See Commission Minute Order 109864, November 18, 2004, or subsequent revisions.

Reporting

TRF submits a statewide HSIP report for the prior federal fiscal year to the FHWA by August 31 of each year. The report addresses intersections and segments as required under 23 U.S.C. Section 148(g). The report includes sections on progress in implementing HSIP projects; program effectiveness; project evaluation; a narrative addressing methodology, and effectiveness; and an explanation of how HSIP projects link to Texas' Strategic Highway Safety Plan.

TRF will analyze the crash reduction data from completed projects and use the results to adjust the factors for the following year's HSIP.

Design

Introduction

The design guidelines presented in this section are intended to aid in planning Highway Safety Improvement Program (HSIP) projects. Work types are assigned based on the information provided by the district during the project proposal process. Only work types programmed for the safety project will be considered "the scope." The design guidelines reference portions of the Roadway Design Manual (RDM) and establish items of work not eligible for HSIP funding. These guidelines offer sufficient flexibility while retaining safety as the essential element of all HSIP projects.

Design Guidelines

Freeway, Non-Freeway "New Location or Reconstruction," or Texas Highway Freight Network (THFN) Projects

All roadway elements affected by the scope of the approved HSIP safety improvement must comply with the "New Location and Reconstruction (4R) Design Criteria" found in the RDM (Chapter 3). Enhancements to features outside the scope of the HSIP project are at the district's option and are to be funded using district funds under a separate Control-Section Job (CSJ).

Non-Freeway "Rehabilitation or Restoration" Projects

All roadway elements affected by the scope of the approved HSIP safety improvement must comply with the "Non-Freeway Rehabilitation (3R) Design Criteria" found in the RDM (Chapter 4). Enhancements to features outside the scope of the HSIP project are at the district's option and are to be funded using district funds under a separate CSJ.

"Safety Treat Fixed Objects" Projects

Projects whose primary scope of work is "Safety Treat Fixed Objects" must comply with the "Clear Zone" (formerly "Horizontal Clearance") criteria found in the "Non-Freeway Rehabilitation (3R) Design Criteria" of the RDM (Chapter 4). The designer should provide clearance greater than that required whenever reasonably practicable.

Other Projects

All projects not included in the above categories must retain the existing roadway conditions (lane widths, shoulder widths, etc.) as a minimum.

Design Considerations

At the beginning of the HSIP project proposal process, highway designers should analyze crash data to identify the specific safety problems that might be corrected and follow the suggested design process in the RDM (Chapter 4, Section 3).

Design Exceptions or Waivers

When the HSIP design guidelines cannot be met, the current design exception or design waiver process established in the RDM (Chapter 1, Section 2) must be followed.

HSIP Project Submission Guidelines

As a condition of obligating Federal Highway Safety Improvement Program (HSIP) funds, a state is required to submit an annual report to the Federal Highway Administration (FHWA) that describes the progress on safety improvement projects and their contribution to reducing roadway fatalities, injuries, and crashes. To comply with these requirements and to maintain the integrity of the program-selection process, the following must be adhered to and considered prior to project proposal submission:

HSIP projects are not eligible for local letting. All HSIP projects must be let by TxDOT's competitive bid process. At this time, TRF is evaluating the progress of a Local Let pilot program initiated with the 2022 program call and will update as more information becomes available. Until then, no additional projects will be added to the local letting pilot.

Off-system project proposals are required to be submitted through the local district office.

HSIP Participant Responsibilities

Table 3: HSIP Project Submittal Guidelines

Step	Action
1.	Use the most current version of the SHSP to learn about the program safety emphasis areas. Conduct safety studies and identify potential project locations that qualify for improvements in the identified program emphasis areas using the three most current years of crash data. Evaluate each identified location to determine if the project is feasible and verify that appropriate countermeasures addressing the location's safety needs are not already completed or scheduled.
2.	Coordinate with stakeholders to gather additional location information and to identify any potential locations that may have been excluded due to incomplete or inaccurate crash and roadway data.
3.	Perform a field evaluation to determine **existing** conditions at the proposed project site. This will avoid the submission of work that has already been constructed and provide the information necessary for a complete and accurate estimate. **Consult with the district's planning office prior to submitting project proposals** to determine if the proposed improvement or another is already scheduled for construction under this program or any other.
4.	For projects determined to be feasible, determine the appropriate countermeasure or group of countermeasures, and develop a detailed cost estimate for the entire construction cost of the project. Leveraging of project estimate is not allowed. NOTE: Districts are discouraged from adding district funds to the requested amount in order to "leverage" the cost of the project. All items must be included in the submitted estimate.
5.	Work is assigned based on the information provided. Only work programmed will be considered "in scope," and is the only work that can be done as part of the safety project. Work considered incidental to the primary work type will not have a separate work code assigned, but the work will be allowed (for example, widening a roadway to install a left-turn lane or extend drainage structures, re-striping to accompany an overlay, etc.). If additional non-incidental work is required or desired, it will be considered "out of scope" and will be funded by the district under a separate CSJ.

6.	Project selection is based on the crash history, traffic volumes, and roadway geometrics at the specified location. Accurately identify project parameters for the project to be programmed correctly. When defining project parameters, consideration should be given to including distance for project approaches and tapers, as necessary. HSIP projects are not eligible for non-site-specific contracts.
7.	Complete and submit HSIP projects containing requested data to TxDOT's Traffic Safety Division, Traffic Engineering/Safety Engineering team, through the District's HSIP point of contact, along with the necessary backup data (typical sections, layouts, maps, photographs of existing site conditions, etc.) in response to the program call. To submit projects for consideration, set projects up in TxDOTCONNECT.
8.	Notify TRF of potential overrun of an HSIP project's authorized funds prior to Plans, Specifications and Estimates (PS&E) submittal.
9.	Submits PS&E for HSIP projects to TRF in accordance with standard PS&E submission schedule.

Project Documentation

The project proposals will be submitted electronically through TxDOTCONNECT, with supporting documentation to be submitted through Box.com.

A Submittal Form is required for each project submitted. All related fields are expected to be filled out completely and accurately. The form is to be submitted along with the rest of the supporting documentation for each project.

- The Location Map in TxDOTCONNECT will not replace the in-person field evaluation (Table 3 item 3).
- SII Report – An email will be sent when the SII reports for districts to use with the project submissions have been updated in CRIS. All crash data used in the SII calculation will be queried using Beginning and Ending Distance From Origins (DFO's). The majority of the required SII reports are located in the MicroStrategy component of CRIS at the following location:

  CRIS -TX DOT> Shared Reports > HSIP Call > On-System SII Submission Reports

  Detailed instructions on how to run the SII reports for on-system projects are provided within this document. Off-system projects will use the Excel SII calculator, and instructions for pulling crashes through CRIS are available in the HSIP SharePoint. Districts must include SII reports for BOTH on- and off-system projects.

- Estimate – The estimate must be for the entire cost of constructing the project and must include **all** items, priced using the **district** average bid prices published by TxDOT. A detailed set of instructions on how funding should be entered into TxDOTCONNECT can be found on SharePoint to ensure letting estimate, inflation and funding lines correlate. If a detailed estimate is not provided, the project may not be considered for funding and may be eliminated from the call. Each bid item must include:

  Complete Descriptive Codes
  Quantities
  District Average Unit Prices
  Total price for each item

  Check for commonly forgotten items, such as curb ramps, mailboxes, mow strips, etc. Contingency or "lump sum" amounts are discouraged when submitting the estimate. Provide the estimate in as much detail as possible to reduce the possibility of future overruns & change orders.

- For projects covering multiple locations, such as signal interconnects or systemic projects, quantities must be broken down by intersection or roadway segment. For example, improving a corridor might show 3 backplates at 1st street, 2 at 2nd street, etc. This is to facilitate completion of the annual report to the FHWA.
- Existing and Proposed Typical Sections – Existing and proposed typical sections are required for any projects that involve widening the roadway or adding lanes.
- Intersection Layouts – Intersection layouts are required for any intersection improvement project, including signing & pavement markings, channelization, pedestrian improvements, or RCUTs.
- Warrants – Traffic signal warrants are required for any project using WC 107 – Install Traffic Signal.

Submittal Instructions

Districts will enter all of the projects to be submitted for approval into TxDOTCONNECT. For each project, prepare the additional documentation required; all supporting documentation will be uploaded to the Safety Engineering team in the folder for your District in Box.com.

After all the projects have been entered into TxDOTCONNECT, including the off-system, districts will submit the entire program for Statewide review. TRF will review submissions, enter comments into TxDOTCONNECT, and return the program as necessary. Once all changes have been reviewed and approved, TRF will approve the program in TxDOTCONNECT which will start the process of approving funding lines and enabling work to begin.

In the event of technical difficulties with TXC, Districts will coordinate with TRF-TE-Safety to manually approve submissions.

Calculating and Using the SII

Introduction

Each eligible proposed highway safety project is subjected to a benefit-cost analysis. The formula used for this purpose is the Safety Improvement Index (SII).

SII Formula

In its most basic form, the SII is the ratio of the annual savings in preventable crash costs that have occurred at a location to the cost of constructing the proposed improvement. The SII incorporates adjustments to provide additional benefit for:

- locations experiencing increasing traffic over the project life
- improvements that will reduce maintenance costs
- projects expected to have long service lives over which construction costs can be amortized.

The SII formula is as follows:

$\mathbf{S} = \frac{\boldsymbol{R(CfF + CiI)}}{\boldsymbol{Y}} - \boldsymbol{M}$	$\boldsymbol{Q} = \left(\frac{\boldsymbol{Aa - Ab}}{\boldsymbol{Ab}} \div \boldsymbol{L}\right)\boldsymbol{S}$
$\boldsymbol{B} = \frac{\boldsymbol{S} + \frac{1}{2}\boldsymbol{Q}}{\mathbf{1.06}} + \sum_{i=2}^{L}\left[\frac{\left(S + \frac{1}{2}Q\right) + (i-1)Q}{(1.06)^i}\right]$	
$\boldsymbol{SII} = \frac{\mathbf{B}}{\boldsymbol{C}}$	

where:

S = annual savings in preventable crash costs (equal to crash cost savings per year less annual maintenance costs), as determined by the above formula
R = crash reduction factor (see following subsection for explanation)
F = number of preventable fatal and incapacitating injury crashes (see following subheading for explanation)
Cf = cost of a fatal or incapacitating injury crash (see following subheading for explanation)
I = number of preventable non-incapacitating injury crashes (see following subheading for explanation)
Ci = cost of a non-incapacitating injury crash (see following subheading for explanation)
Y = number of years of crash data
M = change in annual maintenance costs for the proposed project relative to the existing situation
Q = annual change in crash cost savings, as determined by the above formula
Aa = projected average annual Average Daily Traffic (ADT) at the end of the project service life
Ab = average annual ADT during the year before the project is implemented
L = project service life (see following subheading for explanation)
B = present worth of project benefits over its service life, as determined by the above formula
C = initial cost of the project.

Obtaining SII Data

Before calculating the SII, the "Proposed Corrective Action" must be translated into "work codes." The HSIP Work Codes Table (contained in Appendix B of this manual) provides the work codes that correspond to various descriptions of work. The table also provides associated definitions, reduction factors, service lives, applicable maintenance cost, and preventable crash codes (see following explanation).

The data necessary to calculate each project's SII can be obtained from the sources shown in the following table.

Table 4: Sources for SII Data

Data Item	How It Is Obtained
R — Crash Reduction Factor NOTE: The reduction factor represents the percentage reduction in crash costs or severity of the applicable crash types that can be expected as a result of the improvement.	From the Highway Safety Improvement Program (HSIP) Work Codes Table (Appendix B). NOTE: If the scope of work includes more than one work code, TRF program administrators derive a composite reduction factor.
F — Number of fatal and incapacitating injury crashes *I* — Number of non-incapacitating injury crashes	The HSIP Work Codes Table shows "Preventable Crash" codes. Preventable crashes are those with defined characteristics that may be affected by the proposed improvement as described by the work code. The codes correspond to numeric codes assigned in the Crash Records Information System (CRIS) to the indicated variable. Information is collected from the peace officer's crash report and converted into a coded format. The Preventable Crash Decoding Table (Appendix C) can be used to interpret the codes and determine the number of each type of crash, using three years of preventable crash data. The program call specifies the years used.
Cf — Cost of a fatal or incapacitating injury crash *Ci* — Cost of a non-incapacitating injury crash	The average cost of each type of crash is based on the comprehensive cost figures provided by the National Safety Council. The program call provides the cost figures used each year.
L — Project service life	From the HSIP Work Codes Table found in Appendix B of this manual. NOTE: If the project is represented by more than one work code, TRF program administrators base the project service life on the primary work.

SII Results

All targeted projects, both on and off system, must have an SII report submitted as part of the supporting documentation. Off-system projects will use CRIS and the excel calculator; on-system projects must use the Microstrategy reports, whenever available.

NOTE: The SII does not establish the need or lack of a need for a project. The SII formula is a mathematical representation of the ratio of the historical costs of preventable crashes to costs of construction; it provides no evaluation of the appropriateness of the type of construction.

A project with an SII greater than or equal to 1.0 is considered cost effective. Projects with an SII of less than 1.0 will not be considered for funding through the HSIP program. The SII was designed as a comparison device for project prioritization and should **not** be used as a measure for independent projects.

SII Calculator Available

An Excel-based program for approximating a project's SII is on TxDOT's Highway Safety Engineering website. Submissions using this calculator to establish a qualifying SII must also include Crash IDs on the form in order to assist with verification.

SII Report Instructions using Microstrategy (On-System only)

To generate an On-System SII Submission Report:

1. Log in to the Crash Records Information System (CRIS) at https://cris.txdot.gov
2. Click on the MicroStrategy link on the right side of the CRIS landing page
3. Click on the "CRIS - TX DOT" project link
4. In the "Shared Reports" folder, select the "HSIP Call" folder
5. In the "HSIP Call" folder, select the "On-System SII Submission Reports" folder
6. Select the appropriate report for the proposed counter measure (Work Code):

   Safety Project SII Calculator for Signing and Signal Projects (100 Series) by Hwy/DFO
   Safety Project SII Calculator for Roadside Obstacles and Barrier Projects (200 Series) by Hwy/DFO
   Safety Project SII Calculator for Resurfacing and Roadway Lighting Projects (300 Series) by Hwy/DFO
   Safety Project SII Calculator for Pavement Marking Projects (400 Series) by Hwy/DFO
   Safety Project SII Calculator for Roadway Work Projects (500 Series) by Hwy/DFO
   Safety Project SII Calculator for Combination Work Code Projects by Hwy/DFO*

*If a proposed combination does not exist, e-mail the new combination request to TRF-TE-Safety@txdot.gov for evaluation by TRF. If approved, a crash reduction factor and service life will be calculated. The deadline to get a new combination calculated is 8 weeks prior to the project submission deadline. After the deadline, the SII of any work code combinations not in the report will have to be calculated by hand and may not be done in time for the project to be included in the current call.

* Work codes with a reduction factor of "TBD" require additional information and cannot be found in MicroStrategy. To obtain an SII for these work codes send project information and work codes to TRF-TE-Safety@txdot.gov.

7. Complete the required prompted fields:

   Project Parameters – Enter the physical description of the project limits
   Year Group – Select Years
   Work Code – Select the appropriate work code. For projects with multiple proposed work codes, use the "Safety Project SII Calculator for Combination Work Code Projects by Hwy/DFO" report and select from the available combination work codes.
   Part of Roadway (optional) – Leave blank.
   Project Cost – Enter the Total Construction Cost (Bid Items + ROW + Mobilization and Barricades + Safety Contingency + Inflation).
   Annual Maintenance Cost – Enter the maintenance cost as defined in the Work Codes Table of this document, including per luminaire, etc.
   First Highway – Select the Highway from the drop-down list or search box.
   Beginning DFO – Enter the Beginning DFO for the project parameters. The DFO's must be obtained using the LRS Readout tool in the Map application of CRIS. Detailed instructions on using the Map application can be found on the TRF website at
   http://crossroads/org/trf/TRFCDA/MAP_User_Guide_v2.pdf
   Ending DFO – Enter the Ending DFO for the project parameters. See above instructions for obtaining DFO's. The Ending DFO must be greater than the Beginning DFO.
   Second Highway – Select the Highway from the drop-down list or search box if the project is an intersection project with another on-system roadway, or the project spans multiple segments on the same highway. Up to four intersection legs or segments with Beginning and Ending DFO's may be entered.

8. Click on the "Export" button at the bottom left of the screen.
9. Click on the "Add to History List" option.
10. Click on the report once the processing is complete.
11. Save the report as a PDF file.

SII Report Instructions using CRIS & Excel

At this time, it is possible to generate SII reports for Off System projects using the CRIS query builder. Districts are expected to use the CRIS tool to locate relevant preventable crash IDs and use the Excel-based SII calculator to calculate SIIs for off system projects. Additional instructions for calculating off-system crashes using CRIS Query are available on TRF's TE Sharepoint.

Crash Data

Overview

The Crash Records Information System (CRIS) is the official state database for traffic crashes occurring in Texas. CRIS contains spatial and reporting components designed to be used by TxDOT personnel to obtain and analyse crash data. Each district has personnel licensed to have access to CRIS. TxDOT district offices are encouraged to work closely with TxDOT Area Offices and local municipalities to identify locations with the highest need for safety improvements. Crash data for the past 3 years will be used for an HSIP Program Call and any crashes occurring in years other than these years will not be used in the SII calculation.

The crash reports that are provided for each district contain fatal (K) and severe injury (A) crashes only. Non-incapacitating (B) crashes are still used in the Safety Improvement Index (SII) calculation, but for screening purposes, only K and A crashes are provided in the crash reports. The following crash reports will be provided to each district:

- On-System KA Crashes by Control-Section
- On-System KA Crashes on Curves
- On-System KA Crashes on Rural 4-Lane Undivided Highways without Paved Shoulders
- On-System KA Crashes Work Code 541 Preventable Rural 2-Lane Highways < 24ft. and ≥ 400 ADT
- Pedestrian Involved KA Crashes

The Texas A&M Transportation Institute has provided individual District CAVS data to enhance the process of selecting safety projects to submit for HSIP funding consideration. Crash data and crash attributes for all K, A, and B crashes will be compiled into a spreadsheet, analysed for each crash to determine whether that crash could be prevented by the type of work and then mapped. The maps can be filtered to only show crashes that apply to a particular type of work. Additionally, Crash Tree Diagrams and Comprehensive Dashboards may be used to assist districts during their project selection.

Crash Cost

As of this publication, the cost per crash will be $4,000,000 for K or A crashes and $330,000 for B crashes. Only preventable KAB crashes addressed by the project countermeasures are used to calculate each proposal's SII. Please refer to the current program call (if applicable) to verify the current crash costs.

Appendix A – Definitions

Terminology	Definition
A Crash	Crash resulting in one or more Suspected serious injuries as the most serious outcome.
B Crash	Crash resulting in one or more Non-incapacitating injuries as the most serious outcome.
C Crash	Crash resulting in one or more Possible injuries as the most serious outcome.
CAVS Data	Computer Aided ViSualization data set compiled for use by TxDOT in order to identify hot spots as well as possible locations for specific countermeasures across a District.
Change Orders	Work that is added or deleted during construction from the original scope of a contract that alters the original contract amount.
Countermeasure	A roadway-based strategy intended to reduce risk at a site
Crash	A set of events that results in injury, or property damage due to the collision of at least one motorized vehicle and may involve collision with another motorized vehicle, bicyclist, a pedestrian or an object
Crash frequency	The basic measure of crashes in the HSM, number of crashes occurring at a particular site, facility, or network per year (expressed for a location/ site or per mile depending on the context)
CRIS	Crash Records Information System
FHWA	Federal Highway Administration
District	A geographical area managed by a district engineer, in which TxDOT conducts its primary work activities
Emphasis Area	A collection of safety concerns identified in the state SHSP, sharing common characteristics such as users affected, types of transportation involved, or other data points.
Highway Safety Improvement Project	Is a project on a public road that implements countermeasures consistent with the Texas SHSP, and improves road conditions or roadway features.
Highway Safety Improvement Program (HSIP)	The collection of projects on public roads which implement countermeasures consistent with the SHSP and which is funded by a specific category of federal dollars.
K Crash	Crash resulting in one or more Fatalities as the most serious outcome.
O Crash	Crash resulting in Property Damage Only as the most serious outcome.
Off-system Roadways	Roadway not designated on the State Highway System and not maintained by TxDOT (i.e. city street, county road).
On-system Roadways	Roadway designated on the State Highway System and maintained by TxDOT.
Overruns	The difference between the engineer's final estimate and the original amount programmed for a specific HSIP project.
Preventable Crash	Crashes with defined characteristics that may be affected by the proposed improvement as described by the work code.
Road User	Means a motorist, passenger, public transportation operator or user, truck driver, bicyclist, motorcyclist, or pedestrian, including a person with disabilities.
SII	Safety Improvement Index
Safety Study	An analysis of roadway, traffic, and crash-related data to determine the probable cause of an identified crash pattern at an intersection or highway section. The safety study also provides alternative countermeasures meant to mitigate predominate crash pattern(s).
Strategic Highway Safety Plan (SHSP)	Federally mandated document compiled at the State level addressing areas of greatest concern to the state and which identifies strategies and countermeasures to address those emphasis areas.

Systemic Safety Improvement	An improvement that is widely implemented based on high-risk roadway features that are correlated with particular crash types, rather than crash frequency.
Traffic Engineering Section (TE)	A section in the Traffic Safety Division (TRF) whose primary responsibility relates to traffic engineering.
Traffic Safety Division (TRF)	The division within the Texas Department of Transportation, headquartered in Austin, whose primary responsibility relates to traffic operations.
TxDOTCONNECT (TXC)	Project & Portfolio management tool developed for use at TxDOT

Appendix B - HSIP Work Codes Table

The work codes are grouped into five categories, as shown in the following table.

Code	Item
100	Signing and Signals
200	Roadside Obstacles and Barriers
300	Resurfacing and Roadway Lighting
400	Pavement Markings
500	Roadway Work

Work codes are listed by number within each group. Preventable Crash Decoding is in Appendix C of this document.

100 - Signing and Signals

101 Install Warning/Guide Signs	
Definition:	Provide advance signing for unusual or unexpected roadway features where no signing existed previously.
Reduction Factor (%):	20%
Service Life (Years):	6
Maintenance Cost:	0
Preventable Crash:	(Vehicle Movements/Manner of Collision = 20-22 or 30) OR (Roadway Related = 2, 3 or 4)
Required Documents:	Photo or detailed description of hazard
107 Install Traffic Signal	
Definition:	Provide a traffic signal where none existed previously. This does not include the installation of flashing beacons.
Reduction Factor (%):	35%
Service Life (Years):	10
Maintenance Cost:	$3,400 (Isolated) $3,900 (Interconnected) $5,400 (Diamond Interchange)
Preventable Crash:	[(Intersection Related = 1 or 2) AND (Vehicle Movements/Manner of Collision = 10-39)] OR (First Harmful Event = 1 or 5)
Required Documents:	Overhead Intersection Layout, Traffic Signal Warrants
108 Improve Traffic Signals	
Definition:	Improve existing intersection signals to current design standards.
Reduction Factor (%):	24%
Service Life (Years):	10
Maintenance Cost:	0
Preventable Crash:	(Intersection Related = 1 or 2) AND [(Vehicle Movements/Manner of Collision = 10-39) OR (First Harmful Event = 1 or 5)]
Required Documents:	Overhead Intersection Layout
110 Install Pedestrian Signal	
Definition:	Provide a pedestrian signal at an existing signalized location where no pedestrian phase exists, but pedestrian crosswalks are existing, or in conjunction with Refer to W.C. 403 for installation of pedestrian crosswalks.
Reduction Factor (%):	34%
Service Life (Years):	10
Maintenance Cost:	0
Preventable Crash:	First Harmful Event = 1
Required Documents:	Overhead Intersection Layout
111 Interconnect Signals	
Definition:	Provide a communication link between two or more adjacent signals in a corridor. Specify all signalized intersections to be included in the interconnection.
Reduction Factor (%):	10%
Service Life (Years):	10
Maintenance Cost:	0
Preventable Crash:	All
Required Documents:	List and drawing of signals to be connected

113 Install Delineators	
Definition:	Install post-mounted delineators to provide guidance.
Reduction Factor (%):	12%
Service Life (Years):	7
Maintenance Cost:	0
Preventable Crash:	(Roadway Related = 2 , 3 or 4) AND (Light Condition = 3, 4 or 6)
Required Documents:	None
114 Install School Zones	
Definition:	Place school zones to include flashers, signing and/or pavement markings where none existed previously. Refer to W.C. 403 for pedestrian crosswalk markings.
Reduction Factor (%):	20%
Service Life (Years):	5
Maintenance Cost:	0
Preventable Crash:	All
Required Documents:	None
118 Replace Flashing Beacon with a Traffic Signal	
Definition:	Replace an existing flashing beacon at an intersection with a traffic signal.
Reduction Factor (%):	25%
Service Life (Years):	10
Maintenance Cost:	1300
Preventable Crash:	(Intersection Related = 1 or 2) AND [(Vehicle Movements/Manner of Collision = 10-39) OR (First Harmful Event = 1 or 5)]
Required Documents:	Overhead Intersection Layout
119 Install Overhead Signs	
Definition:	Install overhead advance regulatory, warning or guide signing for unusual or unexpected roadway features where no signing existed previously.
Reduction Factor (%):	20%
Service Life (Years):	6
Maintenance Cost:	0
Preventable Crash:	Vehicle Movements/Manner of Collision = 20-29
Required Documents:	None
122 Install Advanced Warning Signals (Intersection - Existing Warning Signs)	
Definition:	Provide flasher units in advance of an intersection where none previously existed but where advance warning signs already exist.
Reduction Factor (%):	10%
Service Life (Years):	10
Maintenance Cost:	$1,300 per approach
Preventable Crash:	Intersection Related = 1 or 2
Required Documents:	None

123	Install Advanced Warning Signals (Curve- Existing Warning Signs)
Definition:	Provide flasher units in advance of a curve where none previously existed. Advance warning signs already exist.
Reduction Factor (%):	10%
Service Life (Years):	10
Maintenance Cost:	$1,300 per approach
Preventable Crash:	(Roadway Related = 2, 3 or 4) OR (Vehicle Movements/Manner of Collision= 20-24 or 30)
Required Documents:	None
124	Install Advanced Warning Signals and Signs (Intersection)
Definition:	Provide flasher units and signs in advance of an intersection where none previously existed.
Reduction Factor (%):	27%
Service Life (Years):	10
Maintenance Cost:	$1,300 per approach
Preventable Crash:	Intersection Related = 1 or 2
Required Documents:	None
125	Install Advanced Warning Signals and Signs (Curve)
Definition:	Provide flasher units and signs in advance of a curve where none previously existed.
Reduction Factor (%):	15%
Service Life (Years):	10
Maintenance Cost:	$1,300 per approach
Preventable Crash:	(Roadway Related = 2, 3 or 4) OR (Vehicle Movements/Manner of Collision = 20-24 or 30)
Required Documents:	None
128	Install Advanced Warning Signs (Intersection)
Definition:	Provide signs in advance of an intersection where none previously existed.
Reduction Factor (%):	5%
Service Life (Years):	6
Maintenance Cost:	0
Preventable Crash:	Intersection Related = 1 or 2
Required Documents:	None
130	Install Advanced Warning Signs (Curve)
Definition:	Provide signs in advance of a curve where none previously existed.
Reduction Factor (%):	5%
Service Life (Years):	6
Maintenance Cost:	0
Preventable Crash:	(Roadway Related = 2, 3 or 4) OR (Vehicle Movements/Manner of Collision = 20-24 or 30)
Required Documents:	None
131	Improve Pedestrian Signals
Definition:	Bring existing pedestrian signal units into conformance with current standards.
Reduction Factor (%):	10%
Service Life (Years):	10
Maintenance Cost:	0
Preventable Crash:	First Harmful Event = 1
Required Documents:	None

132	Install Advance Warning Signals and Signs
Definition:	Provide flasher units and signs in advance of hazard where none previously existed.
Reduction Factor (%):	10%
Service Life (Years):	10
Maintenance Cost:	$1,300 per approach
Preventable Crash:	To be determined
Required Documents:	None
133	Improve School Zone
Definition:	Improve an existing school zone by upgrading signing, pavement markings or signals.
Reduction Factor (%):	5%
Service Life (Years):	5
Maintenance Cost:	0
Preventable Crash:	All
Required Documents:	None
136	Install LED Flashing Chevrons (Curve)
Definition:	Install LED flashing chevrons on curve to provide guidance.
Reduction Factor (%):	35%
Service Life (Years):	10
Maintenance Cost:	0
Preventable Crash:	(Roadway Related = 2, 3, or 4) OR (Vehicle Movements/Manner of Collision = 20 - 24, or 30)
Required Documents:	None
137	Install Chevrons (Curve)
Definition:	Install chevrons on curve to provide guidance.
Reduction Factor (%):	25%
Service Life (Years):	10
Maintenance Cost:	0
Preventable Crash:	(Roadway Related = 2, 3, or 4) OR (Vehicle Movements/Manner of Collision = 20 - 24, or 30)
Required Documents:	None
138	Install Flashing Yellow Arrow
Definition:	Improve existing intersection signals by adding a flashing yellow arrow indication and install the LEFT TURN YIELD ON FLASHING YELLOW ARROW (R10-17T) sign. Refer to W.C. 108 for improvement of traffic signal.
Reduction Factor (%):	41%
Service Life (Years):	10
Maintenance Cost:	0
Preventable Crash:	(Intersection Related = 1 or 2) AND (Vehicle Movements/Manner of Collision = 29, 34, 36)
Required Documents:	None

139	Install Surface Mounted Delineators on Centerline
Definition:	Install surface mounted delineators on centerline.
Reduction Factor (%):	12%
Service Life (Years):	7
Maintenance Cost:	0
Preventable Crash:	(Vehicle Movements/Manner of Collision = 21 or 30) OR (Roadway Related = 2 or 3)
Required Documents:	None
140	Wrong Way Driver Warning Signs
Definition:	Provide warning signs to warn wrong way drivers at freeway entrances. Systemic only.
Reduction Factor (%):	35%
Service Life (Years):	6
Maintenance Cost:	0
Preventable Crash:	Contributing factor = 71
Required Documents:	None
141	Wrong Way Driver Warning Markings
Definition:	Provide markings (lane direction arrows) to warn wrong way drivers at freeway entrances. Systemic only.
Reduction Factor (%):	40%
Service Life (Years):	4
Maintenance Cost:	0
Preventable Crash:	Contributing factor = 71
Required Documents:	None
142	Wrong Way Driver Advanced Technologies
Definition:	Provide advanced technologies to detect and warn wrong way drivers at freeway entrances. Systemic only.
Reduction Factor (%):	TBD
Service Life (Years):	8
Maintenance Cost:	25000
Preventable Crash:	Contributing factor = 71
Required Documents:	None
143	Pedestrian Hybrid Beacon
Definition:	Provide pedestrian hybrid beacon at established crosswalk or in conjunction with installation of new crosswalk (403). Requires TRF-P&S approval.
Reduction Factor (%):	15%
Service Life (Years):	10
Maintenance Cost:	2100
Preventable Crash:	First Harmful Event = 1
Required Documents:	None

144 Install RRFB	
Definition:	Install pedestrian activated rectangular rapid flashing beacon (RRFB) at existing or in conjunction with installation of new crosswalk (403). Requires TRF-P&S approval. Systemic only.
Reduction Factor (%):	N/A
Service Life (Years):	10
Maintenance Cost:	$1,300 per roadside assembly
Preventable Crash:	First Harmful Event = 1
Required Documents:	
145 Flashing or LED-embedded Stop Signs	
Definition:	Install LED stop signs or top-mounted flashers on existing stop signs at intersections where only standard stop signs are present.
Reduction Factor (%):	10%
Service Life (Years):	10
Maintenance Cost:	$1,300 per roadside assembly
Preventable Crash:	[(Intersection Related = 1 or 2) AND (Vehicle Movements/Manner of Collision = 10-19)]
Required Documents:	
150 Dynamic Speed Feedback Signs	
Definition:	Install permanent dynamic message speed display signs related to a regulatory speed limit or advisory speed for unexpected roadway features (curves, school zones, etc.).
Reduction Factor (%):	7%
Service Life (Years):	10 Estimated based on signage life
Maintenance Cost:	0
Preventable Crash:	
Required Documents:	

200 - Roadside Obstacles and Barriers

201 Install Median Barrier	
Definition:	Construct a concrete or cable safety system median barrier where none existed previously.
Reduction Factor (%):	75%
Service Life (Years):	20
Maintenance Cost:	0
Preventable Crash:	Vehicle Movements/Manner of Collision = 30
Required Documents:	None
203 Install Raised Median	
Definition:	Install a roadway divider using barrier curb
Reduction Factor (%):	25%
Service Life (Years):	20
Maintenance Cost:	0
Preventable Crash:	(Part of Roadway No. 1 Involved = 1) AND (Vehicle Movements/Manner of Collision = 10, 14, 20-22, 24, 26, 28-30, 34, 36, or 38)
Required Documents:	
204 Flatten Side Slope	
Definition:	Provide an embankment side slope of 6:1 or flatter.
Reduction Factor (%):	5%
Service Life (Years):	20
Maintenance Cost:	0
Preventable Crash:	Roadway Related = 3
Required Documents:	None
209 Safety Treat Fixed Objects	
Definition:	Remove, relocate, or safety treat all fixed objects including the installation of guardrail for safety treatment of a fixed object or drainage structures within the project limits, to include both point and continuous objects.
Reduction Factor (%):	50%
Service Life (Years):	20
Maintenance Cost:	0
Preventable Crash:	(Roadway Related = 2, 3 or 4) OR (Object Struck = 20-26, 29-36, 40-42, 56-58, 60, 62, or 63)
Required Documents:	None
217 Install Impact Attenuation System	
Definition:	Provide any of a variety of impact attenuators where none existed previously.
Reduction Factor (%):	60%
Service Life (Years):	10
Maintenance Cost:	0
Preventable Crash:	(Object Struck = 20, 30, 40, or 42)
Required Documents:	None

218 Widen Bridge	
Definition:	Provide additional width across an existing structure, either by rehabilitation or replacement. Specify existing bridge width, existing approach roadway width and roadway type (2 lane, 4 lane undivided, etc.)
Reduction Factor (%):	55%
Service Life (Years):	20
Maintenance Cost:	0
Preventable Crash:	(Bridge Detail is not blank) OR (Vehicle Movements/Manner of Collision = 20, 21, or 30) OR (Roadway Related = 2, 3 or 4)
Required Documents:	Existing & Proposed Typical Sections
225 Pedestrian Crossing Deterrent	
Definition:	Install attachments to existing concrete barrier systems to deter prohibited pedestrian crossings on divided highways. Systemic only.
Reduction Factor (%):	N/A
Service Life (Years):	0
Maintenance Cost:	TBD
Preventable Crash:	First Harmful Event = 1
Required Documents:	

300 - Resurfacing and Roadway Lighting

303 Resurfacing	
Definition:	Provide a new roadway surface to increase pavement skid numbers on all the lanes.
Reduction Factor (%):	30%
Service Life (Years):	10
Maintenance Cost:	0
Preventable Crash:	Surface Condition = 2, 5, 6, or 9 (Skid Value must be less than 20)
Required Documents:	Skid Numbers
304 Safety Lighting	
Definition:	Provide roadway lighting, either partial or continuous, where either none existed previously or major improvements are being made. Refer to W.C. 305 for intersection lighting.
Reduction Factor (%):	49%
Service Life (Years):	15
Maintenance Cost:	$100 per Luminaire
Preventable Crash:	Light Condition = 3, 4 or 6
Required Documents:	None
305 Safety Lighting at Intersection	
Definition:	Install lighting at an intersection where either none existed previously or major improvements are proposed. Refer to W.C. 304 for general lighting.
Reduction Factor (%):	13%
Service Life (Years):	15
Maintenance Cost:	$100 per Luminaire
Preventable Crash:	Light Condition = 3, 4 or 6 AND Intersection Related = 1 or 2
Required Documents:	Overhead Intersection Layout

400 - Pavement Markings

401 Install Pavement Markings	
Definition:	Place complete pavement markings, excluding crosswalks, in accordance with the TMUTCD where either no markings or nonstandard markings exist. This work code includes items such as turn arrows, stop bars, lane markings, etc. Refer to W.C. 402 for edge ma
Reduction Factor (%):	20%
Service Life (Years):	4 (Product used must meet 4 year service life.)
Maintenance Cost:	0
Preventable Crash:	(Roadway Related = 1) OR (Vehicle Movements/Manner of Collision = 21 or 30)
Required Documents:	Skid Reports
402 Install Edge Marking	
Definition:	Place edge lines where none existed previously.
Reduction Factor (%):	25%
Service Life (Years):	4 (Product used must meet 4 year service life.)
Maintenance Cost:	0
Preventable Crash:	Roadway Related = 2, 3 or 4
Required Documents:	None
403 Install Pedestrian Crosswalk	
Definition:	Place pedestrian crosswalk markings where none existed previously. Refer to W.C. 114 for school zones, and W.C. 110 for pedestrian signal.
Reduction Factor (%):	10%
Service Life (Years):	4 (Product used must meet 4 year service life.)
Maintenance Cost:	0
Preventable Crash:	First Harmful Event = 1
Required Documents:	None
404 Install Centerline Striping	
Definition:	Provide centerline striping where either no markings or nonstandard markings existed previously. Refer to W.C. 401 for complete pavement markings.
Reduction Factor (%):	65%
Service Life (Years):	4 (Product used must meet 4 year service life.)
Maintenance Cost:	0
Preventable Crash:	Vehicle Movements/Manner of Collision = 30
Required Documents:	None
407 Install Sidewalks	
Definition:	Install sidewalks where none existed previously.
Reduction Factor (%):	65%
Service Life (Years):	10
Maintenance Cost:	0
Preventable Crash:	First Harmful Event = 1 or 5
Required Documents:	None

500 - Roadway Work

502 Widen Lane(s)	
Definition:	Provide additional width to the lane(s). Refer to W.C. 517 if adding a through lane.
Reduction Factor (%):	30%
Service Life (Years):	20
Maintenance Cost:	0
Preventable Crash:	(Roadway Related = 2, 3 or 4) OR (Vehicle Movements/Manner of Collision = 13, 21, 23, 30 or 33)
Required Documents:	Typical Section
503 Widen Paved Shoulder (to 5 ft. or less)	
Definition:	Extend the existing paved shoulder to achieve desirable shoulder width. Refer to W.C. 504 or 537 for constructing a paved shoulder.
Reduction Factor (%):	25%
Service Life (Years):	20
Maintenance Cost:	0
Preventable Crash:	(Roadway Related = 2, 3 or 4) OR (First Harmful Event = 4)
Required Documents:	Typical Section
504 Construct Paved Shoulders (1-4 ft.)	
Definition:	Provide paved shoulders of 1- to 4-foot width where no shoulders existed previously. Refer to W.C. 503 or 536 for widening paved shoulders.
Reduction Factor (%):	25%
Service Life (Years):	20
Maintenance Cost:	0
Preventable Crash:	(Roadway Related = 2, 3 or 4) OR (Vehicle Movements/Manner of Collision = 20, 23-24 or 30) OR (First Harmful Event = 4)
Required Documents:	Typical Section
505 Improve Vertical Alignment	
Definition:	Reconstruct the roadway to improve sight distance.
Reduction Factor (%):	50%
Service Life (Years):	10
Maintenance Cost:	0
Preventable Crash:	(Roadway Related = 2, 3 or 4) OR (Vehicle Movements/Manner of Collision = 13-14, 20-24, 30, 32 or 34)
Required Documents:	None
506 Improve Horizontal Alignment	
Definition:	Flatten existing curves. Refer to W.C. 507 for providing superelevation, and W.C. 508 for intersection realignment.
Reduction Factor (%):	55%
Service Life (Years):	10
Maintenance Cost:	0
Preventable Crash:	(Roadway Related = 2, 3 or 4) OR (Vehicle Movements/Manner of Collision = 20-24 or 30)
Required Documents:	None

507 Increase Superelevation	
Definition:	Provide increased superelevation on an existing curve.
Reduction Factor (%):	65%
Service Life (Years):	10
Maintenance Cost:	0
Preventable Crash:	(Roadway Related = 2, 3 or 4) OR (Vehicle Movements/Manner of Collision = 30)
Required Documents:	None
508 Realign Intersection	
Definition:	Improve an existing intersection by partial or complete relocation of the roadway(s). Refer to W.C. 509 for channelization, and W.C. 506 for improving horizontal alignments.
Reduction Factor (%):	TBD
Service Life (Years):	10
Maintenance Cost:	0
Preventable Crash:	Will be determined from supplied diagram
Required Documents:	Proposed Overhead Intersection View
509 Channelization	
Definition:	Install islands and/or pavement markings to control or prohibit vehicular movements. A sketch of the proposed channelization should be provided. Refer to W.C. 508 for intersection realignment.
Reduction Factor (%):	TBD
Service Life (Years):	10
Maintenance Cost:	0
Preventable Crash:	Will be determined from supplied diagram
Required Documents:	Proposed Overhead View
510 Construct Turn Arounds	
Definition:	Provide turnarounds at an intersection where none existed previously.
Reduction Factor (%):	40%
Service Life (Years):	10
Maintenance Cost:	0
Preventable Crash:	(Intersection Related = 1 or 2) AND (Vehicle Movements/Manner of Collision = 12, 14, 18, 20, 22, 24, 26, 28, 29, or 34)
Required Documents:	Overhead Intersection View
514 Grade Separation	
Definition:	Construct vertical separation of intersecting roadways.
Reduction Factor (%):	80%
Service Life (Years):	30
Maintenance Cost:	0
Preventable Crash:	Intersection Related = 1 or 2
Required Documents:	Overhead Intersection View
515 Construct Interchange	
Definition:	Construct vertical separation of intersecting roadways to include interconnecting ramps.
Reduction Factor (%):	65%
Service Life (Years):	30
Maintenance Cost:	0
Preventable Crash:	Intersection Related = 1 or 2
Required Documents:	Overhead View

516 Close Crossover	
Definition:	Permanently close an existing crossover.
Reduction Factor (%):	50%
Service Life (Years):	20
Maintenance Cost:	0
Preventable Crash:	(Part of Roadway Involved = 1) AND (Vehicle Movements/Manner of Collision = 10, 14, 20-22, 24, 26, 28-30, 34 or 38)
Required Documents:	
517 Add Through Lane	
Definition:	Provide an additional travel lane.
Reduction Factor (%):	28%
Service Life (Years):	20
Maintenance Cost:	0
Preventable Crash:	Vehicle Movements/Manner of Collision = 20-24, 26-27, 29-30
Required Documents:	Typical Section
518 Install Continuous Turn Lane	
Definition:	Provide a continuous two-way left turn lane where none existed previously.
Reduction Factor (%):	50%
Service Life (Years):	10
Maintenance Cost:	0
Preventable Crash:	Vehicle Movements/Manner of Collision = 20-22, 24, 26, 28-30, 34 or 38
Required Documents:	Typical Section
519 Add Left Turn Lane	
Definition:	Provide an exclusive left turn lane where none existed previously. The affected intersection approaches must be specified.
Reduction Factor (%):	25%
Service Life (Years):	10
Maintenance Cost:	0
Preventable Crash:	Vehicle Movements/Manner of Collision = 20-22, 24, 26, 28-30, 34 or 38 AND Intersection Related != 4
Required Documents:	Typical Section; overhead proposed layout
520 Lengthen Left Turn Lane	
Definition:	Provide additional length to an existing exclusive left turn lane. Affected intersection approaches must be specified.
Reduction Factor (%):	40%
Service Life (Years):	10
Maintenance Cost:	0
Preventable Crash:	Vehicle Movements/Manner of Collision = 20-22 AND Intersection Related != 4
Required Documents:	None
521 Add Right Turn Lane	
Definition:	Provide an exclusive right turn lane where none existed previously. Affected intersection approaches must be specified.
Reduction Factor (%):	25%
Service Life (Years):	10
Maintenance Cost:	0
Preventable Crash:	Vehicle Movements/Manner of Collision = 20-23, 25-27, 33 or 36 AND Intersection Related != 4
Required Documents:	Typical Section

522 Lengthen Right Turn Lane	
Definition:	Provide additional length to an existing exclusive right turn lane. Affected intersection approaches must be specified.
Reduction Factor (%):	40%
Service Life (Years):	10
Maintenance Cost:	0
Preventable Crash:	Vehicle Movements/Manner of Collision = 20-22 AND Intersection Related != 4
Required Documents:	None
523 Construct Pedestrian Over/Under Pass	
Definition:	Construct a pedestrian crossover where none existed previously.
Reduction Factor (%):	95%
Service Life (Years):	20
Maintenance Cost:	0
Preventable Crash:	First Harmful Event = 1
Required Documents:	None
524 Increase Turning Radius	
Definition:	Provide an increased turning radius at an existing intersection.
Reduction Factor (%):	10%
Service Life (Years):	10
Maintenance Cost:	0
Preventable Crash:	[(Vehicle Body Style = 87 or 91) AND (First Harmful Event = 7)] OR (Vehicle Movements/Manner of Collision = 13, 20-21, 30 or 33)
Required Documents:	Overhead Intersection View
525 Convert to One Way Frontage Roads	
Definition:	Convert two-way frontage roads to one-way operation.
Reduction Factor (%):	68%
Service Life (Years):	10
Maintenance Cost:	0
Preventable Crash:	Part of Roadway Involved = 2
Required Documents:	None
527 Positive Offset Left-turn Lanes	
Definition:	Add positive offset to existing left-turn lane(s) at an intersection.
Reduction Factor (%):	36%
Service Life (Years):	10
Maintenance Cost:	0
Preventable Crash:	Vehicle Movements/Manner of Collision = 20-22, 24, 26, 28-30, 34 or 38 AND Intersection Related = (1 or 2)
Required Documents:	Proposed Intersection Layout
532 Milled Edgeline Rumble Strips	
Definition:	Install continuous milled depressions (rumble stripes or rumble strips) along the edgeline. Stand-alone rumble strip project proposals will not be accepted.
Reduction Factor (%):	15%
Service Life (Years):	10
Maintenance Cost:	0
Preventable Crash:	(Roadway Related = 2, 3 or 4) OR (Vehicle Movements/Manner of Collision = 30)
Required Documents:	None

533 Profile Edgeline Markings	
Definition:	Install profile edgeline markings. Stand-alone rumble strip project proposals will not be accepted.
Reduction Factor (%):	7%
Service Life (Years):	5
Maintenance Cost:	0
Preventable Crash:	(Roadway Related = 2, 3 or 4) OR (Vehicle Movements/Manner of Collision = 30) OR (Surface Condition = 2, 5, 6 or 9)
Required Documents:	None
534 Raised Edgeline Rumble Strips	
Definition:	Install non-reflective raised traffic buttons (yellow or white) along the edgeline. Stand-alone rumble strip project proposals will not be accepted.
Reduction Factor (%):	17%
Service Life (Years):	2
Maintenance Cost:	0
Preventable Crash:	(Roadway Related = 2, 3 or 4) OR (Vehicle Movements/Manner of Collision = 30) OR (Surface Condition = 2, 5, 6 or 9)
Required Documents:	None
536 Widen Paved Shoulders (to >5 ft.)	
Definition:	Extend the existing paved shoulder to greater than 5 ft. Refer to W.C. 504 or 537 for constructing a paved shoulder.
Reduction Factor (%):	31%
Service Life (Years):	20
Maintenance Cost:	0
Preventable Crash:	(Roadway Related = 2, 3 or 4) OR (First Harmful Event = 4)
Required Documents:	Typical Section
537 Construct Paved Shoulders (>= 5ft.)	
Definition:	Provide paved shoulders 5 feet or greater where no shoulders existed previously. Refer to W.C. 503 or 536 for widening paved shoulders.
Reduction Factor (%):	40%
Service Life (Years):	20
Maintenance Cost:	0
Preventable Crash:	(Roadway Related = 2, 3 or 4) OR (Vehicle Movements/Manner of Collision = 20, 23-24 or 30) OR (First Harmful Event = 4)
Required Documents:	Typical Section
538 Convert 2 Lane Facility to 4 Lane Divided	
Definition:	Convert an existing 2-lane facility to a 4-lane divided facility.
Reduction Factor (%):	45%
Service Life (Years):	20
Maintenance Cost:	0
Preventable Crash:	(Roadway Related = 2, 3 or 4) OR (Vehicle Movements/Manner of Collision = 10, 13, 14, 20, 21, 22, 24 or 30)
Required Documents:	Typical Section

540 Install Passing Lanes on 2 Lane Road	
Definition:	Widen roadway to install passing lanes on a 2-lane roadway where none currently exist.
Reduction Factor (%):	25%
Service Life (Years):	15
Maintenance Cost:	0
Preventable Crash:	(Roadway Related = 1, 2, or 3) AND (Vehicle Movements/Manner of Collision = 20-24 or 30)
Required Documents:	Typical Section
541 Provide Additional Paved Surface Width	
Definition:	Provide additional paved surface width with appropriate subsurface to each side of two lane, two-way roadways with existing paved surface width less than 24' to a maximum width of 28'.
Reduction Factor (%):	30%
Service Life (Years):	20
Maintenance Cost:	0
Preventable Crash:	(Roadway Related = 2, 3, or 4) OR (Vehicle Movements/Manner of Collision = 21 or 30) OR First Harmful Event = 10)
Required Documents:	Typical Section
542 Milled Centerline Rumble Strips	
Definition:	Install milled centerline rumble strips along the centerline. Stand-alone rumble strip project proposals will not be accepted.
Reduction Factor (%):	26%
Service Life (Years):	10
Maintenance Cost:	0
Preventable Crash:	(Vehicle Movements/Manner of Collision = 21 or 30) OR (Roadway Related = 2 or 3)
Required Documents:	None
543 Profile Centerline Markings	
Definition:	Install profile centerline markings and preformed thermoplastic strips along the centerline. Stand-alone centerline rumble strip project proposals will not be accepted.
Reduction Factor (%):	7%
Service Life (Years):	5
Maintenance Cost:	0
Preventable Crash:	(Vehicle Movements/Manner of Collision = 21 or 30) OR (Roadway Related = 2 or 3) OR (Surface Condition = 2, 5, 6 or 9)
Required Documents:	None
544 Raised Centerline Rumble Strips	
Definition:	Install non-reflective raised traffic buttons (yellow or black) and preformed thermoplastic strips along the centerline. Stand-alone centerline rumble strip project proposals will not be accepted.
Reduction Factor (%):	17%
Service Life (Years):	4
Maintenance Cost:	0
Preventable Crash:	(Vehicle Movements/Manner of Collision = 21 or 30) OR (Roadway Related = 2 or 3) OR (Surface Condition = 2, 5, 6 or 9)
Required Documents:	None

545 Transverse Rumble Strips	
Definition:	Install transverse or in-lane rumble strips in advance of a high incident and special geometric location.
Reduction Factor (%):	15%
Service Life (Years):	5
Maintenance Cost:	0
Preventable Crash:	Intersection Related = 1 or 2
Required Documents:	None
547 Construct a Roundabout	
Definition:	Convert an existing intersection to a single lane roundabout design
Reduction Factor (%):	62%
Service Life (Years):	10
Maintenance Cost:	0
Preventable Crash:	Intersection Related = 1 or 2
Required Documents:	Overhead Intersection View
550 Restricted Crossing U-Turn (RCUT)	
Definition:	Convert intersection to restricted crossing U-turn (RCUT) intersection.
Reduction Factor (%):	42%
Service Life (Years):	10
Maintenance Cost:	0
Preventable Crash:	Intersection Related = 1 or 2
Required Documents:	Overhead intersection layout

Work Codes and Work Code Combinations in MicroStrategy

Work Code (Combo)	Description	Reduction Factor	Service Life
101	Install Warning/Guide Signs	20%	6
107	Install Traffic Signal	35%	10
108	Improve Traffic Signals	24%	10
110	Install Pedestrian Signal	34%	10
111	Interconnect Signals	10%	10
113	Install Delineators	12%	7
114	Install School Zones	20%	5
118	Replace Flashing Beacon with a Traffic Signal	25%	10
119	Install Overhead Signs	20%	6
122	Install Advanced Warning Signals (Intersection - Existing Warning Signs)	10%	10
123	Install Advanced Warning Signals (Curve- Existing Warning Signs)	10%	10
124	Install Advanced Warning Signals and Signs (Intersection)	27%	10
125	Install Advanced Warning Signals and Signs (Curve)	15%	10
128	Install Advanced Warning Signs (Intersection)	5%	6
130	Install Advanced Warning Signs (Curve)	5%	6
131	Improve Pedestrian Signals	10%	10
132	Install Advance Warning Signals and Signs	10%	10
133	Improve School Zone	5%	5
136	Install LED Flashing Chevrons (Curve)	35%	10
137	Install Chevrons (Curve)	25%	10
138	Install Flashing Yellow Arrow	41%	10
139	Install Surface Mounted Delineators on Centerline	12%	7
140	Wrong Way Driver Warning Signs	35%	6
141	Wrong Way Driver Warning Markings	40%	4
142	Wrong Way Driver Advanced Technologies	TBD	8
143	Pedestrian Hybrid Beacon	15%	10
144	Install RRFB	Systemic	10
145	Flashing or LED-embedded Stop Signs	58%	10
150	Dynamic Speed Feedback Signs	7%	10
201	Install Median Barrier	75%	20
203	Install Raised Median	25%	20

204	Flatten Side Slope	5%	20
209	Safety Treat Fixed Objects	50%	20
217	Install Impact Attenuation System	60%	10
218	Widen Bridge	55%	20
225	Pedestrian Crossing Deterrent	Systemic	TBD
303	Resurfacing	30%	10
304	Safety Lighting	49%	15
305	Safety Lighting at Intersection	13%	15
401	Install Pavement Markings	20%	4
402	Install Edge Marking	25%	4
403	Install Pedestrian Crosswalk	10%	4
404	Install Centerline Striping	65%	4
407	Install Sidewalks	65%	10
502	Widen Lane(s)	30%	20
503	Widen Paved Shoulder (to 5 ft. or less)	25%	20
504	Construct Paved Shoulders (1-4 ft.)	25%	20
505	Improve Vertical Alignment	50%	10
506	Improve Horizontal Alignment	55%	10
507	Increase Superelevation	65%	10
508	Realign Intersection	TBD	10
509	Channelization	TBD	10
510	Construct Turn Arounds	40%	10
514	Grade Separation	80%	30
515	Construct Interchange	65%	30
516	Close Crossover	50%	20
517	Add Through Lane	28%	20
518	Install Continuous Turn Lane	50%	10
519	Add Left Turn Lane	25%	10
520	Lengthen Left Turn Lane	40%	10
521	Add Right Turn Lane	25%	10
522	Lengthen Right Turn Lane	40%	10
523	Construct Pedestrian Over/Under Pass	95%	20
524	Increase Turning Radius	10%	10
525	Convert to One Way Frontage Roads	68%	10
527	Positive Offest Left-turn Lanes	36%	10

532	Milled Edgeline Rumble Strips	15%	10
533	Profile Edgeline Markings	7%	5
534	Raised Edgeline Rumble Strips	17%	2
536	Widen Paved Shoulders (to >5 ft.)	31%	20
537	Construct Paved Shoulders (>= 5ft.)	40%	20
538	Convert 2 Lane Facility to 4 Lane Divided	45%	20
540	Install Passing Lanes on 2 Lane Road	25%	15
541	Provide Additional Paved Surface Width	30%	20
542	Milled Centerline Rumble Strips	26%	10
543	Profile Centerline Markings	7%	5
544	Raised Centerline Rumble Strips	17%	4
545	Transverse Rumble Strips	15%	5
547	Construct a Roundabout	62%	10
550	Restricted Crossing U-Turn (RCUT)	27%	10
551	Median U-Turn (MUT)	36%	25
101, 132	Install Warning/Guide Signs, Install Advance Warning Signals and Signs	58%	10
101, 136, 533, 543	Install Warning/Guide Signs, Install LED Flashing Chevrons (Curve), Profile Edgeline Markings, Profile Centerline Markings	27%	10
101, 137, 401	Install Warning/Guide Signs, Install Chevrons (Curve), Install Pavement Markings	32%	10
101, 209	Install Warning/Guide Signs, Safety Treat Fixed Objects	70%	20
101, 303	Install Warning/Guide Signs, Resurfacing	44%	10
101, 303, 404	Install Warning/Guide Signs, Resurfacing, Install Centerline Striping	36%	10
101, 303, 404, 519, 521, 534	Install Warning/Guide Signs, Resurfacing, Install Centerline Striping, Add Left Turn Lane, Add Right Turn Lane, Raised Edgeline Rumble Strips	37%	10
101, 303, 543	Install Warning/Guide Signs, Resurfacing, Profile Centerline Markings	36%	10
101, 401	Install Warning/Guide Signs, Install Pavement Markings	24%	6
107, 111	Install Traffic Signal, Interconnect Signals	22%	10
107, 111, 407	Install Traffic Signal, Interconnect Signals, Install Sidewalks	47%	10
107, 122	Install Traffic Signal, Install Advanced Warning Signals (Intersection - Existing Warning Signs)	38%	10
107, 122, 305, 545	Install Traffic Signal, Install Advanced Warning Signals (Intersection - Existing Warning Signs), Safety Lighting at Intersection, Transverse Rumble Strips	39%	15
107, 124	Install Traffic Signal, Install Advanced Warning Signals and Signs (Intersection)	55%	10

107, 124, 305, 519, 545	Install Traffic Signal, Install Advanced Warning Signals and Signs (Intersection), Safety Lighting at Intersection, Add Left Turn Lane, Transverse Rumble Strips	53%	15
107, 124, 305, 545	Install Traffic Signal, Install Advanced Warning Signals and Signs (Intersection), Safety Lighting at Intersection, Transverse Rumble Strips	39%	15
107, 124, 545	Install Traffic Signal, Install Advanced Warning Signals and Signs (Intersection), Transverse Rumble Strips	46%	10
107, 128	Install Traffic Signal, Install Advanced Warning Signs (Intersection)	36%	10
107, 128, 520	Install Traffic Signal, Install Advanced Warning Signs (Intersection), Lengthen Left Turn Lane	49%	10
107, 203, 304, 407	Install Traffic Signal, Install Raised Median, Safety Lighting, Install Sidewalks	50%	20
107, 203, 305, 401, 509, 518, 519	Install Traffic Signal, Install Raised Median, Safety Lighting at Intersection, Install Pavement Markings, Channelization, Install Continuous Turn Lane, Add Left Turn Lane	TBD	10
107, 203, 305, 509, 519	Install Traffic Signal, Install Raised Median, Safety Lighting at Intersection, Channelization, Add Left Turn Lane	TBD	10
107, 203, 401, 508, 521	Install Traffic Signal, Install Raised Median, Install Pavement Markings, Realign Intersection, Add Right Turn Lane	TBD	20
107, 209, 519	Install Traffic Signal, Safety Treat Fixed Objects, Add Left Turn Lane	72%	20
107, 305	Install Traffic Signal, Safety Lighting at Intersection	42%	15
107, 305, 521	Install Traffic Signal, Safety Lighting at Intersection, Add Right Turn Lane	36%	15
107, 305, 545	Install Traffic Signal, Safety Lighting at Intersection, Transverse Rumble Strips	42%	15
107, 407	Install Traffic Signal, Install Sidewalks	59%	10
107, 516	Install Traffic Signal, Close Crossover	69%	20
107, 519	Install Traffic Signal, Add Left Turn Lane	43%	10
107, 521	Install Traffic Signal, Add Right Turn Lane	43%	10
108, 110, 407	Improve Traffic Signals, Install Pedestrian Signal, Install Sidewalks	42%	10
108, 111	Improve Traffic Signals, Interconnect Signals	28%	10
108, 111, 122	Improve Traffic Signals, Interconnect Signals, Install Advanced Warning Signals (Intersection - Existing Warning Signs)	30%	10
108, 111, 122, 138	Improve Traffic Signals, Interconnect Signals, Install Advanced Warning Signals (Intersection - Existing Warning Signs), Install Flashing Yellow Arrow	31%	10
108, 111, 122, 407	Improve Traffic Signals, Interconnect Signals, Install Advanced Warning Signals (Intersection - Existing Warning Signs), Install Sidewalks	40%	10
108, 111, 128, 401, 403	Improve Traffic Signals, Interconnect Signals, Install Advanced Warning Signs (Intersection), Install Pavement Markings, Install Pedestrian Crosswalk	31%	10
108, 111, 138	Improve Traffic Signals, Interconnect Signals, Install Flashing Yellow Arrow	31%	10

108, 111, 138, 203, 305	Improve Traffic Signals, Interconnect Signals, Install Flashing Yellow Arrow, Install Raised Median, Safety Lighting at Intersection	41%	20
108, 111, 138, 305	Improve Traffic Signals, Interconnect Signals, Install Flashing Yellow Arrow, Safety Lighting at Intersection	37%	15
108, 111, 203	Improve Traffic Signals, Interconnect Signals, Install Raised Median	27%	20
108, 111, 305	Improve Traffic Signals, Interconnect Signals, Safety Lighting at Intersection	35%	15
108, 111, 403	Improve Traffic Signals, Interconnect Signals, Install Pedestrian Crosswalk	30%	10
108, 122, 138	Improve Traffic Signals, Install Advanced Warning Signals (Intersection - Existing Warning Signs), Install Flashing Yellow Arrow	31%	10
108, 124	Improve Traffic Signals, Install Advanced Warning Signals and Signs (Intersection)	51%	10
108, 124, 138, 401, 519	Improve Traffic Signals, Install Advanced Warning Signals and Signs (Intersection), Install Flashing Yellow Arrow, Install Pavement Markings, Add Left Turn Lane	36%	10
108, 124, 305	Improve Traffic Signals, Install Advanced Warning Signals and Signs (Intersection), Safety Lighting at Intersection	31%	15
108, 124, 305, 545	Improve Traffic Signals, Install Advanced Warning Signals and Signs (Intersection), Safety Lighting at Intersection, Transverse Rumble Strips	38%	15
108, 128	Improve Traffic Signals, Install Advanced Warning Signs (Intersection)	26%	10
108, 128, 131, 138, 305, 401, 519	Improve Traffic Signals, Install Advanced Warning Signs (Intersection), Improve Pedestrian Signals, Install Flashing Yellow Arrow, Safety Lighting at Intersection, Install Pavement Markings, Add Left Turn Lane	36%	15
108, 128, 305	Improve Traffic Signals, Install Advanced Warning Signs (Intersection), Safety Lighting at Intersection	34%	15
108, 128, 401, 403	Improve Traffic Signals, Install Advanced Warning Signs (Intersection), Install Pavement Markings, Install Pedestrian Crosswalk	30%	10
108, 128, 403	Improve Traffic Signals, Install Advanced Warning Signs (Intersection), Install Pedestrian Crosswalk	28%	10
108, 131	Improve Traffic Signals, Improve Pedestrian Signals	26%	10
108, 131, 133, 407	Improve Traffic Signals, Improve Pedestrian Signals, Improve School Zone, Install Sidewalks	37%	7
108, 131, 138	Improve Traffic Signals, Improve Pedestrian Signals, Install Flashing Yellow Arrow	33%	10
108, 131, 138, 303, 305, 401, 519	Improve Traffic Signals, Improve Pedestrian Signals, Install Flashing Yellow Arrow, Resurfacing, Safety Lighting at Intersection, Install Pavement Markings, Add Left Turn Lane	36%	15
108, 131, 138, 305, 519	Improve Traffic Signals, Improve Pedestrian Signals, Install Flashing Yellow Arrow, Safety Lighting at Intersection, Add Left Turn Lane	44%	10
108, 131, 138, 519	Improve Traffic Signals, Improve Pedestrian Signals, Install Flashing Yellow Arrow, Add Left Turn Lane	36%	10
108, 131, 203, 521, 517	Improve Traffic Signals, Improve Pedestrian Signals, Install Raised Median, Add Right Turn Lane, Add Through Lane	36%	20

108, 131, 304, 403	Improve Traffic Signals, Improve Pedestrian Signals, Safety Lighting, Install Pedestrian Crosswalk	44%	15
108, 131, 305	Improve Traffic Signals, Improve Pedestrian Signals, Safety Lighting at Intersection	31%	15
108, 131, 305, 403	Improve Traffic Signals, Improve Pedestrian Signals, Safety Lighting at Intersection, Install Pedestrian Crosswalk	34%	15
108, 131, 403	Improve Traffic Signals, Improve Pedestrian Signals, Install Pedestrian Crosswalk	28%	10
108, 131, 407	Improve Traffic Signals, Improve Pedestrian Signals, Install Sidewalks	38%	10
108, 131, 517	Improve Traffic Signals, Improve Pedestrian Signals, Add Through Lane	47%	20
108, 131, 519	Improve Traffic Signals, Improve Pedestrian Signals, Add Left Turn Lane	44%	10
108, 132	Improve Traffic Signals, Install Advance Warning Signals and Signs	36%	10
108, 138	Improve Traffic Signals, Install Flashing Yellow Arrow	27%	10
108, 138, 305	Improve Traffic Signals, Install Flashing Yellow Arrow, Safety Lighting at Intersection	35%	15
108, 138, 305, 401, 519, 521	Improve Traffic Signals, Install Flashing Yellow Arrow, Safety Lighting at Intersection, Install Pavement Markings, Add Left Turn Lane, Add Right Turn Lane	36%	15
108, 138, 407	Improve Traffic Signals, Install Flashing Yellow Arrow, Install Sidewalks	43%	10
108, 203	Improve Traffic Signals, Install Raised Median	51%	20
108, 209, 401, 506, 517, 520, 522	Improve Traffic Signals, Safety Treat Fixed Objects, Install Pavement Markings, Improve Horizontal Alignment, Add Through Lane, Lengthen Left Turn Lane, Lengthen Right Turn Lane	32%	20
108, 209, 401, 506, 519, 520, 521, 522	Improve Traffic Signals, Safety Treat Fixed Objects, Install Pavement Markings, Improve Horizontal Alignment, Add Left Turn Lane, Lengthen Left Turn Lane, Add Right Turn Lane, Lengthen Right Turn Lane	82%	20
108, 209, 401, 506, 520, 522	Improve Traffic Signals, Safety Treat Fixed Objects, Install Pavement Markings, Improve Horizontal Alignment, Lengthen Left Turn Lane, Lengthen Right Turn Lane	82%	20
108, 209, 401, 506, 520, 522, 538	Improve Traffic Signals, Safety Treat Fixed Objects, Install Pavement Markings, Improve Horizontal Alignment, Lengthen Left Turn Lane, Lengthen Right Turn Lane, Convert 2 Lane Facility to 4 Lane Divided	50%	20
108, 209, 517	Improve Traffic Signals, Safety Treat Fixed Objects, Add Through Lane	36%	20
108, 209, 519, 521	Improve Traffic Signals, Safety Treat Fixed Objects, Add Left Turn Lane, Add Right Turn Lane	62%	20
108, 209, 520, 522	Improve Traffic Signals, Safety Treat Fixed Objects, Lengthen Left Turn Lane, Lengthen Right Turn Lane	65%	20
108, 305	Improve Traffic Signals, Safety Lighting at Intersection	33%	15
108, 308	Improve Traffic Signals	36%	10

108, 401, 403	Improve Traffic Signals, Install Pavement Markings, Install Pedestrian Crosswalk	30%	10
108, 403	Improve Traffic Signals, Install Pedestrian Crosswalk	26%	10
108, 509	Improve Traffic Signals, Channelization	TBD	10
108, 517, 518	Improve Traffic Signals, Add Through Lane, Install Continuous Turn Lane	52%	20
108, 519	Improve Traffic Signals, Add Left Turn Lane	34%	10
108, 519, 521	Improve Traffic Signals, Add Left Turn Lane, Add Right Turn Lane	42%	10
108, 519, 522, 524	Improve Traffic Signals, Add Left Turn Lane, Lengthen Right Turn Lane, Increase Turning Radius	41%	10
108, 519, 524	Improve Traffic Signals, Add Left Turn Lane, Increase Turning Radius	46%	10
108, 520, 522	Improve Traffic Signals, Lengthen Left Turn Lane, Lengthen Right Turn Lane	45%	10
108, 521	Improve Traffic Signals, Add Right Turn Lane	34%	10
108, 538	Improve Traffic Signals, Convert 2 Lane Facility to 4 Lane Divided	64%	20
110, 403	Install Pedestrian Signal, Install Pedestrian Crosswalk	36%	10
111, 138	Interconnect Signals, Install Flashing Yellow Arrow	13%	10
111, 518	Interconnect Signals, Install Continuous Turn Lane	29%	10
111, 519	Interconnect Signals, Add Left Turn Lane	17%	10
113, 122, 519, 521	Install Delineators, Install Advanced Warning Signals (Intersection - Existing Warning Signs), Add Left Turn Lane, Add Right Turn Lane	44%	10
113, 123, 137, 139, 218, 506	Install Delineators, Install Advanced Warning Signals (Curve- Existing Warning Signs), Install Chevrons (Curve), Install Surface Mounted Delineators on Centerline, Widen Bridge, Improve Horizontal Alignment	36%	20
113, 128	Install Delineators, Install Advanced Warning Signs (Intersection)	35%	7
113, 130, 137	Install Delineators, Install Advanced Warning Signs (Curve), Install Chevrons (Curve)	10%	10
113, 533	Install Delineators, Profile Edgeline Markings	63%	7
119, 514	Install Overhead Signs, Grade Separation	57%	30
122, 305	Install Advanced Warning Signals (Intersection - Existing Warning Signs), Safety Lighting at Intersection	20%	15
122, 519	Install Advanced Warning Signals (Intersection - Existing Warning Signs), Add Left Turn Lane	27%	10
123, 125, 503, 532, 542	Install Advanced Warning Signals (Curve- Existing Warning Signs), Install Advanced Warning Signals and Signs (Curve), Widen Paved Shoulder (to 5 ft. or less), Milled Edgeline Rumble Strips, Milled Centerline Rumble Strips	50%	20
123, 125, 532, 541, 542	Install Advanced Warning Signals (Curve- Existing Warning Signs), Install Advanced Warning Signals and Signs (Curve), Milled Edgeline Rumble Strips, Provide Additional Paved Surface Width, Milled Centerline Rumble Strips	52%	20

123, 136	Install Advanced Warning Signals (Curve- Existing Warning Signs), Install LED Flashing Chevrons (Curve)	38%	10
123, 136, 503	Install Advanced Warning Signals (Curve- Existing Warning Signs), Install LED Flashing Chevrons (Curve), Widen Paved Shoulder (to 5 ft. or less)	38%	20
123, 136, 507, 537	Install Advanced Warning Signals (Curve- Existing Warning Signs), Install LED Flashing Chevrons (Curve), Increase Superelevation, Construct Paved Shoulders (>= 5ft.)	63%	20
123, 136, 507, 543	Install Advanced Warning Signals (Curve- Existing Warning Signs), Install LED Flashing Chevrons (Curve), Increase Superelevation, Profile Centerline Markings	45%	10
123, 136, 532, 542	Install Advanced Warning Signals (Curve- Existing Warning Signs), Install LED Flashing Chevrons (Curve), Milled Edgeline Rumble Strips, Milled Centerline Rumble Strips	41%	10
123, 136, 537	Install Advanced Warning Signals (Curve- Existing Warning Signs), Install LED Flashing Chevrons (Curve), Construct Paved Shoulders (>= 5ft.)	51%	20
123, 137	Install Advanced Warning Signals (Curve- Existing Warning Signs), Install Chevrons (Curve)	29%	10
123, 137, 209, 504, 532, 542	Install Advanced Warning Signals (Curve- Existing Warning Signs), Install Chevrons (Curve), Safety Treat Fixed Objects, Construct Paved Shoulders (1-4 ft.), Milled Edgeline Rumble Strips, Milled Centerline Rumble Strips	38%	20
123, 137, 209, 532, 537, 542	Install Advanced Warning Signals (Curve- Existing Warning Signs), Install Chevrons (Curve), Safety Treat Fixed Objects, Milled Edgeline Rumble Strips, Construct Paved Shoulders (>= 5ft.), Milled Centerline Rumble Strips	50%	20
123, 137, 209, 532, 541, 542	Install Advanced Warning Signals (Curve- Existing Warning Signs), Install Chevrons (Curve), Safety Treat Fixed Objects, Milled Edgeline Rumble Strips, Provide Additional Paved Surface Width, Milled Centerline Rumble Strips	42%	20
123, 137, 533, 543	Install Advanced Warning Signals (Curve- Existing Warning Signs), Install Chevrons (Curve), Profile Edgeline Markings, Profile Centerline Markings	23%	10
123, 209, 504, 532, 542	Install Advanced Warning Signals (Curve- Existing Warning Signs), Safety Treat Fixed Objects, Construct Paved Shoulders (1-4 ft.), Milled Edgeline Rumble Strips, Milled Centerline Rumble Strips	67%	20
123, 209, 532, 537, 542	Install Advanced Warning Signals (Curve- Existing Warning Signs), Safety Treat Fixed Objects, Milled Edgeline Rumble Strips, Construct Paved Shoulders (>= 5ft.), Milled Centerline Rumble Strips	71%	20
123, 209, 532, 541, 542	Install Advanced Warning Signals (Curve- Existing Warning Signs), Safety Treat Fixed Objects, Milled Edgeline Rumble Strips, Provide Additional Paved Surface Width, Milled Centerline Rumble Strips	41%	20
123, 303	Install Advanced Warning Signals (Curve- Existing Warning Signs), Resurfacing	36%	10
123, 401	Install Advanced Warning Signals (Curve- Existing Warning Signs), Install Pavement Markings	15%	10

123, 532, 541, 542	Install Advanced Warning Signals (Curve- Existing Warning Signs), Milled Edgeline Rumble Strips, Provide Additional Paved Surface Width, Milled Centerline Rumble Strips	42%	20
123, 533	Install Advanced Warning Signals (Curve- Existing Warning Signs), Profile Edgeline Markings	62%	10
123, 533, 543	Install Advanced Warning Signals (Curve- Existing Warning Signs), Profile Edgeline Markings, Profile Centerline Markings	65%	10
123, 543	Install Advanced Warning Signals (Curve- Existing Warning Signs), Profile Centerline Markings	38%	10
124, 304	Install Advanced Warning Signals and Signs (Intersection), Safety Lighting	59%	15
124, 305	Install Advanced Warning Signals and Signs (Intersection), Safety Lighting at Intersection	25%	15
124, 401, 545	Install Advanced Warning Signals and Signs (Intersection), Install Pavement Markings, Transverse Rumble Strips	33%	10
124, 514	Install Advanced Warning Signals and Signs (Intersection), Grade Separation	86%	30
124, 545	Install Advanced Warning Signals and Signs (Intersection), Transverse Rumble Strips	49%	10
125, 136	Install Advanced Warning Signals and Signs (Curve), Install LED Flashing Chevrons (Curve)	40%	10
125, 136, 533, 543	Install Advanced Warning Signals and Signs (Curve), Install LED Flashing Chevrons (Curve), Profile Edgeline Markings, Profile Centerline Markings	36%	10
125, 137	Install Advanced Warning Signals and Signs (Curve), Install Chevrons (Curve)	31%	10
125, 137, 209, 541	Install Advanced Warning Signals and Signs (Curve), Install Chevrons (Curve), Safety Treat Fixed Objects, Provide Additional Paved Surface Width	65%	20
125, 137, 402	Install Advanced Warning Signals and Signs (Curve), Install Chevrons (Curve), Install Edge Marking	31%	10
125, 137, 532, 542	Install Advanced Warning Signals and Signs (Curve), Install Chevrons (Curve), Milled Edgeline Rumble Strips, Milled Centerline Rumble Strips	30%	10
128, 305	Install Advanced Warning Signs (Intersection), Safety Lighting at Intersection	9%	15
128, 519	Install Advanced Warning Signs (Intersection), Add Left Turn Lane	45%	10
128, 519, 521	Install Advanced Warning Signs (Intersection), Add Left Turn Lane, Add Right Turn Lane	45%	10
130, 136	Install Advanced Warning Signs (Curve), Install LED Flashing Chevrons (Curve)	52%	10
130, 136, 533	Install Advanced Warning Signs (Curve), Install LED Flashing Chevrons (Curve), Profile Edgeline Markings	64%	10
130, 136, 533, 543	Install Advanced Warning Signs (Curve), Install LED Flashing Chevrons (Curve), Profile Edgeline Markings, Profile Centerline Markings	17%	10
130, 137	Install Advanced Warning Signs (Curve), Install Chevrons (Curve)	27%	10

130, 137, 209, 504, 532, 542	Install Advanced Warning Signs (Curve), Install Chevrons (Curve), Safety Treat Fixed Objects, Construct Paved Shoulders (1-4 ft.), Milled Edgeline Rumble Strips, Milled Centerline Rumble Strips	67%	20
130, 137, 209, 532, 537, 542	Install Advanced Warning Signs (Curve), Install Chevrons (Curve), Safety Treat Fixed Objects, Milled Edgeline Rumble Strips, Construct Paved Shoulders (>= 5ft.), Milled Centerline Rumble Strips	74%	20
130, 137, 209, 532, 541, 542	Install Advanced Warning Signs (Curve), Install Chevrons (Curve), Safety Treat Fixed Objects, Milled Edgeline Rumble Strips, Provide Additional Paved Surface Width, Milled Centerline Rumble Strips	69%	20
130, 137, 304	Install Advanced Warning Signs (Curve), Install Chevrons (Curve), Safety Lighting	31%	15
130, 137, 504, 506, 507, 532, 541, 542	Install Advanced Warning Signs (Curve), Install Chevrons (Curve), Construct Paved Shoulders (1-4 ft.), Improve Horizontal Alignment, Increase Superelevation, Milled Edgeline Rumble Strips, Provide Additional Paved Surface Width, Milled Centerline R	57%	20
130, 137, 532, 542	Install Advanced Warning Signs (Curve), Install Chevrons (Curve), Milled Edgeline Rumble Strips, Milled Centerline Rumble Strips	29%	10
130, 137, 533, 543	Install Advanced Warning Signs (Curve), Install Chevrons (Curve), Profile Edgeline Markings, Profile Centerline Markings	29%	10
130, 137, 534, 544	Install Advanced Warning Signs (Curve), Install Chevrons (Curve), Raised Edgeline Rumble Strips, Raised Centerline Rumble Strips	30%	10
130, 209, 503	Install Advanced Warning Signs (Curve), Safety Treat Fixed Objects, Widen Paved Shoulder (to 5 ft. or less)	36%	20
131, 403	Improve Pedestrian Signals, Install Pedestrian Crosswalk	34%	10
131, 403, 407	Improve Pedestrian Signals, Install Pedestrian Crosswalk, Install Sidewalks	67%	10
131, 407	Improve Pedestrian Signals, Install Sidewalks	66%	10
131, 521	Improve Pedestrian Signals, Add Right Turn Lane	29%	10
132, 133, 203	Install Advance Warning Signals and Signs, Improve School Zone, Install Raised Median	36%	20
133, 403	Improve School Zone, Install Pedestrian Crosswalk	36%	5
133, 403, 407	Improve School Zone, Install Pedestrian Crosswalk, Install Sidewalks	19%	10
133, 407	Improve School Zone, Install Sidewalks	65%	10
136, 209, 303, 502, 504, 533, 543	Install LED Flashing Chevrons (Curve), Safety Treat Fixed Objects, Resurfacing, Widen Lane(s), Construct Paved Shoulders (1-4 ft.), Profile Edgeline Markings, Profile Centerline Markings	49%	20
136, 209, 502, 504, 533, 543	Install LED Flashing Chevrons (Curve), Safety Treat Fixed Objects, Widen Lane(s), Construct Paved Shoulders (1-4 ft.), Profile Edgeline Markings, Profile Centerline Markings	49%	20
136, 209, 504, 533, 543	Install LED Flashing Chevrons (Curve), Safety Treat Fixed Objects, Construct Paved Shoulders (1-4 ft.), Profile Edgeline Markings, Profile Centerline Markings	53%	20
136, 209, 533, 541, 543	Install LED Flashing Chevrons (Curve), Safety Treat Fixed Objects, Profile Edgeline Markings, Provide Additional Paved Surface Width, Profile Centerline Markings	58%	20

136, 402	Install LED Flashing Chevrons (Curve), Install Edge Marking	36%	10
136, 506	Install LED Flashing Chevrons (Curve), Improve Horizontal Alignment	69%	10
136, 533	Install LED Flashing Chevrons (Curve), Profile Edgeline Markings	67%	10
136, 533, 542	Install LED Flashing Chevrons (Curve), Profile Edgeline Markings, Milled Centerline Rumble Strips	41%	10
136, 533, 543	Install LED Flashing Chevrons (Curve), Profile Edgeline Markings, Profile Centerline Markings	70%	10
136, 542	Install LED Flashing Chevrons (Curve), Milled Centerline Rumble Strips	32%	10
137, 209, 217	Install Chevrons (Curve), Safety Treat Fixed Objects, Install Impact Attenuation System	74%	20
137, 209, 532, 537, 542	Install Chevrons (Curve), Safety Treat Fixed Objects, Milled Edgeline Rumble Strips, Construct Paved Shoulders (>= 5ft.), Milled Centerline Rumble Strips	57%	20
137, 209, 532, 541, 542	Install Chevrons (Curve), Safety Treat Fixed Objects, Milled Edgeline Rumble Strips, Provide Additional Paved Surface Width, Milled Centerline Rumble Strips	63%	20
137, 304	Install Chevrons (Curve), Safety Lighting	30%	15
137, 401	Install Chevrons (Curve), Install Pavement Markings	47%	10
137, 503, 507	Install Chevrons (Curve), Widen Paved Shoulder (to 5 ft. or less), Increase Superelevation	45%	20
137, 504	Install Chevrons (Curve), Construct Paved Shoulders (1-4 ft.)	30%	20
137, 507	Install Chevrons (Curve), Increase Superelevation	67%	10
137, 532, 542	Install Chevrons (Curve), Milled Edgeline Rumble Strips, Milled Centerline Rumble Strips	30%	10
137, 533, 543	Install Chevrons (Curve), Profile Edgeline Markings, Profile Centerline Markings	68%	10
137, 541	Install Chevrons (Curve), Provide Additional Paved Surface Width	34%	20
137, 543	Install Chevrons (Curve), Profile Centerline Markings	51%	10
140, 141	Wrong Way Driver Warning Signs, Wrong Way Driver Warning Markings	59%	6
140, 141, 142	Wrong Way Driver Warning Signs, Wrong Way Driver Warning Markings, Wrong Way Driver Advanced Technologies	TBD	8
143, 304	Pedestrian Hybrid Beacon, Safety Lighting	52%	15
143, 403, 407	Pedestrian Hybrid Beacon, Install Pedestrian Crosswalk, Install Sidewalks	24%	10
201, 204	Install Median Barrier, Flatten Side Slope	65%	20
201, 303	Install Median Barrier, Resurfacing	69%	20
201, 303, 532	Install Median Barrier, Resurfacing, Milled Edgeline Rumble Strips	71%	20
201, 304	Install Median Barrier, Safety Lighting	64%	20
201, 516	Install Median Barrier, Close Crossover	64%	20

201, 521, 532	Install Median Barrier, Add Right Turn Lane, Milled Edgeline Rumble Strips	80%	20
201, 532	Install Median Barrier, Milled Edgeline Rumble Strips	66%	20
201, 533	Install Median Barrier, Profile Edgeline Markings	69%	20
203, 407	Install Raised Median, Install Sidewalks	37%	20
203, 517	Install Raised Median, Add Through Lane	37%	20
203, 533	Install Raised Median, Profile Edgeline Markings	48%	20
203, 533, 542	Install Raised Median, Profile Edgeline Markings, Milled Centerline Rumble Strips	39%	20
203, 533, 543	Install Raised Median, Profile Edgeline Markings, Profile Centerline Markings	31%	20
204, 209	Flatten Side Slope, Safety Treat Fixed Objects	36%	20
209, 218	Safety Treat Fixed Objects, Widen Bridge	64%	20
209, 218, 541	Safety Treat Fixed Objects, Widen Bridge, Provide Additional Paved Surface Width	69%	20
209, 303, 502, 503, 518, 533	Safety Treat Fixed Objects, Resurfacing, Widen Lane(s), Widen Paved Shoulder (to 5 ft. or less), Install Continuous Turn Lane, Profile Edgeline Markings	78%	20
209, 303, 502, 503, 532, 542	Safety Treat Fixed Objects, Resurfacing, Widen Lane(s), Widen Paved Shoulder (to 5 ft. or less), Milled Edgeline Rumble Strips, Milled Centerline Rumble Strips	68%	20
209, 303, 502, 503, 533, 543	Safety Treat Fixed Objects, Resurfacing, Widen Lane(s), Widen Paved Shoulder (to 5 ft. or less), Profile Edgeline Markings, Profile Centerline Markings	66%	20
209, 303, 503	Safety Treat Fixed Objects, Resurfacing, Widen Paved Shoulder (to 5 ft. or less)	63%	20
209, 303, 504	Safety Treat Fixed Objects, Resurfacing, Construct Paved Shoulders (1-4 ft.)	83%	20
209, 303, 532, 540, 542	Safety Treat Fixed Objects, Resurfacing, Milled Edgeline Rumble Strips, Install Passing Lanes on 2 Lane Road, Milled Centerline Rumble Strips	68%	20
209, 304	Safety Treat Fixed Objects, Safety Lighting	72%	20
209, 304, 502, 503	Safety Treat Fixed Objects, Safety Lighting, Widen Lane(s), Widen Paved Shoulder (to 5 ft. or less)	54%	20
209, 304, 518, 536	Safety Treat Fixed Objects, Safety Lighting, Install Continuous Turn Lane, Widen Paved Shoulders (to >5 ft.)	79%	20
209, 304, 536	Safety Treat Fixed Objects, Safety Lighting, Widen Paved Shoulders (to >5 ft.)	70%	20
209, 401	Safety Treat Fixed Objects, Install Pavement Markings	64%	20
209, 502	Safety Treat Fixed Objects, Widen Lane(s)	65%	20
209, 502, 503	Safety Treat Fixed Objects, Widen Lane(s), Widen Paved Shoulder (to 5 ft. or less)	63%	20

209, 502, 503, 518, 533	Safety Treat Fixed Objects, Widen Lane(s), Widen Paved Shoulder (to 5 ft. or less), Install Continuous Turn Lane, Profile Edgeline Markings	51%	20
209, 502, 503, 532, 542	Safety Treat Fixed Objects, Widen Lane(s), Widen Paved Shoulder (to 5 ft. or less), Milled Edgeline Rumble Strips, Milled Centerline Rumble Strips	49%	20
209, 502, 503, 533	Safety Treat Fixed Objects, Widen Lane(s), Widen Paved Shoulder (to 5 ft. or less), Profile Edgeline Markings	49%	20
209, 502, 503, 533, 543	Safety Treat Fixed Objects, Widen Lane(s), Widen Paved Shoulder (to 5 ft. or less), Profile Edgeline Markings, Profile Centerline Markings	49%	20
209, 502, 504	Safety Treat Fixed Objects, Widen Lane(s), Construct Paved Shoulders (1-4 ft.)	63%	20
209, 502, 504, 532, 542	Safety Treat Fixed Objects, Widen Lane(s), Construct Paved Shoulders (1-4 ft.), Milled Edgeline Rumble Strips, Milled Centerline Rumble Strips	49%	20
209, 502, 536	Safety Treat Fixed Objects, Widen Lane(s), Widen Paved Shoulders (to >5 ft.)	66%	20
209, 503	Safety Treat Fixed Objects, Widen Paved Shoulder (to 5 ft. or less)	56%	20
209, 503, 518	Safety Treat Fixed Objects, Widen Paved Shoulder (to 5 ft. or less), Install Continuous Turn Lane	78%	20
209, 503, 518, 532	Safety Treat Fixed Objects, Widen Paved Shoulder (to 5 ft. or less), Install Continuous Turn Lane, Milled Edgeline Rumble Strips	78%	20
209, 503, 518, 532, 542	Safety Treat Fixed Objects, Widen Paved Shoulder (to 5 ft. or less), Install Continuous Turn Lane, Milled Edgeline Rumble Strips, Milled Centerline Rumble Strips	58%	20
209, 503, 532	Safety Treat Fixed Objects, Widen Paved Shoulder (to 5 ft. or less), Milled Edgeline Rumble Strips	62%	20
209, 503, 534, 544	Safety Treat Fixed Objects, Widen Paved Shoulder (to 5 ft. or less), Raised Edgeline Rumble Strips, Raised Centerline Rumble Strips	36%	20
209, 503, 540	Safety Treat Fixed Objects, Widen Paved Shoulder (to 5 ft. or less), Install Passing Lanes on 2 Lane Road	62%	20
209, 504	Safety Treat Fixed Objects, Construct Paved Shoulders (1-4 ft.)	63%	20
209, 504, 532, 542	Safety Treat Fixed Objects, Construct Paved Shoulders (1-4 ft.), Milled Edgeline Rumble Strips, Milled Centerline Rumble Strips	67%	20
209, 504, 533	Safety Treat Fixed Objects, Construct Paved Shoulders (1-4 ft.), Profile Edgeline Markings	36%	20
209, 504, 533, 543	Safety Treat Fixed Objects, Construct Paved Shoulders (1-4 ft.), Profile Edgeline Markings, Profile Centerline Markings	36%	20
209, 504, 542	Safety Treat Fixed Objects, Construct Paved Shoulders (1-4 ft.), Milled Centerline Rumble Strips	66%	20
209, 506	Safety Treat Fixed Objects, Improve Horizontal Alignment	64%	20
209, 516	Safety Treat Fixed Objects, Close Crossover	75%	20
209, 517	Safety Treat Fixed Objects, Add Through Lane	64%	20
209, 518	Safety Treat Fixed Objects, Install Continuous Turn Lane	75%	20

209, 518, 532	Safety Treat Fixed Objects, Install Continuous Turn Lane, Milled Edgeline Rumble Strips	76%	20
209, 518, 532, 542	Safety Treat Fixed Objects, Install Continuous Turn Lane, Milled Edgeline Rumble Strips, Milled Centerline Rumble Strips	77%	20
209, 518, 536	Safety Treat Fixed Objects, Install Continuous Turn Lane, Widen Paved Shoulders (to >5 ft.)	70%	20
209, 519	Safety Treat Fixed Objects, Add Left Turn Lane	56%	20
209, 519, 521	Safety Treat Fixed Objects, Add Left Turn Lane, Add Right Turn Lane	62%	20
209, 532	Safety Treat Fixed Objects, Milled Edgeline Rumble Strips	63%	20
209, 532, 536, 542	Safety Treat Fixed Objects, Milled Edgeline Rumble Strips, Widen Paved Shoulders (to >5 ft.), Milled Centerline Rumble Strips	70%	20
209, 532, 537, 542	Safety Treat Fixed Objects, Milled Edgeline Rumble Strips, Construct Paved Shoulders (>= 5ft.), Milled Centerline Rumble Strips	74%	20
209, 532, 540	Safety Treat Fixed Objects, Milled Edgeline Rumble Strips, Install Passing Lanes on 2 Lane Road	64%	20
209, 532, 540, 542	Safety Treat Fixed Objects, Milled Edgeline Rumble Strips, Install Passing Lanes on 2 Lane Road, Milled Centerline Rumble Strips	35%	15
209, 532, 541	Safety Treat Fixed Objects, Milled Edgeline Rumble Strips, Provide Additional Paved Surface Width	54%	20
209, 532, 541, 542	Safety Treat Fixed Objects, Milled Edgeline Rumble Strips, Provide Additional Paved Surface Width, Milled Centerline Rumble Strips	37%	20
209, 532, 542	Safety Treat Fixed Objects, Milled Edgeline Rumble Strips, Milled Centerline Rumble Strips	57%	20
209, 533, 537, 543	Safety Treat Fixed Objects, Profile Edgeline Markings, Construct Paved Shoulders (>= 5ft.), Profile Centerline Markings	71%	20
209, 533, 541	Safety Treat Fixed Objects, Profile Edgeline Markings, Provide Additional Paved Surface Width	59%	20
209, 533, 541, 543	Safety Treat Fixed Objects, Profile Edgeline Markings, Provide Additional Paved Surface Width, Profile Centerline Markings	71%	20
209, 533, 542	Safety Treat Fixed Objects, Profile Edgeline Markings, Milled Centerline Rumble Strips	68%	20
209, 533, 543	Safety Treat Fixed Objects, Profile Edgeline Markings, Profile Centerline Markings	53%	20
209, 536	Safety Treat Fixed Objects, Widen Paved Shoulders (to >5 ft.)	60%	20
209, 536, 542	Safety Treat Fixed Objects, Widen Paved Shoulders (to >5 ft.), Milled Centerline Rumble Strips	68%	20
209, 537	Safety Treat Fixed Objects, Construct Paved Shoulders (>= 5ft.)	70%	20
209, 540	Safety Treat Fixed Objects, Install Passing Lanes on 2 Lane Road	63%	20
209, 541	Safety Treat Fixed Objects, Provide Additional Paved Surface Width	65%	20
209, 541, 542	Safety Treat Fixed Objects, Provide Additional Paved Surface Width, Milled Centerline Rumble Strips	68%	20
209, 542	Safety Treat Fixed Objects, Milled Centerline Rumble Strips	54%	20
209, 547	Safety Treat Fixed Objects, Construct a Roundabout	74%	20
303, 401	Resurfacing, Install Pavement Markings	50%	10

303, 407, 502, 505, 518	Resurfacing, Install Sidewalks, Widen Lane(s), Improve Vertical Alignment, Install Continuous Turn Lane	68%	20
303, 407, 518	Resurfacing, Install Sidewalks, Install Continuous Turn Lane	56%	10
303, 503, 542	Resurfacing, Widen Paved Shoulder (to 5 ft. or less), Milled Centerline Rumble Strips	47%	20
303, 518, 532, 540	Resurfacing, Install Continuous Turn Lane, Milled Edgeline Rumble Strips, Install Passing Lanes on 2 Lane Road	52%	15
303, 518, 533	Resurfacing, Install Continuous Turn Lane, Profile Edgeline Markings	64%	10
303, 519	Resurfacing, Add Left Turn Lane	36%	10
303, 519, 532, 540	Resurfacing, Add Left Turn Lane, Milled Edgeline Rumble Strips, Install Passing Lanes on 2 Lane Road	49%	15
303, 519, 533	Resurfacing, Add Left Turn Lane, Profile Edgeline Markings	63%	10
303, 532	Resurfacing, Milled Edgeline Rumble Strips	48%	10
303, 532, 540	Resurfacing, Milled Edgeline Rumble Strips, Install Passing Lanes on 2 Lane Road	44%	15
303, 532, 542	Resurfacing, Milled Edgeline Rumble Strips, Milled Centerline Rumble Strips	58%	10
303, 533	Resurfacing, Profile Edgeline Markings	41%	10
303, 533, 536	Resurfacing, Profile Edgeline Markings, Widen Paved Shoulders (to >5 ft.)	41%	20
303, 533, 536, 543	Resurfacing, Profile Edgeline Markings, Widen Paved Shoulders (to >5 ft.), Profile Centerline Markings	41%	20
303, 533, 542	Resurfacing, Profile Edgeline Markings, Milled Centerline Rumble Strips	37%	10
303, 533, 543	Resurfacing, Profile Edgeline Markings, Profile Centerline Markings	22%	10
303, 542	Resurfacing, Milled Centerline Rumble Strips	42%	10
303, 543	Resurfacing, Profile Centerline Markings	37%	10
304, 407	Safety Lighting, Install Sidewalks	46%	15
304, 502, 533, 543	Safety Lighting, Widen Lane(s), Profile Edgeline Markings, Profile Centerline Markings	41%	20
304, 506	Safety Lighting, Improve Horizontal Alignment	75%	15
304, 533, 543	Safety Lighting, Profile Edgeline Markings, Profile Centerline Markings	15%	15
305, 407	Safety Lighting at Intersection, Install Sidewalks	53%	15
305, 508, 519, 521	Safety Lighting at Intersection, Realign Intersection, Add Left Turn Lane, Add Right Turn Lane	TBD	10
305, 514	Safety Lighting at Intersection, Grade Separation	56%	30
305, 515	Safety Lighting at Intersection, Construct Interchange	51%	30
305, 519	Safety Lighting at Intersection, Add Left Turn Lane	33%	15
305, 519, 521	Safety Lighting at Intersection, Add Left Turn Lane, Add Right Turn Lane	42%	15

305, 519, 532, 540, 542	Safety Lighting at Intersection, Add Left Turn Lane, Milled Edgeline Rumble Strips, Install Passing Lanes on 2 Lane Road, Milled Centerline Rumble Strips	39%	15
305, 524	Safety Lighting at Intersection, Increase Turning Radius	37%	15
305, 547	Safety Lighting at Intersection, Construct a Roundabout	72%	15
401, 402, 403	Install Pavement Markings, Install Edge Marking, Install Pedestrian Crosswalk	15%	4
401, 403, 504	Install Pavement Markings, Install Pedestrian Crosswalk, Construct Paved Shoulders (1-4 ft.)	36%	20
401, 532, 536	Install Pavement Markings, Milled Edgeline Rumble Strips, Widen Paved Shoulders (to >5 ft.)	50%	20
402, 543	Install Edge Marking, Profile Centerline Markings	31%	5
403, 407	Install Pedestrian Crosswalk, Install Sidewalks	74%	10
407, 517, 518, 536	Install Sidewalks, Add Through Lane, Install Continuous Turn Lane, Widen Paved Shoulders (to >5 ft.)	75%	20
502, 503	Widen Lane(s), Widen Paved Shoulder (to 5 ft. or less)	36%	20
502, 503, 518	Widen Lane(s), Widen Paved Shoulder (to 5 ft. or less), Install Continuous Turn Lane	63%	20
502, 503, 518, 533	Widen Lane(s), Widen Paved Shoulder (to 5 ft. or less), Install Continuous Turn Lane, Profile Edgeline Markings	66%	20
502, 503, 532, 542	Widen Lane(s), Widen Paved Shoulder (to 5 ft. or less), Milled Edgeline Rumble Strips, Milled Centerline Rumble Strips	36%	20
502, 503, 542	Widen Lane(s), Widen Paved Shoulder (to 5 ft. or less), Milled Centerline Rumble Strips	42%	20
502, 504	Widen Lane(s), Construct Paved Shoulders (1-4 ft.)	36%	20
502, 504, 518	Widen Lane(s), Construct Paved Shoulders (1-4 ft.), Install Continuous Turn Lane	63%	20
502, 504, 542	Widen Lane(s), Construct Paved Shoulders (1-4 ft.), Milled Centerline Rumble Strips	42%	20
502, 518	Widen Lane(s), Install Continuous Turn Lane	58%	20
502, 518, 533, 537, 543	Widen Lane(s), Install Continuous Turn Lane, Profile Edgeline Markings, Construct Paved Shoulders (>= 5ft.), Profile Centerline Markings	71%	20
502, 518, 537	Widen Lane(s), Install Continuous Turn Lane, Construct Paved Shoulders (>= 5ft.)	62%	20
502, 537	Widen Lane(s), Construct Paved Shoulders (>= 5ft.)	49%	20
503, 507	Widen Paved Shoulder (to 5 ft. or less), Increase Superelevation	62%	20
503, 518	Widen Paved Shoulder (to 5 ft. or less), Install Continuous Turn Lane	63%	20
503, 519	Widen Paved Shoulder (to 5 ft. or less), Add Left Turn Lane	58%	20
503, 532	Widen Paved Shoulder (to 5 ft. or less), Milled Edgeline Rumble Strips	48%	20
503, 532, 542	Widen Paved Shoulder (to 5 ft. or less), Milled Edgeline Rumble Strips, Milled Centerline Rumble Strips	49%	20

503, 540	Widen Paved Shoulder (to 5 ft. or less), Install Passing Lanes on 2 Lane Road	34%	20
503, 542	Widen Paved Shoulder (to 5 ft. or less), Milled Centerline Rumble Strips	32%	20
504, 506	Construct Paved Shoulders (1-4 ft.), Improve Horizontal Alignment	46%	20
504, 506, 507	Construct Paved Shoulders (1-4 ft.), Improve Horizontal Alignment, Increase Superelevation	63%	20
504, 507	Construct Paved Shoulders (1-4 ft.), Increase Superelevation	49%	20
504, 518	Construct Paved Shoulders (1-4 ft.), Install Continuous Turn Lane	63%	20
504, 519	Construct Paved Shoulders (1-4 ft.), Add Left Turn Lane	34%	20
504, 533, 543	Construct Paved Shoulders (1-4 ft.), Profile Edgeline Markings, Profile Centerline Markings	28%	20
505, 506, 507	Improve Vertical Alignment, Improve Horizontal Alignment, Increase Superelevation	72%	10
505, 516	Improve Vertical Alignment, Close Crossover	63%	20
506, 507, 519, 520, 537	Improve Horizontal Alignment, Increase Superelevation, Add Left Turn Lane, Lengthen Left Turn Lane, Construct Paved Shoulders (>= 5ft.)	77%	20
506, 507, 519, 537	Improve Horizontal Alignment, Increase Superelevation, Add Left Turn Lane, Construct Paved Shoulders (>= 5ft.)	64%	20
506, 507, 537	Improve Horizontal Alignment, Increase Superelevation, Construct Paved Shoulders (>= 5ft.)	64%	20
506, 508, 519, 537	Improve Horizontal Alignment, Realign Intersection, Add Left Turn Lane, Construct Paved Shoulders (>= 5ft.)	TBD	20
507, 532	Increase Superelevation, Milled Edgeline Rumble Strips	74%	10
507, 532, 537	Increase Superelevation, Milled Edgeline Rumble Strips, Construct Paved Shoulders (>= 5ft.)	52%	20
507, 533	Increase Superelevation, Profile Edgeline Markings	75%	10
507, 536	Increase Superelevation, Widen Paved Shoulders (to >5 ft.)	60%	20
507, 537	Increase Superelevation, Construct Paved Shoulders (>= 5ft.)	50%	20
507, 537, 532, 542	Increase Superelevation, Construct Paved Shoulders (>= 5ft.), Milled Edgeline Rumble Strips, Milled Centerline Rumble Strips	61%	20
508, 509	Realign Intersection, Channelization	TBD	10
508, 520, 522, 524	Realign Intersection, Lengthen Left Turn Lane, Lengthen Right Turn Lane, Increase Turning Radius	TBD	10
514, 516	Grade Separation, Close Crossover	85%	30
516, 519	Close Crossover, Add Left Turn Lane	67%	20
516, 520	Close Crossover, Lengthen Left Turn Lane	70%	20
517, 518	Add Through Lane, Install Continuous Turn Lane	46%	20
517, 518, 533	Add Through Lane, Install Continuous Turn Lane, Profile Edgeline Markings	62%	20
517, 522	Add Through Lane, Lengthen Right Turn Lane	42%	20

518, 532	Install Continuous Turn Lane, Milled Edgeline Rumble Strips	63%	10
518, 532, 540	Install Continuous Turn Lane, Milled Edgeline Rumble Strips, Install Passing Lanes on 2 Lane Road	60%	15
518, 533	Install Continuous Turn Lane, Profile Edgeline Markings	65%	10
518, 533, 543	Install Continuous Turn Lane, Profile Edgeline Markings, Profile Centerline Markings	53%	10
518, 536	Install Continuous Turn Lane, Widen Paved Shoulders (to >5 ft.)	70%	20
518, 537	Install Continuous Turn Lane, Construct Paved Shoulders (>= 5ft.)	70%	20
519, 521	Add Left Turn Lane, Add Right Turn Lane	34%	10
519, 521, 524	Add Left Turn Lane, Add Right Turn Lane, Increase Turning Radius	38%	10
519, 532	Add Left Turn Lane, Milled Edgeline Rumble Strips	50%	10
520, 521, 524	Lengthen Left Turn Lane, Add Right Turn Lane, Increase Turning Radius	43%	10
532, 536	Milled Edgeline Rumble Strips, Widen Paved Shoulders (to >5 ft.)	52%	20
532, 536, 540, 542	Milled Edgeline Rumble Strips, Widen Paved Shoulders (to >5 ft.), Install Passing Lanes on 2 Lane Road, Milled Centerline Rumble Strips	40%	20
532, 537	Milled Edgeline Rumble Strips, Construct Paved Shoulders (>= 5ft.)	48%	20
532, 537, 542	Milled Edgeline Rumble Strips, Construct Paved Shoulders (>= 5ft.), Milled Centerline Rumble Strips	52%	20
532, 540	Milled Edgeline Rumble Strips, Install Passing Lanes on 2 Lane Road	34%	15
532, 540, 542	Milled Edgeline Rumble Strips, Install Passing Lanes on 2 Lane Road, Milled Centerline Rumble Strips	49%	15
532, 541	Milled Edgeline Rumble Strips, Provide Additional Paved Surface Width	39%	20
532, 541, 542	Milled Edgeline Rumble Strips, Provide Additional Paved Surface Width, Milled Centerline Rumble Strips	44%	20
532, 542	Milled Edgeline Rumble Strips, Milled Centerline Rumble Strips	59%	10
533, 536, 542	Profile Edgeline Markings, Widen Paved Shoulders (to >5 ft.), Milled Centerline Rumble Strips	36%	20
533, 536, 543	Profile Edgeline Markings, Widen Paved Shoulders (to >5 ft.), Profile Centerline Markings	37%	20
533, 537	Profile Edgeline Markings, Construct Paved Shoulders (>= 5ft.)	49%	20
533, 537, 543	Profile Edgeline Markings, Construct Paved Shoulders (>= 5ft.), Profile Centerline Markings	42%	20
533, 541	Profile Edgeline Markings, Provide Additional Paved Surface Width	49%	20
533, 541, 543	Profile Edgeline Markings, Provide Additional Paved Surface Width, Profile Centerline Markings	55%	20
533, 542	Profile Edgeline Markings, Milled Centerline Rumble Strips	67%	10
533, 543	Profile Edgeline Markings, Profile Centerline Markings	31%	5
533, 544	Profile Edgeline Markings, Raised Centerline Rumble Strips	67%	5

534, 544	Raised Edgeline Rumble Strips, Raised Centerline Rumble Strips	55%	4
541, 542	Provide Additional Paved Surface Width, Milled Centerline Rumble Strips	36%	20

Appendix C – Preventable Crash Decoding

Introduction

The Preventable Crash Decoding Table in this section can be used to interpret the codes in the Highway Safety Improvement Program (HSIP) Work Codes Table.

Part of Roadway No. 1 Involved:			
1	Main Proper Lane	5	Connector/Flyover
2	Service/Frontage Road	6	Detour
3	Entrance/On Ramp	7	Transitway
4	Exit/Off Ramp	8	Transitway Ramp
Roadway Related:			
1	On roadway	3	Shoulder
2	Off roadway	4	Median
Intersection Related:			
1	Intersection	3	Driveway access
2	Intersection related	4	Non-intersection

First Harmful Event			
Collision of a motor vehicle with:			
1	Pedestrian	5	Pedalcyclist
2	Another motor vehicle in transport	6	Animal
3	RR train	7	Fixed object
4	Parked car	8	Other object
Other than a collision:			
9	Other non-collision	10	Overturn

Vehicle Movements & Manner of Collision			
Two motor vehicles approaching at an angle:			
10	Both going straight	15	Both right turn
11	One straight, one backing	16	One right turn, one left turn
12	One straight, one stopped	17	One right turn, one stopped
13	One straight, one right turn	18	Both left turn
14	One straight, one left turn	19	One left turn, one stopped
Two motor vehicles going same direction:			
20	Both going straight - rear end	25	Both right turn
21	Both going straight - sideswipe	26	One right turn, one left turn
22	One straight, one stopped	27	One right turn, one stopped
23	One straight, one right turn	28	Both left turn
24	One straight, one left turn	29	One left turn, one stopped

Two motor vehicles going opposite directions:			
30	Both going straight	35	One backing, one stopped
31	One straight, one backing	36	One right turn, one left turn
32	One straight, one stopped	37	One right turn, one stopped
33	One straight, one right turn	38	Both left turn
34	One straight, one left turn	39	One left turn, one stopped
Two motor vehicles – other:			
40	One straight, one entering or leaving parking space		
41	One right turn, one entering or leaving parking space		
42	One left turn, one entering or leaving parking space		
43	One entering or leaving parking space, one stopped		
44	Both entering or leaving parking space		
45	Both vehicles backing		
46	All others		
Movement of Vehicle in Other Than Motor-with-Motor Crashes:			
1	Vehicle going straight		
2	Vehicle turning right		
3	Vehicle turning left		
4	Vehicle backing		
5	Other		

Object Struck			
0	No code shown is applicable	40	Vehicle hit end of bridge (abutment or rail end)
1	Vehicle overturned	41	Vehicle hit side of bridge (bridge rail)
2	Vehicle hit hole in road	42	Vehicle hit pier or support at underpass, tunnel or overhead sign bridge
3	Vehicle jackknifed	43	Vehicle hit top of underpass or tunnel
4	Person fell or jumped from vehicle	44	Vehicle hit bridge crossing gate
9	Vehicle hit train on tracks parallel to road - no crossing	45	Vehicle hit attenuation device
10	Vehicle hit train moving forward	49	Vehicle hit by falling/blowing rocks from a truck
11	Vehicle hit train backing	50	Vehicle hit fallen trees or debris on road
12	Vehicle hit train standing still	51	Vehicle hit object from another vehicle in road
13	Vehicle hit train - action unknown	52	Vehicle hit previously wrecked vehicle
20	Vehicle hit highway sign	53	Vehicle hit toll booth
21	Vehicle hit curb	54	Vehicle hit other machinery
22	Vehicle hit culvert - headwall	55	Vehicle hit other object
23	Vehicle hit guardrail	56	Vehicle hit concrete traffic barrier
24	Vehicle hit railroad signal pole or post	57	Vehicle hit delineator or marker post
25	Vehicle hit railroad crossing gates	58	Vehicle hit retaining wall
26	Vehicle hit traffic signal pole or post	59	Vehicle hit HOV lane gate
27	Vehicle hit overhead signal light, wires, sign, etc.	60	Vehicle hit guard post
28	Vehicle hit work zone barricade, cones, signs or material	61	Fire hydrant
29	Vehicle hit luminaire pole	62	Ditch (long narrow excavation dug in earth)
30	Vehicle hit utility pole	63	Embankment (a raised strip of land or berm)
31	Vehicle hit mailbox	64	Not Applicable
32	Vehicle hit tree or shrub	65	Not Reported
33	Vehicle hit fence		
34	Vehicle hit house, building or building fixture		
35	Vehicle hit commercial sign		
36	Vehicle hit other fixed object		
37	Vehicle hit bus stop structure		
38	Vehicle hit work zone machinery or stockpiled materials		
39	Vehicle hit median barrier		
Bridge Detail:			
1	Vehicle retained on bridge or overpass	6	Structure not hit
2	Vehicle went through rail	7	Result Unknown
3	Vehicle went over rail	8	Not Applicable
4	Crash involved underpass	9	Not Reported
5	Vehicle went between parallel structures		

Other Factors:			
0	No code shown is applicable	10	One car parked improper location
1	Lost control or skidded (icy or slick road, etc.)	11	One car forward from parking
2	Passenger interfered with driver	12	One car backward from parking
3	Attention diverted from driving (delayed perception or lack of alertness)	13	One car entering driveway
4	Open door or object projecting from vehicle	14	One car leaving driveway
5	Foot slipped off clutch or brake	54	Not Applicable
6	Gusty winds	55	Not Reported
7	Vehicle passing or attempting to pass on left	56	Road rage
8	Vehicle passing or attempting to pass on right		
9	Vehicle changing lanes		
Vision obstructed by:			
16	Standing or parked vehicle	21	Headlight or sun glare
17	Moving vehicle	22	Hillcrest
18	Embankment or ledge	23	Trees, shrubs, weeds, etc.
19	Commercial sign	24	Other visual obstructions
20	Highway sign		
Vehicle swerved or veered from intended course:			
25	Reason not specified	31	Avoiding vehicle stopped or moving slowly in traffic lane
26	For surface or visibility	32	Avoiding vehicle entering road
27	For officer, watchman, flagman, or traffic control device (unable to stop, etc.)	33	Avoiding vehicle from opposite direction in wrong lane
28	Avoiding pedestrian, pedal cyclist, etc. in road	34	Avoiding previous crash
29	Avoiding animal in road	35	Avoiding vehicle passing, changing lanes
30	Avoiding object in road		

Vehicle slowing, stopping, or stopped on road:			
36	Reason not specified		
37	Because of surface or visibility		
38	For officer, watchman, flagman, or traffic control device		
39	For pedestrian, pedalcyclist, etc. in road		
40	For animal in road		
41	For object in road		
42	For traffic		
43	To avoid vehicle entering road		
44	To avoid vehicle from opposite direction in wrong lane		
45	To avoid previous crash		
46	To make right turn		
47	To make left turn		
School bus related crash:			
48	School bus related crash		
Construction related:			
49	Within posted road construction zone (not related to crash)		
50	Within posted road construction zone (related to crash)		
51	In other construction maintenance area (not related to crash)		
52	In other construction maintenance area (related to crash)		
Beach related:			
53	Crash occurred on a beach		
Light Condition:			
0	Unknown	4	Darkness - lighted
1	Daylight	5	Dusk
2	Dawn	6	Darkness, unknown lighting
3	Darkness - not lighted	8	Other
Surface Condition:			
0	Unknown	6	Ice
1	Dry	7	Muddy
2	Wet	8	Other
3	Standing Water	9	Snow
4	Snow/Icy	10	Sand, Mud, Dirt
5	Slush		
Vehicle Body Style:			
87	Truck - tractor	91	Semitrailer

Appendix D – Change Log

Date of Release	*Changes*
October 2020	Clarified "Highlights" to specify the requirement for complete project packets for all new projects being submitted for funding. Clarified "Highlights" with the current dates for district submissions. Updated section "Systemic Approach" and added eligible systemic countermeasures. Updated language regarding 8DA funding lines. Updated language describing the SII ratio. Updated section "Crash Data - Overview" to reflect that K, A, and B crashes are included in CAVS data. Updated section "Crash Cost" to reflect current numbers, and updated language regarding crashes counted toward the SII. Added "CAVS" to Appendix A – Definitions. Removed WCs 306, 307 and associated Combinations.
September 2021	Updated timeline to reflect new program call dates. Added section "Increased Federal Funding (G Match)." Added approved systemic countermeasures. Revised "Submission Instructions" to reflect upcoming guidance about process changes as a result of TxDOTCONNECT improvements. Revised SII instructions. Removed WC 105 Install Overhead Flashing Beacon, and associated Combinations. Added approved countermeasures to Work Codes tables.
August 2022	Updated timeline to reflect new program call dates Incorporated 15% extra funding into new programming levels Updated emphasis areas Updated "Project Documentation" to include Submittal Form and how funding lines need to be entered into TxDOTCONNECT. Updated "Submission Instructions" to include Box.com submittal location Updated crash costs Added work codes: "150 – Install Dynamic Speed Feedback Signs" & "537 – Install off-set left turn lane" Updated Reduction Factors for WC "144 - RRFB", "145 – Flashing or Embedded Stop Signs", "225 – Pedestrian Crossing Deterrent", "550 – Median U-Turn" Removed combo code "107, 124, 138"
August 2023	Updated timeline to reflect 2023 Program Call dates. Updated citations relating to Confidentiality of Data. Updated Project Submission Guidelines with a discussion of Local Letting as a pilot program. Updated Project Documentation with a note to discourage contingency or "lump sum" line items in estimates. Updated Crash Costs to reflect current expected values. Updated Appendix A with additional definitions and clarifications. Updated Work Code tables to reflect current countermeasures, definitions, and preventable crash types.

Bee Cave Pkwy/FM 2244 Special Use Path Extension

* **Preliminary notes on FM 2244 segment:**

- Approximately 6-8' trail width; width caters to existing and prevailing conditions. 100% in ROW. Phase 1 stops at eastern end of HEB pharmacy driveway. Eventual interest in constructing trail to 71/2244 intersection, but terrain, drainage and other existing conditions make that segment substantially more complicated and costly.
- Close/adjacent to pavement until guardrail, whereupon it is located on southside of guardrail
- Stays on uppermost part of drainage ditch bank, which upon initial observation of COBC Engineer appears to have excess capacity.

Bee Cave Pkwy/FM 2244 Special Use Path Extension – looking westbound

Measurements approximate

Bee Cave Pkwy/FM 2244 Special Use Path Extension – looking southbound

RESOLUTION 2023-18

A RESOLUTION SUPPORTING CITY OF BEE CAVE'S APPLICATION TO THE TEXAS DEPARTMENT OF TRANSPORTATION'S (TxDOT) 2023 HIGHWAY SAFETY IMPROVEMENT PROJECT (HSIP) PROGRAM CALL FOR PROJECTS

WHEREAS, TxDOT issued a call for projects in October 2023 for communities to apply for funding assistance through the HSIP; and

WHEREAS, the HSIP funds may be used for construction and operational improvements for projects both on and off the state highway system consisting of vehicular and/or pedestrian improvements which increase safety on and off the TxDOT transportation network; and

WHEREAS, the HSIP funds require a local match consisting of 10 percent (10%) of the project construction costs; and

WHEREAS, the City of Bee Cave would be responsible for any and all necessary surveying, environmental studies, and design;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BEE CAVE THAT:

SECTION 1.
The City of Bee Cave supports funding this project as described in the 2023 HSIP Guidelines document and is willing to commit to the project's development, implementation, construction, maintenance, management, and financing.

SECTION 2.
The City of Bee Cave is willing and able to enter into an agreement with the department by resolution or ordinance, should the project be selected for funding.

DULY PASSED AND APPROVED, on the _____ day of _____, 2023 at a regular meeting of the City Council of the City of Bee Cave, Texas, which was held in compliance with the Open Meetings Act, Gov't. Code §551.001, et. Seq. at which meeting a quorum was present and voting.

CITY OF BEE CAVE, TEXAS

_____
Kara King, *Mayor*

ATTEST:

_____

Kaylynn Holloway, *City Secretary*

APPROVED:

_____

Ryan Henry, City Attorney

City Council Meeting
11/14/2023
Agenda Item Transmittal

Agenda Item:	**13.**
Agenda Title:	**Discuss and consider action on a contract with Rogers-O'Brien for Construction Manager-at-Risk (CMAR) services for the new Bee Cave Public Safety Building and authorize the City Manager to execute.**
Council Action:	**Consideration & Approval**
Department:	**Administration**
Staff Contact:	**Chelsea Maldonado//Brian Jorgensen T&T Heery**

1. INTRODUCTION/PURPOSE

Discuss and consider action on a contract with Rogers-O'Brien for Construction Manager-at-Risk (CMAR) services for the new Bee Cave Public Safety Building and authorize the City Manager to execute.

2. DESCRIPTION/JUSTIFICATION

a) Background

City of Bee Cave in collaboration with T&T Heery have negotiated the contract with Rogers-O'Brien Construction for Construction Manager-at-Risk (CMAR) services for the preconstruction and construction of the new public safety building. Rogers-O'Brien Construction was selected through an open RFQ process and has since engaged in a successful contract negotiation and review.

b) Issues and Analysis

The CMAR agreement consists of (1) an A133 detailing preconstruction and construction fee, schedule, and preconstruction/construction management expectations. It also includes (2) an A201 outlining general conditions and administration of the contract, establishing the expectations by the owner, architect, and contractor (CMAR). Execution of these agreements would commence preconstruction efforts by Hoar through the design process, allowing them to provide valuable construction input and streamlining the procurement and mobilization process. At the conclusion of the preconstruction phase, Hoar shall bring forth GMP Amendment A, which outlines project costs, and critical path schedule. Construction/procurement shall commence after execution of the GMP.

3. FINANCIAL/BUDGET

Amount Requested	Fund/Account No.
Cert. Obligation	GO Funds
Other source	Grant title
Addtl tracking info	

4. TIMELINE CONSIDERATIONS

5. RECOMMENDATION

Authorization for City Manager Clint Garza to sign

ATTACHMENTS:

Description	Type
RO_BCPS_A133_DRAFT AGREEMENT FOR COUNCIL	Backup Material
RO_BCPS_A202 GEN. CONDITIONS_DRAFT AGREEMENT FOR COUNCIL	Backup Material

DRAFT

AIA® Document A133™ – 2019

Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price

AGREEMENT made as of the «15th » day of « November » in the year « 2023 »
(In words, indicate day, month, and year.)

BETWEEN the Owner:
(Name, legal status, address, and other information)

« City of Bee Cave »« »
« 4000 Galleria Parkway »
« Bee Cave, TX 78738 »
« Phone: 512-767-6600 »

and the Construction Manager:
(Name, legal status, address, and other information)

« Rogers-O'Brien Construction »« »
« 3901 S Lamar Blvd Suite 200 »
« Austin, TX 78704 »
« Phone: 512-486-3800 »

for the following Project:
(Name, location, and detailed description)

« City of Bee Cave Public Safety Building »
« Description: Joint Facility Building: City of Bee Cave Police Department and Lake Travis Fire Rescue »
« »

The Architect:
(Name, legal status, address, and other information)

« PGAL »« »
« 3601 S Congress Ave STE 100 »
« Austin, TX 78704 »
« Phone: 512-236-1005»

The Owner and Construction Manager agree as follows.

ADDITIONS AND DELETIONS: The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

AIA Document A201™–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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User Notes: (1748518760)

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ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.
(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project, as described in Section 4.1.1:
(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

« The City of Bee Cave Preliminary Program document is attached as Exhibit "C" and will be verified under the Architects Basic Services Identified in Agreement AIA B133 with PGAL. »

§ 1.1.2 The Project's physical characteristics:
(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)

« The new public safety building is expected to be an approximately 20,000-24,000 SF two-story building that will include offices for administrative use, evidence processing and storage, records retention area, holding for short-term temporary detention of arrestee's, investigations area, interview and interrogation rooms, training classroom that may be shared with other City staff or users, briefing room, men's and women's locker rooms, fitness room, living quarters and lounge, drive through fire-truck bays, full kitchen(s), conference and meeting rooms to accommodate various sized groups, a municipal court payment window, and one court office, as well as sufficient on site secure parking, associated site work including but not limited to a detention/retention pond, roads, landscape improvements, and other areas as necessary.

The facility shall be located NorthWest of the existing facilities at 13333 State Hwy 71, Bee Cave, TX 78738 which is bordered by State Hwy 71 and Shops Parkway – exact address to be determined.
»

§ 1.1.3 The Owner's budget for the Guaranteed Maximum Price, as defined in Article 6:
(Provide total and, if known, a line item breakdown.)

« The Owner's Total Construction Budget (Cost of Work) for the work associated with the proposed 25,000-35,000 GSF of the new (2) story Public Safety Building is $17,500,000 . This includes contributions by both parties: City of Bee Cave and Lake Travis Fire Rescue. Total Construction Budget is an estimate and subject to change based on scope additions, revisions, and/or market changes. Total Construction Budget shall include owner costs, including but not limited to: FFE, signage, art.
»

§ 1.1.4 The Owner's anticipated design and construction milestone dates:

1 Design phase milestone dates, if any:

Discovery & Program Verification – September-October 2023
Concept Design – October 2023 – November 2023
Schematic Design – November 2023 – January 2024
Design Development – January 2024 – May 2024
Construction Documents, 60% Complete – July 2024
Construction Documents, 100% Complete – July 2024
Permit / Bid Review – August 2024

.2 Construction commencement date:

August 2024

.3 Substantial Completion date or dates:

September 2025

.4 Other milestone dates:

Final Completion – endeavor to issue Final Completion within 60 days of Substantial Completion
Staff Occupancy Date, September 2025

§ 1.1.5 The Owner's requirements for accelerated or fast-track scheduling, or phased construction, are set forth below:
(Identify any requirements for fast-track scheduling or phased construction.)

« Any such requirements will be fully developed during the Construction Document Phase in consultation with the ODR and Construction Manager and must be approved by the Owner. The Architect should anticipate, at a minimum, an early release bid, or procurement, package for the scope of work associated with Civil, Utilities and Easements. In addition, there could be a separate early release bid package for scopes associated with the Structural Steel, HVAC RTU's and Electrical Switchgear. Multiple bid packages are anticipated.
»

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:
(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

- « Austin Energy Green Building (AEGB) »

§ 1.1.7 Other Project information:
(Identify special characteristics or needs of the Project not provided elsewhere.)

« »

§ 1.1.8 The Owner identifies the following representative in accordance with Section 4.2:
(List name, address, and other contact information.)

« Mr. Clint Garza – City Manager
City of Bee Cave
4000 Galleria Parkway
Bee Cave, Texas 78738»
« »
« »
« »
« »
« »

§ 1.1.9 The persons or entities, in addition to the Owner's representative, who are required to review the Construction Manager's submittals to the Owner are as follows:

Chelsea Maldonado
Owner's Designated Representative (ODR)

Turner & Townsend Heery, Inc.
500 West 2nd Street, Suite 1700
Austin, Texas 78701

or

Brian Jorgensen
Owner's Designated Representative (ODR)

Turner & Townsend Heery, Inc.
500 West 2nd Street, Suite 1700
Austin, Texas 78701»
« »

« Project Architect:
« PGAL »« »
« 3601 S Congress Ave STE 100 »
« Austin, Texas 78704 »
« Phone: 512-236-1005»

§ 1.1.10 The Owner shall retain the following consultants and contractors:
(List name, legal status, address, and other contact information.)

.1 ~~Geotechnical Engineer:~~

~~« To be selected by The City of Bee Cave~~
~~»« »~~
~~« »~~
~~« »~~
~~« »~~
~~« »~~

.2 ~~Civil Engineer:~~

~~« To be selected by PGAL Architects~~
~~»« »~~

«↔»
«↔»
«↔»
«↔»

.3 Other, if any:
(List any other consultants retained by the Owner, such as a Project or Program Manager.)

Owners Designated Representative
Turner & Townsend Heery, Inc.
500 West 2nd Street, Suite 1700
Austin, TX 78701

Mechanical Engineer, Structural Engineer, Electrical Engineer, Plumbing Engineer, Civil Engineer, Landscape Architect, AV/Telecom Consultant, Traffic Engineer, Sustainability Consultant, FFE Consultant, and Acoustic Consultant to be selected by PGAL Architects.

Survey Services, Geotechnical Services, Construction Materials Testing, Traffic Engineering, Hazardous Materials Testing, Air Quality Testing, Roof Inspections Consultant, HVAC test and balancing Consultant, Commissioning Agent, and Building Enclosure Commissioning Agent to be selected by Owner.

The Architect shall ensure that all such consultants and the those listed in 1.1.14.2 below produce all services and deliverables within their respective disciplines necessary for the Architect to provide a complete and buildable design for the project.
»

§ 1.1.11 The Architect's representative:
(List name, address, and other contact information.)

«Cris Ruebush, PGAL »
« 3601 South Congress Avenue, Suite D100 »
« Austin, Texas 78704 »
« Phone: 512-236-5100»
« »
« »

§ 1.1.12 The Construction Manager identifies the following representative in accordance with Article 3:
(List name, address, and other contact information.)

«Rogers-O'Brien Construction Company, LLC »
«Charlie Hamilton, Project Director »
«chamilton@r-o.com 512.848.7283 »
«3901 S. Lamar Suite 200 »
«Austin, TX 78704 »
« »

§ 1.1.13 The Owner's requirements for the Construction Manager's staffing plan for Preconstruction Services, as required under Section 3.1.9:
(List any Owner-specific requirements to be included in the staffing plan.)

«The Construction Manager shall assemble a constructability review team comprised of the Construction Manager's selected staff and advisors. The Construction Manager's personnel, and the Construction Manager's associated sub-consultants, to be employed in the Project, to the extent they perform Construction Manager's duties, shall be identified in Exhibit "H". The personnel and entities identified in Exhibit "H" shall not be changed except with the Owner's prior written agreement (to include personnel full-time and part-time timelines), which shall not be unreasonably withheld»

§ 1.1.14 The Owner's requirements for subcontractor procurement for the performance of the Work:
(List any Owner-specific requirements for subcontractor procurement.)

«The Construction Manager's personnel, and the Construction Manager's associated sub- consultants, to be employed in the Project, to the extent they perform Construction Manager's duties, shall be identified in Exhibit "H". The personnel and entities identified in Exhibit "H" shall not be changed except with the Owner's prior written agreement, which shall not be unreasonably withheld.

All subcontracts shall be awarded in accordance with the applicable provisions of Texas Government Code Sections 2267.255, 2267.256 and 2267.257. Construction Manager shall notify Owner in advance in writing of the identities of all Subcontractors with which it intends to subcontract. Construction Manager shall not subcontract with any Subcontractor to which Owner has a reasonable objection. Construction Manager shall not be required to subcontract with any Subcontractor to which it has reasonable objection, except as otherwise allowed by the applicable provisions of Texas Government Code Section 2267.256. The Construction Manager may not submit a proposal for subcontract work. When Construction Manager's Subcontractors for constructing the Work have been identified, they shall not be changed without Owner's prior written approval, which shall not be unreasonably withheld. Construction Manager shall not incur any Subcontract costs prior to issuance by Owner of Notice to Proceed for such Work.

Should Construction Manager propose the deletion of a classified/certified sub-consultant or Subcontractor firm from its employ, the Construction Manager shall substitute a sub-consultant or Subcontractor firm of like classification/certification, and if Construction Manager is unable to substitute a sub-consultant or Subcontractor firm of like classification, Construction Manager shall provide Owner with documentation of its efforts to acquire the services of a replacement firm. »

§ 1.1.15 Other Initial Information on which this Agreement is based:

« »

§ 1.2 The Owner and Construction Manager may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Construction Manager shall appropriately adjust the Project schedule, the Construction Manager's services, and the Construction Manager's compensation. The Owner shall adjust the Owner's budget for the Guaranteed Maximum Price and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information. The Owner shall adjust the Contract Sum and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 Neither the Owner's nor the Construction Manager's representative shall be changed without ten days' prior notice to the other party.

ARTICLE 2 GENERAL PROVISIONS

§ 2.1 The Contract Documents

The Contract Documents consist of this Agreement, the AIA Document A201-2017, General Conditions of the Contract for Construction, as modified by the parties and attached hereto as Exhibit "B" (hereinafter "AIA Document A201-2017"), Drawings, Specifications, Addenda issued prior to execution of this Agreement, collectively referred to as Owner's Preliminary Program and attached hereto as Exhibit "C", other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. Upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Contract Documents will also include the documents described in Section 3.2.3 and identified in the Guaranteed Maximum Price Amendment and revisions prepared by the Architect and furnished by the Owner as described in Section 3.2.8. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification or the Construction Manager's clarifications and assumptions referenced in Section 3.2.3.2, is inconsistent with this Agreement, this Agreement shall govern. An enumeration of the Contract Documents, other than a Modification, appears in Article 15.

§ 2.2 Relationship of the Parties

The Construction Manager accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the ODR and Architect and exercise the Construction Manager's skill and judgment in furthering the interests of the Owner to furnish efficient construction administration, management services, and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an

expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish or approve, in a timely manner, information required by the Construction Manager and to make payments to the Construction Manager in accordance with the requirements of the Contract Documents.

§ 2.3 General Conditions

§ 2.3.1 For the Preconstruction Phase, AIA Document A201™–2017, General Conditions of the Contract for Construction, shall apply as follows: Section 1.5, Ownership and Use of Documents; Section 1.7, Digital Data Use and Transmission; Section 1.8, Building Information Model Use and Reliance; Section 2.2.4, Confidential Information; Section 3.12.10, Professional Services; Section 10.3, Hazardous Materials; Section 13.1, Governing Law. The term "Contractor" as used in A201–2017 shall mean the Construction Manager.

§ 2.3.2 For the Construction Phase, the general conditions of the contract shall be as set forth in A201–2017, which document is incorporated herein by reference. The term "Contractor" as used in A201–2017 shall mean the Construction Manager.

ARTICLE 3 CONSTRUCTION MANAGER'S RESPONSIBILITIES

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 3.1 and 3.2, and in the applicable provisions of A201-2017 referenced in Section 2.3.1. The Construction Manager's Construction Phase responsibilities are set forth in Section 3.3. The Owner and Construction Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

§ 3.1 Preconstruction Phase

§ 3.1.1 Extent of Responsibility

The Construction Manager shall exercise reasonable care in performing its Preconstruction Services. The Owner, ODR, and Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of services and information furnished by the Construction Manager. The Construction Manager, however, does not warrant or guarantee estimates and schedules except as may be included as part of the Guaranteed Maximum Price. The Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report to the Architect and Owner any nonconformity discovered by or made known to the Construction Manager as a request for information in such form as the Architect may require.

§ 3.1.2 The Construction Manager shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, collectively referred to as the Owner's Preliminary Program and attached hereto as Exhibit "C", each in terms of the other.

§ 3.1.3 Consultation

§ 3.1.3.1 The Construction Manager shall schedule and conduct meetings with the Architect, ODR and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work.

When Project requirements in Section 3.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update a Project schedule for the ODR's review, Architect's review and the Owner's acceptance. The Construction Manager shall obtain the Architect's approval for the portion of the Project schedule relating to the performance of the Architect's services, which such approval shall not be unreasonably withheld. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities and identify items that could affect the Project's timely completion. The updated Project schedule shall include the following: submission of the Guaranteed Maximum Price proposal; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered well in advance of construction; and the occupancy requirements of the Owner.

Attend regular meetings (including key Public Meetings) with other members of the Project Team during the development of the design of the Project to advise them on site usage and site improvements, selection of materials, building systems and equipment, and methods of delivery of materials, systems, and equipment and the development of a project program. The development shall also include achievement of Austin Energy Green Building requirements (AEGB). Attend and participate in Owner's "Partnering" Program for all phases of the Project, if requested by Owner.

§ 3.1.3.2 The Construction Manager shall provide recommendations to the Owner, ODR and Architect, consistent with the Project requirements, on construction feasibility; availability of materials and labor; time requirements for procurement, installation and construction, assignment of responsibilities for safety precautions and programs, temporary Project facilities; prefabrication; and factors related to construction cost including, but not limited to, costs of alternative designs or materials , preliminary budgets, life-cycle data, and possible cost reductions. The Construction Manager shall consult with the ODR, Architect regarding professional services to be provided by the Construction Manager during the Construction Phase, methods of verification for determining that the requirements and assignment of responsibilities are included in the proposed Contract Documents, and any other matters necessary to accomplish the Project in accordance with the Schedule (as defined in Article 3.1.4 Project Schedule) and Project Construction Budget. Creation and continuous updating of a decision tracking system in a format acceptable to Owner and/or provided by the Owner.

§ 3.1.3.3 The Construction Manager shall assist the Owner, ODR and Architect in establishing building information modeling and digital data protocols for the Project, which the Architect shall provide at (BIM) Level of Design (LOD 300), the parties shall jointly establish the protocols for the development, use, transmission, and exchange of digital data. Use Building Information Modeling (BIM) to analyze the design of the building and identify any potential construction problems. Collaborate with the Architect to relocate any conflicting building systems or elements.

§ 3.1.4 Project Schedule

A preliminary Project schedule, if one was prepared by Construction Manager prior to the execution of this Agreement, is attached hereto as Exhibit "F". When Project requirements in Section 4.1.1 have been sufficiently identified, the Construction Manager shall develop a Critical Path Project Schedule ("Schedule") for the other Project Team members' review and the Owner's approval, that coordinates and integrates the Construction Manager's services, the Design Consultant's design, the work of other consultants and suppliers, and the Owner's activities with the anticipated construction schedules for other contractors.

A separate Schedule shall be prepared for each Stage and each set of bidding documents.

Update the Schedule as is reasonably required but at least monthly to incorporate an updated, detailed listing for all activities of the Project, including, without limitation:

- commencement, milestone and completion dates for Facility Program Phase, Schematic Design Phase, Design Development Phase, Construction Documents Phase, Bidding/Proposals Phase, construction phasing and Project Stages;
- times of commencement and completion for each Subcontractor;
- required activity sequences and durations;
- contract document packages, completion dates, Owner contract document package review periods, Project building permits acquisition time requirements, construction contract bid dates;
- processing of shop drawings and samples; and
- a recommended schedule for the Owner's purchase of materials and equipment requiring long lead time procurement, delivery dates of products requiring long lead time procurement, and methods to expedite and coordinate delivery of long lead time procurements including coordination of the Schedule with the early preparation of relevant portions of the Contract Documents by the Design Consultant.

Provide the necessary Schedule control with a goal to attain the Substantial Completion (and Beneficial Occupancy if applicable) of the Project on or before the date set forth hereinabove, so that the Owner can occupy and utilize the entire project facility on such date; and

Create and maintain the Schedule using the latest available version (approved by the Owner, similar to Primavera or Microsoft Project Schedule) of the scheduling software program (the license and training for which shall be at Construction Manager's sole expense).

Scheduling

Perform Project scheduling in compliance with the Contract Documents and provide regular monitoring, updating, and reissuing of all the Project Schedules as construction progresses, including, without limitation, master Project schedules, detailed construction schedules, submittal schedules, inspection schedules, and occupancy schedules; identify potential and actual variances between scheduled and probable completion dates, review the schedules for Work not started or incomplete and recommend to the Owner adjustments in the schedules to conform with the probable completion dates and provide summary reports to the Owner of each schedule update and document all changes in construction schedules. Incorporate activities of the Subcontractors and other Construction Manager-related parties affecting the progress of the Work, including, without limitation, activity sequences and durations, allocation of labor and materials,

processing of shop drawings, data, and samples, delivery of long lead—time items. Include Owner's occupancy requirements and occupancy priorities. Evaluate Subcontractor's personnel and equipment, and availability of supplies and materials, with respect to each Subcontractor's ability to meet the Schedule. Recommend action to Owner when any Subcontract requirements are not met or appear unlikely to be met.

§ 3.1.5 Phased Construction

The Construction Manager, in consultation with the ODR and Architect, shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, and sequencing for phased construction. The Construction Manager shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities, and procurement and construction scheduling issues.

§ 3.1.6 Cost Estimates

§ 3.1.6.1 Based on the preliminary design and other design criteria prepared by the Architect, the Construction Manager shall prepare, for the ODR and Architect's review and the Owner's approval, preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume, or similar conceptual estimating techniques. If the Architect or Construction Manager suggests alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems to the Owner and ODR for review, comment and approval.

§ 3.1.6.2 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Architect, an estimate of the Cost of the Work with increasing detail and refinement. The Construction Manager shall include in the estimate those costs to allow for the further development of the design, price escalation, and market conditions, until such time as the Owner and Construction Manager agree on a Guaranteed Maximum Price for the Work. The estimate shall be provided for the Architect's and ODR's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect in the event that the estimate of the Cost of the Work exceeds the latest approved Project budget, and make recommendations for corrective action.

§ 3.1.6.2.1 Construction Manager will prepare and update a Project budget at conclusion of the Schematic Design Phase, Design Development Phase, and during Construction Documents Phase at Sixty percent (60%) and Ninety-Five percent (95%) completion (for each Stage), for written approval by the Owner, such budget to include estimating, updating and reporting of all Project costs including, without limitation, constriction, Design Consultant fees, fixtures, furnishings and equipment, special consultants and contractors, and moving/relocation expenses. The Design Development Phase and Construction Documents Phase estimates shall also be detailed estimates derived from cost quantity surveys and from Building Information Modeling (BIM). Such cost quantity surveys shall be based upon unit prices for labor, materials, and overhead and profit, in Construction Specifications Institute Division 1-49 format for each portion of the Work.

Provide, throughout the duration of the Project, a system of cost control for the Work including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. The Construction Manager shall identify variances between actual and estimated costs and report the variances to the Project Team at regular intervals and, if the actual and projected costs for the Project are anticipated to exceed the Guaranteed Maximum Price, make recommendations to the Project Team for corrective action.

At the completion of the Construction Contract Documents (for any Stage of the Project), update the variance report actual and projected costs for the Project, and in the event such actual and projected costs exceed the Guaranteed Maximum Price, develop and implement reasonable strategies to be approved by the Owner to reduce the costs projected to be incurred during all phases of the Project. Whenever the term "value engineering" is used in conjunction with this Agreement or the Project, and should value engineering be required or pursued at any point in the Project, it is understood that it has its commonly accepted meaning within the construction industry and does not imply the practice of architecture or professional engineering without a license. Construction Manager is not required, in connection with value engineering, to render services that would constitute the professional practice of architecture or engineering, and any value engineering activities of Construction Manager shall be reviewed and approved, within the timeframe necessary to allow for final pricing, material procurement, and installation in accordance with the proposed overall schedule, by an architect or engineer licensed in Texas for or on behalf of Owner. Construction Manager assumes no responsibility or liability for value engineering in terms of adherence to design intent, performance, coordination/interaction with other design components, or code compliance. Value engineering pricing does not include any design fees unless expressly stated otherwise.

§ 3.1.6.2.2 <u>Coordination of Design and Construction Contract Documents</u>

Review all plans, specifications, and other design documents during the schematic design phase, design development phase, and construction documents phase, and advise Owner on site use, foundations, systems, materials, equipment, construction feasibility, availability of labor and materials, procurement time requirements, installation and construction, relative costs, and provide recommendations to Owner without assuming any Design Consultants' professional responsibility or liability. Use Building Information Modeling (BIM) to visualize and understand the Project.

At specified times required by the Owner, review the drawings and Project Manual as they are being prepared, advise Owner of any error, inconsistency, or omission discovered and recommend alternative solutions whenever the design affects construction feasibility, budget, risks, or schedules (without assuming any of the Design Consultants' professional responsibility or liability) and potential impact on following AEGB provisions.

Coordinate with the Owner to ensure that the Construction Contract Documents comply with all applicable Owner's procurement requirements (without assuming any of the Owner's responsibility or liability therefor).

Consult with Owner and Design Consultant to help determine what materials, equipment, component systems, and construction types should be included in the Contract Documents; suggest reasonable adjustments in the scope of the Project; and suggest alternate bids in the Construction Documents to adjust the Construction Cost to the Guaranteed Maximum Price (as defined herein).

§ 3.1.6.2.3 Construction Planning Make recommendations to the other members of the Project Team regarding the division of the Construction Contract Documents and Project Manual to facilitate the bidding and awarding of construction contracts, to allow for phased or staged construction, or multiple separate contracts, and to take into consideration such factors as time of performance, type and scope of work, availability of labor and materials, overlapping trade jurisdictions, provisions for temporary facilities, comparisons of factory and on-site production costs, shipping costs, code restrictions, the Owner's goals for subcontractor participation, and other constraints.

Review the Drawings and the Project Manual with the other members of the Project Team to help eliminate areas of conflict and overlap in the work to be performed by the various Subcontractors or Owner's Separate Contractors.

Schedule and conduct pre-bid conferences with interested bidders, subcontractors, material suppliers, and equipment suppliers, and record minutes of same.

Coordinate and develop with Design Consultant bid packages and work scope descriptions for each separate bid category that represent the entirety of the scope of the Work for each phase and stage of the Project.

In accordance with Texas Government Code Sections 2267.255 and 2267.256 Construction Manager shall publicly advertise and solicit either competitive bids or competitive sealed proposals from trade contractors or subcontractors for the performance of all major elements of the work other than the minor work that may be included in General Conditions Work. Construction Manager may not seek to perform portions of the work itself other than the minor work that may be included in General Conditions Work. Criteria for determination of best value shall be provided by Owner. Construction Manager shall receive and open all trade contractor or subcontractor bids or proposals in a manner that does not disclose the contents of the bid or proposal to a person not employed by the Construction Manager, the Owner, the Owner's Representative, the Engineer, or the Architect during the selection process. All bids and proposals shall be made available to the public within seven (7) days after the date of final selection. If Construction Manager reviews, evaluates, and recommends to Owner a bid or proposal from a trade contractor or subcontractor, but Owner requires a bid or proposal from another trade contractor or subcontractor to be accepted, then, pursuant to the terms of the Contract, Owner shall compensate Construction Manager by a change in price, time, or Guaranteed Maximum Price for any additional cost and risk, which has been demonstrated to Owner's satisfaction and as required by the Contract, which Construction Manager may incur because of Owner's requirement that another trade contractor or subcontractor bid or proposal be accepted.

Assist the Owner, the appropriate separate Owner's contractor, the appropriate Design Consultant or other consultant, in obtaining all applicable risk management, code, and regulatory agency reviews and approvals for the Project or any portion thereof, without limitation.

Advise Owner of any tests to be performed, and assist, if requested, Owner in selecting testing laboratories and consultants, without assuming direct responsibility for the work of such laboratories and consultants.

Construction Manager shall review the Contract Documents to ensure that they contain adequate provision for all temporary facilities necessary to enable the Subcontractors to perform their work, and provisions for all of the job site facilities necessary to manage, inspect, and supervise construction of the Work.

In accordance with Owner's General and/or Supplemental Conditions, Construction Manager is responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the Work. Construction Manager shall provide recommendations and information to Owner and Design Consultant with respect to the assignment of responsibilities for safety precautions and programs, temporary Project facilities, and equipment, materials, and services for common use of the Subcontractors. Construction Manager shall verify that such assignments with respect to the Subcontractors are included in the Contract Documents. The existence or creation of any Owner controlled insurance program in connection with the Work shall in no way lessen or reduce the foregoing responsibilities set forth in this subparagraph of Construction Manager.

Provide an analysis of the types and quantities of labor required for the Project and review the appropriate categories of labor required for critical phases or Stages. Make recommendations for actions, which will minimize adverse effects of labor shortages.

Reasonably assist the Design Consultant's efforts to design the project to meet Owner's AEGB goals and other considerations including but not limited to, providing input on alternatives and changes, and helping the Design Consultant to assess impact of AEGB's driven efforts on cost and constructability.

Furniture Fixtures and Equipment. Consult with the ODR and Architect and make recommendations to the Owner on the acquisition schedule for fixtures, furniture, and equipment, and coordinate the Owner's purchase and installation of such items with the Owner as may be required to meet the Project Schedule.

§ 3.1.6.3 If the Architect is providing cost estimating services as a Supplemental Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Construction Manager and the Architect shall work together to reconcile the cost estimates.

§ 3.1.7 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall consult with the Owner and Architect and make recommendations regarding constructability and schedules, for the Architect's review and the Owner's approval.

§ 3.1.8 The Construction Manager shall provide recommendations and information to the ODR, Owner and Architect regarding equipment, materials, services, and temporary Project facilities.

§ 3.1.9 The Construction Manager shall provide a staffing plan for Preconstruction Phase services for the Owner's review and approval.

~~**§ 3.1.10** If the Owner identified a Sustainable Objective in Article 1, the Construction Manager shall fulfill its Preconstruction Phase responsibilities as required in AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.~~

§ 3.1.11 Subcontractors and Suppliers

§ 3.1.11.1 If the Owner has provided requirements for subcontractor procurement in section 1.1.14, the Construction Manager shall provide a subcontracting plan, addressing the Owner's requirements, for the Owner's review and approval.

§ 3.1.11.2 The Construction Manager shall develop bidders' interest in the Project.

§ 3.1.11.3 The processes described in Article 9 shall apply if bid packages will be issued during the Preconstruction Phase.

§ 3.1.12 Procurement

The Construction Manager shall prepare, for the ODR, Architect's review and the Owner's acceptance, a procurement schedule for items that must be ordered in advance of construction. Such procurement schedule shall identify for and recommend to the Owner the need for purchase of items requiring extended delivery times ("long lead items"). The Construction Manager shall expedite and coordinate the ordering and delivery of long-lead items that must be ordered in advance of construction. If the Owner agrees to procure any items prior to the establishment of the Guaranteed Maximum Price, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager.

Upon the establishment of the Guaranteed Maximum Price, the Owner shall assign all contracts for these items to the Construction Manager and the Construction Manager shall thereafter accept responsibility for them.

The Construction Manager shall participate with Design Consultant, as requested by Owner and subject to Owner's prior approval, in the preparation of performance specifications and request for technical proposals for the procurement and installation of systems, components, and for the procurement of long lead time equipment and materials. If requested by Owner, and subject to Owner's prior approval, issue requests for technical proposals to qualified sources and receive proposals and assist in their evaluation.

§ 3.1.13 Compliance with Laws

The Construction Manager shall comply with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to its performance under this Contract, and with equal employment opportunity programs, and other programs as may be required by governmental and quasi-governmental authorities.

§ 3.1.14 Other Preconstruction Services

Insert a description of any other Preconstruction Phase services to be provided by the Construction Manager, or reference an exhibit attached to this document

(Describe any other Preconstruction Phase services, such as providing cash flow projections, development of a project information management system, early selection or procurement of subcontractors, etc.)

« *In accordance with Section 3.1.15, the Owner reserves the right to request, in writing, that the Construction Manager aids and assists with pre-construction services for work that is outside of the Construction Manager's current scope of Work for this Project. After receipt of such written request from Owner, the Construction Manager and Owner shall mutually determine all additional costs and fees associated with such requested services. However, it is expressly understood and agreed that any such pre-construction services shall not involve any design-related tasks. Further, any requested pre-construction services for work that is outside of the Construction Manager's current scope of Work for this Project may be handled in a separate agreement between the Owner and Construction Manager.* »

§ 3.1.15 Additional Services

1. From time-to-time Owner may request that Construction Manager perform services in addition to those Pre-Construction Phase Services required herein (such services in addition are hereinafter called "Additional Services")*; however, any such Additional Services requested by Owner shall not include design-related services. Further, for the sake of clarity, any request for pre-construction services pertaining to work that is outside of the Construction Manager's current scope of Work for this Project shall not be considered "Additional Services" and shall instead be handled in accordance with Section 3.1.14 above.* Each time that Construction Manager is requested to perform services which Construction Manager deems to be Additional Services, and prior to performing such Additional Services, Construction Manager shall complete and forward to Owner for acceptance by Owner an Additional Services Requisition in the form of Exhibit "X" attached hereto, which shall describe in detail the nature or scope of the Additional Services, the basis upon which Construction Manager has determined that the requested services are Additional Services, a proposal for the addition to the lump sum fee for preconstruction services which Construction Manager believes is proper for the additional services, together with a proposed schedule for the performances of such Additional Services. Construction Manager shall proceed only after written acceptance by Owner of the Additional Services Requisition and written approval from Owner to proceed.

2. If Owner reasonably concludes that all or part of the services described in the Additional Services Requisition are Services already required to be performed by Construction Manager pursuant to this Agreement, then Owner shall notify Construction Manager of Owner's determination and Owner and Construction Manager shall attempt, in good faith, to resolve by negotiation their differences. If within seven (7) business days Owner and Construction Manager are unable to resolve their differences, then Construction Manager shall nevertheless perform the services requested by Owner as if the services were Services required to be performed pursuant to this Agreement, without prejudice, however, to Construction Manager's right to pursue a claim for compensation for such disputed services in accordance with Article 15 of A201-2017.

3. Upon acceptance by Owner of Construction Manager's Additional Services Requisition(s), each Additional Services Requisition and the services performed by Construction Manager pursuant to such

Additional Services Requisition shall become part of this Agreement and shall be subject to all the terms and conditions of this Agreement, as fully and completely as though the same had been included in this Agreement as a required Service at the original execution of this Agreement.

§ 3.2 Guaranteed Maximum Price Proposal

§ 3.2.1 At a time to be mutually agreed upon by the ODR, the Architect, Owner and the Construction Manager, the Construction Manager shall prepare a Guaranteed Maximum Price proposal for the ODR's, Owner's and Architect's review, and the Owner's acceptance. The Guaranteed Maximum Price in the proposal shall be the sum of the Construction Manager's estimate of the Cost of the Work, the Construction Manager's contingency described in Section 3.2.4, and the Construction Manager's Fee described in Section 6.1.2.

§ 3.2.2 To the extent that the Contract Documents and specifications are anticipated to require further development, the Guaranteed Maximum Price includes the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, all of which, if required, shall be incorporated by Change Order. Correction of errors and omissions in the design documents is not to be interpreted as reasonably inferable.

§ 3.2.3 The Construction Manager shall include with the Guaranteed Maximum Price proposal a written statement of its basis, which shall include the following:

- **.1** How the Guaranteed Maximum Price was derived and prepared, which shall include, at a minimum, a list of the Drawings and Specifications (including all addenda), and Owner's General and/or Supplemental Conditions which were used in the preparation of the Guaranteed Maximum Price Proposal
- **.2** A list of the clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price proposal, including assumptions under Section 3.2.2;
- **.3** A statement of the proposed Guaranteed Maximum Price, including a statement of the estimated Cost of the Work organized by trade categories or systems, including allowances, insurances, bonds, and other items and the fee that comprises the Guaranteed Maximum Price; the Construction Manager's contingency set forth in Section 3.2.4; and the Construction Manager's Fee;
- **.4** The Guaranteed Maximum Price proposal must be prepared in the format specified by Owner which shall require a breakdown of estimated costs organized by trade, allowances, contingencies, clarifications, assumptions, insurance, bonds, Construction Manager's General Conditions Work, and Construction Manager's Construction Phase Fee as to when the Documents will be issued.

§ 3.2.4 In preparing the Construction Manager's Guaranteed Maximum Price proposal, the Construction Manager shall include a contingency for the Construction Manager's exclusive use to cover those costs considered reimbursable as the Cost of the Work but not included in a Change Order or allocated to another line item. Further, any variances between estimated and actual costs realized through the course of buyout and management of the Project shall effectively increase or decrease the Construction Manager's contingency amount. The Construction Manager's contingency amount shall be calculated as set forth in Exhibit "A" (Guaranteed Maximum Price Amendment).

Any single use of Construction Manager's contingency funds shall be subject to the Owner's approval, and such approval shall not be unreasonably withheld. The Contractor shall provide the lump sum contingency use for approval, properly itemized, and supported by sufficient substantiating data to permit evaluation. Details to be submitted may include, but not limited to, material take-off and pricing, and related labor hour pricing. If Contractor requests approval from the Owner to use contingency funds, the Owner shall respond within two (2) business days. During this two (2) business day period, the Owner may request additional documentation from the Contractor to support their request to use contingency funds. If the Owner fails to accept or deny Contractor's request within the two (2) business day period, the Contractor's request will be deemed accepted.

The Guaranteed Maximum Price proposal shall also include a separate Project contingency and design contingency, which such amounts shall be calculated as set forth in Exhibit "A" (Guaranteed Maximum Price Amendment). Further, the scope of use for the Project contingency and design contingency funds shall be developed in consultation with the Owner and set forth in Exhibit "A" (Guaranteed Maximum Price Amendment).

§ 3.2.4.1 In formulating the Guaranteed Maximum Price Proposal, Construction Manager shall be entitled to add no more than

<u>Four and Zero Hundredths Percent (4.00%)</u>

to the total of all costs by trade, allowances, and contingencies to cover Construction Manager's General Conditions Work, provided that this markup shall not be allowed to the extent that Construction Manager has provided for the cost of any of its General Conditions Work, as defined in Exhibit "I" within another category of its cost. Upon the determination of the Guaranteed Maximum Price for the entire Project, there will be no line item Guaranteed Maximum Price for General Conditions Work, or for any other item in the Schedule of Values.

§ 3.2.4.2 When the words "Contract Sum" are used in the Owner's General and/or Supplemental Conditions, they shall be deemed to mean "Guaranteed Maximum Price".

§ 3.2.4.3 <u>Partial Guaranteed Maximum Price</u>

It is anticipated that there will be some phases of the Work ready for construction before it is appropriate to arrive at an overall Guaranteed Maximum Price for the entire Project. If the Owner elects to proceed with any packages of the Work before the parties arrive at an overall Guaranteed Maximum Price, the Construction Manager shall develop Guaranteed Maximum Price proposals for any phases of the Work identified by the Owner.

If a Guaranteed Maximum Price proposal for any phase of the Work is agreed upon by the parties, and if other proposals for other phases, or the entire Work, are subsequently agreed upon by the parties, the Guaranteed Maximum Price amounts, including the Guaranteed Maximum Price for General Conditions Work shall be combined and all other Guaranteed Maximum Price proposals previously agreed to by the parties shall be of no further force and effect. There is no line item Guaranteed Maximum Price for General Conditions Work in the Schedule of Values, or for any other item in the Schedule of Values.

§ 3.2.4.4 <u>Cost Accounting</u>
Maintain cost accounting records in good form on expenditures and materials, or for any other expenditures requiring accounting records during the Pre-Construction Phase; and afford the Owner access to these records and preserve them for a period of three (3) years after final payment is made by the Owner to the Construction Manager.

§ 3.2.5 The Construction Manager shall meet with the ODR, Owner and Architect to review the Guaranteed Maximum Price proposal. In the event that the Owner or Architect discover any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Guaranteed Maximum Price proposal, its basis, or both.

§ 3.2.6 If the Owner notifies the Construction Manager that the Owner has accepted the Guaranteed Maximum Price proposal in writing before the date specified in the Guaranteed Maximum Price proposal, the Guaranteed Maximum Price proposal shall be deemed effective without further acceptance from the Construction Manager. Following acceptance of a Guaranteed Maximum Price, the Owner and Construction Manager shall execute the Guaranteed Maximum Price Amendment amending this Agreement, a copy of which the Owner shall provide to the Architect and ODR. The Guaranteed Maximum Price Amendment shall set forth the agreed upon Guaranteed Maximum Price with the information and assumptions upon which it is based.

§ 3.2.7 The Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work prior to the execution of either a Partial Guaranteed Maximum Price or the Guaranteed Maximum Price Amendment for the entire Project, unless the Owner provides prior written authorization for such costs or if said costs are a result of early release procurement packages, Building Information Modeling ("BIM") coordination for construction, or other costs directly associated with the management of the Construction Phase.

§ 3.2.8 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment. The Owner shall promptly furnish such revised Contract Documents to the Construction Manager, in an organized drawing set update. The Construction Manager shall notify the ODR, Owner, and Architect of any inconsistencies between the agreed-upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment and the revised Contract Documents.

§ 3.2.9 The Construction Manager shall include in the Guaranteed Maximum Price all sales, consumer, use and similar taxes, except to the extent Owner is exempt from any such tax (e.g., sales and use tax) for the Work provided by the Construction Manager that are legally enacted, whether or not yet effective, at the time the Guaranteed Maximum Price Amendment is executed.

§ 3.3 Construction Phase
§ 3.3.1 General
§ 3.3.1.1 For purposes of Section 8.1.2 of A201–2017, the date of commencement of the Work shall mean the date of commencement of the Construction Phase.

The Construction Phase shall commence upon the completion of the following requirements:

1. The Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal;
2. The Owner's issuance of a Notice to Proceed in accordance with Section 3.3.1.2 below;
3. The Construction Manager's receipt of all applicable permits, including such building permits; and
4. Construction Manager's receipt of evidence of financing in accordance with Section 2.2 of A201–2017.

§ 3.3.1.2 The written agreement shall set forth a description of the Work to be performed by the Construction Manager, and any insurance and bond requirements for Work performed prior to execution of the Guaranteed Maximum Price Amendment. The Construction Phase shall be deemed to commence upon the date of commencement specified in a Notice to Proceed which shall not be issued by Owner until Owner has provided sufficient information to the Construction Manager, the property is ready for construction, all permits have been secured. Pre-Construction Phase Services may overlap Construction Phase Services. In implementation of the responsibilities and duties of the Construction Manager for the Construction Phase, the Construction Manager shall provide the following services:

1. <u>Project Control</u>
   Construction Manager shall construct the Work in strict accordance with the Contract Documents within the time required by the Schedule approved by Owner and as required by the Contract and the Owner's General and/or Supplemental Conditions and Division I Specifications. Construction Manager shall award and enter into, as a general contractor, all Subcontracts necessary and appropriate to provide all labor and materials for the construction of the Project. Construction Manager shall self-perform only General Conditions Work and other Work which has been awarded to Construction Manager in accordance with the requirements of Texas Government Code section 2267.255 and this Contract. Subject to and in accordance with Article 6 of A201–2017, the Owner reserves the right to perform Work related to the Project and to award separate contracts for Work related to the Project.

2. Monitor the Work of the Subcontractors as required and coordinate such Work with the activities and responsibilities of the Project Team with a goal to attain completion of the Project at a cost not-to-exceed the Project

3. Construction Budget and Guaranteed Maximum Price, as may be adjusted by Changes in the Work, and to attain Substantial Completion by the date set forth in Exhibit "A" herein, which may be adjusted by Change Order, when executed.

4. Attend all Owner's Project progress meetings scheduled by Owner no less often than once per month, and fully advise the Project Team at such meetings as to Project status.

5. Schedule, direct and attend regular meetings with other members of the Project Team during the construction of the Project to discuss jointly such matters as procedures, progress, problems, and scheduling. Prior to each meeting, the Construction Manager shall prepare and distribute to the other Project Team members a written agenda for the meeting. Prepare and distribute at each Project Team meeting a memorandum setting forth the list of critical activities, which require immediate action and the date(s) by when the activity must be completed, and record and distribute the minutes of each meeting.

6. Maintain a competent, full-time staff at the Project site to coordinate and provide general direction over the Work and progress of the Subcontractors of the Project.

7. Establish on-site organization of personnel and clearly defined lines of authority in order to effectuate the overall plans of the Project Team. At a minimum, Construction Manager's site personnel shall include a project manager, project superintendent, project engineer, and appropriate administrative support personnel.

8. In consultation with Owner, establish procedures for coordination among the Project Team, Subcontractors, separate contractors, Design Consultants, and other consultants with respect to all aspects of the construction of the Project, and implement such procedures.

9. Expedite and coordinate delivery and installation of Owner-procured material and equipment.

10. Construction Manager shall supervise and direct the Work and shall be solely responsible for construction means, methods, techniques, sequences, and procedures for the Work, subject to Section 3.3.1 of the Owner's General Conditions.

11. In accordance with Owner's General and/or Supplemental Conditions, provide and pay for all labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and all other facilities and services necessary for the proper execution and completion of the Work in strict accordance with the requirements of the Contract Documents. Assist Owner in securing building permits and special permits for permanent improvements as required by law or the Contract Documents. Assist Owner or Design Consultant in obtaining all approvals required from authorities having jurisdiction over the Project.

12. Inspect the Work of Subcontractors to ensure conformance with the Contract Documents.

13. Support COBC's efforts to obtain AEGB requirements for certification in areas over which Construction Manager has control.

§ 3.3.2 Administration

§ 3.3.2.1 The Construction Manager shall schedule and conduct meetings to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. These Owner/Architect/Contractor ("OAC") meetings will be held once monthly with the entire project team, but more frequent meetings shall be held as deemed necessary by the Construction Manager. The Construction Manager shall prepare and promptly distribute minutes of the meetings to the Owner and Architect.

§ 3.3.2.2 Upon the execution of the Guaranteed Maximum Price Amendment, the Construction Manager shall prepare and submit to the Owner and Architect a construction schedule for the Work and a submittal schedule in accordance with Section 3.10 of A201–2017.

§ 3.3.2.3 Monthly Report

The Construction Manager shall record the progress of the Project. On a monthly basis, or otherwise as agreed to by the ODR, Architect, Owner, the Construction Manager shall submit written progress reports to the ODR, Owner and Architect, showing percentages of completion and other information required by the Owner.

§ 3.3.2.4 Daily Logs

The Construction Manager shall keep, and make available to the ODR, Owner and Architect, a daily log containing a record for each day of weather, portions of the Work in progress, number of workers on site, identification of equipment on site, problems that might affect progress of the work, accidents, injuries, and other information required by the Owner.

§ 3.3.2.5 Cost Control

The Construction Manager shall develop a system of cost control for the Work, including regular monitoring of actual costs for activities in progress and estimates for uncompleted tasks and proposed changes. The Construction Manager shall identify variances between actual and estimated costs and report the variances to the Owner and Architect, and shall provide this information in its monthly reports to the Owner and Architect, in accordance with Section 3.3.2.3 above.

1. <u>Cost Control</u>

    a. Maintain cost accounting records in good form on expenditures and materials, or for any other expenditures requiring accounting records; and afford the Owner access to these records and preserve them for a period of three (3) years after final payment is made by the Owner to the Construction Manager.
    b. Prepare and administer, and provide to Owner, Subcontractors' schedule of values. Subcontractors' sworn statements and waivers of lien as required by applicable law, contract and disbursement summaries, change order listings and change orders, and budget cost summary reports as required by Owner.

c. Construction Manager shall promptly identify all variances between estimated costs and actual costs and shall promptly report such variances to the Project Team along with recommendations for action, but in any event, within a reasonable period of time of having discovered any such variances.

2. Change Orders
Develop and implement a system acceptable to the Owner, such acceptance not to be unreasonably withheld, for the preparation, review and processing of Change Orders, change order requests, and requests for information, in accordance with Owner's General and/or Supplemental Conditions, and Contract Documents. Construction Manager shall use Construction Project Management software or other software, or as agreed by the Owner and Construction Manager. If Owner directs Construction Manager to use Prolog software, Owner shall provide access to Owner's Financial Records system or Enterprise Resource Planning Software (ERP).

3. Wage Rates
Maintain strict enforcement of Owner's prevailing wage laws in accordance with Owner's General and/or Supplemental Conditions. Cooperate with Owner in monitoring the submission to the Owner of payroll records by the various Subcontractors when requested.

4. Special Consultants
Upon written request by Owner, Construction Manager shall reasonably assist the Owner in selecting and retaining professional services that are reasonably necessary for proper construction of the Project and are not otherwise described in this Agreement for the Project and coordinate these services at the Owner's request in order to meet the Schedule, without, however, assuming any liability or responsibility for the work of these consultants.

5. Documents, Shop Drawings, and Submissions

a. The Design Consultant shall be the interpreter of the design intent of the Construction Contract Documents, subject to the terms and conditions of the agreement between the Design Consultant and the Owner, further, the Construction Manager shall be also be immediately provided with a copy of any such interpretations from the Design Consultant so as to facilitate the Construction Manager's accomplishment of its duties under this Agreement.

b. In collaboration with the other members of the Project Team, the Construction Manager shall establish and implement procedures for expediting the processing and Design Consultants' approval of shop drawings and other submissions; receive from the Subcontractors, and review, all shop drawings and other submissions for conformance with the Contract Documents; and coordinate shop drawings and other submissions with the Contract Documents and other related documents prior to transmitting them to other members of the Project Team.

c. The Construction Manager shall record the progress of the Project, submit written progress reports to the other members of the Project Team, including information on the Subcontractor's Work and the percentage of completion available to the other members of the Project Team in accordance with Owner's General and/or Supplemental Conditions.

d. The Construction Manager shall maintain at the Project site and make available to Owner, updated records of subcontracts, drawings, examples, purchases, materials, equipment, maintenance and operating manuals and instructions, and other construction related documents, including all changes and revisions, a directory of personnel, Project correspondence, inspection procedures (as prepared by others), testing laboratory procedures (as prepared by others), contract changes, time extensions, progress payment data, final acceptance procedures, instructions from Owner; and shall obtain data from Subcontractors, and maintain a current set of record drawings and project manual.

e. Construction Manager shall coordinate and facilitate the creation of record and as-built drawings, and the procurement of warranties and guarantees that are required by the Contract Documents.

f. Construction Manager shall provide Owner with complete, unaltered copies of all Subcontracts,

and all amendments thereto.

g. Construction Manager shall document and submit to the Owner all documents reasonably required to support Owner's efforts to obtain AEGB points and/or certification.

6. Safety
Except to the extent set forth under Article 6 of the A201-2017, the Construction Manager is solely responsible for all safety precautions and programs in connection with the Work. Construction Manager shall review the safety programs developed by each of the Subcontractors and prepare and submit to Owner a comprehensive safety program which complies with all applicable requirements of the Occupational Safety and Health Act of 1970, and all other applicable state, local, or federal laws or regulations. Construction Manager shall ensure compliance by the Subcontractors with their contractual safety requirements.

7. Bonds
Payment and Performance Bonds in the form prescribed in Exhibit "G" shall be required within ten (10) days of execution of Exhibit "G".

ARTICLE 4 OWNER'S RESPONSIBILITIES

§ 4.1 Information and Services Required of the Owner

§ 4.1.1 The Owner shall provide information with reasonable promptness, regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, constraints, and criteria, including schedule, space requirements and relationships, flexibility and expandability, special equipment, systems, sustainability and site requirements. The Owner shall provide all such information set forth in this Section 4.1.1 to the Construction Manager and other members (and representatives of the Owner) of the Project Team.

§ 4.1.1.1 If the Owner has actual knowledge of any fault or defect in the Project or non-conformance with the Drawings and Project Manual, Owner shall give prompt written notice thereof to the Construction Manager.

§ 4.1.2 Prior to the execution of the Guaranteed Maximum Price Amendment, the Owner will provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. After execution of the Guaranteed Maximum Price Amendment, the Construction Manager may request such information as set forth in A201-2017 Section 2.2.

§ 4.1.3 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Article 7, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the ODR, Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 4.1.4 Structural and Environmental Tests, Surveys and Reports. During the Preconstruction Phase, the Owner shall furnish the following information or services with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services. The Construction Manager shall be entitled to rely on the accuracy of information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 4.1.4.1 The Owner shall furnish tests, inspections, and reports, required by law and as otherwise agreed to by the parties, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 4.1.4.2 The Owner and its Consultants shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 4.1.4.3 The Owner, when such services are requested, shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 4.1.5 During the Construction Phase, the Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services.

§ 4.1.6 Intentionally Deleted

§ 4.1.6.1 Owner shall furnish Construction Manager with the number of copies of the Contract Documents requested by Construction Manager, not to exceed five (5), each time an estimate is required while Construction Manager is rendering Preconstruction Services and the number of copies of Contract Documents and cost proposal request documents issued during bidding and construction requested by Construction Manager, not to exceed five (5). Owner, at its sole discretion, may provide additional copies to Construction Manager at Construction Manager's request. Should Owner elect to not provide additional copies, Construction Manager shall not seek reimbursement from Owner for any reproduction expenses incurred by Construction Manager related to the Contract Documents.

§ 4.2 Owner's Designated Representative
The ODR shall be authorized to act on behalf of the Owner with respect to the Project. The Owner's representative shall render decisions promptly and furnish information expeditiously, so as to avoid unreasonable delay in the services or Work of the Construction Manager. Except as otherwise provided in Section 4.2.1 of A201–2017, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 4.2.1 Legal Requirements. The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 4.3 Architect
The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document B133™–2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Constructor Edition, including any additional services requested by the Construction Manager that are necessary for the Preconstruction and Construction Phase services under this Agreement. The Owner shall provide the Construction Manager with a copy of the scope of services in the executed agreement between the Owner and the Architect, and any further modifications to the Architect's scope of services in the agreement.

ARTICLE 5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

§ 5.1 Compensation
§ 5.1.1 For the Construction Manager's Preconstruction Phase services described in Sections 3.1 and 3.2, the Owner shall compensate the Construction Manager as follows:
(Insert amount of, or basis for, compensation and include a list of reimbursable cost items, as applicable.)

« »

§ 5.1.2 The hourly billing rates for Preconstruction Phase services of the Construction Manager and the Construction Manager's Consultants and Subcontractors, if any, are set forth below.
(If applicable, attach an exhibit of hourly billing rates or insert them below.)

«$80,000.00 »

The above amount is inclusive of all expenses and disbursements payable proportionately on a monthly basis based on the amount of Work expended by Construction Manager. The Pre- Construction Phase Fee is not included in the Contract Sum and is payable in addition to the Contract Sum.

Individual or Position	Rate

§ 5.1.2.1 Hourly billing rates for Preconstruction Phase services include all costs to be paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, and shall remain unchanged unless the parties execute a Modification. If early release packages and work are required prior to the acceptance of a GMP, the cost of said work is separate from the Pre-Construction Phase Fee. All such work will be subject to Owner's prior approval and the cost of the work will be based on the same cost accumulation and substantiation procedures as are outlined in the Construction Phase Services portion of this Agreement.

§ 5.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within «twelve» («12») months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager's compensation for Preconstruction Phase services shall be equitably adjusted.

Construction Manager shall not be entitled to any increase in the Pre-Construction Phase Fee because of Schedule extensions or delays, or changes in the scope of the proposed Project including changes necessitated by Owner's Green Building certification efforts, unless such extensions, delays, or changes are material or significant.

§ 5.2 Payments

§ 5.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed.

§ 5.2.2 Payments are due and payable upon presentation of the Construction Manager's invoice. Amounts unpaid « THIRTY » (« 30 ») days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Construction Manager.
(Insert rate of monthly or annual interest agreed upon.)

« Current prime rate as published by Regions Bank plus two percent (2%) per annum. »

ARTICLE 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

§ 6.1 Contract Sum

§ 6.1.1 The Owner shall pay the Construction Manager the Contract Sum in current funds for the Construction Manager's performance of the Contract after execution of the Guaranteed Maximum Price Amendment. The Contract Sum is the Cost of the Work as defined in Article 7 plus the Construction Manager's Fee.

§ 6.1.2 The Construction Manager's Fee:
(State a lump sum, percentage of Cost of the Work or other provision for determining the Construction Manager's Fee.)

« Four and 0/100 percent (4.00%) of the estimated Cost of Work »

§ 6.1.3 The method of adjustment of the Construction Manager's Fee for changes in the Work:

« To compensate the Construction Manager for Change Orders which increase the GMP, the Construction Manager's Fee shall be increased by Four and 00/100 percent (4.00%) of the estimated Cost of the Work stipulated within the executed Change Order(s). For Change Orders which decrease the Cost of the Work, the Construction Manager's Fee shall not change.»

§ 6.1.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:

«Five and 0/100 percent (5.0%) profit and five and 0/100 percent (5%) overhead of the estimated Subcontractor Cost of the Work and five and 0/100 percent (5.0%) on the second tier Subcontractor Cost of Work.»

§ 6.1.5 Rental rates for Construction Manager-owned equipment shall not exceed the standard rental rate paid at the place of the Project.

Unit Prices, if any: To be established in the Guaranteed Maximum Price Proposal

§ 6.1.6 Liquidated damages, if any:
(Insert terms and conditions for liquidated damages, if any.)

« See Article A.5 of Exhibit A (GMP Amendment) »

§ 6.1.7 Other:
(Insert provisions for bonus, cost savings or other incentives, if any, that might result in a change to the Contract Sum.)

Change Order documents shall be generated by the Construction Manager. The Owner and Architect shall endeavor to review and approve all change order requests and Change Orders within a reasonable timeframe. It is understood that delays in the processing of Change Orders will impact the timely performance of the Work.

§ 6.1.8 The Guaranteed Maximum Price is subject to additions and deductions by Change Order as provided in the Contract Documents and the Date of Substantial Completion shall be subject to adjustment as provided in the Contract Documents.

§ 6.1.9 The Owner and Construction Manager may agree to multiple, separate Guaranteed Maximum Price Amendments or Work Package Authorizations for the Project in order to accommodate phasing or early release packages for the project.

§ 6.1.10 The Owner is a tax-exempt entity, therefore no sales tax or other tax from which the Owner is exempt shall be included in the Guaranteed Maximum Price proposal or any portion of the Cost of Work, except where required by law.

§ 6.1.11 Owner shall compensate Construction Manager for Construction Phase services on the basis of the sum of the Cost of the Work as defined herein plus the Constriction Manager's Construction Phase Fee (such sum is referred to as the "Contract Sum") as set forth below. The Contract Sum shall not exceed the Guaranteed Maximum Price set forth in Exhibit "X" hereto, subject to changes authorized by the terms and conditions of the Contract Documents. Any cost which is not authorized by the terms and conditions of the Contract Documents, but which would cause the Guaranteed Maximum Price to be exceeded shall be paid by Construction Manager without reimbursement by Owner. In the event that the Contractor is required to pay or bear the burden of any new federal, state, or local tax, or of any rate increase of an existing tax (except a tax on income) with respect to its forces and/or its performance of the Work as a result of any statute, court decision, written ruling, or regulation taking effect after the effective date of this Agreement, the Guaranteed Maximum Price shall be increased by the amount of the new tax or tax increase which is actually paid by Construction Manager.

§ 6.1.12 The Owner has afforded the Construction Manager with reasonable access to the existing improvements and conditions on the site and has given the Construction Manager the opportunity to conduct a visual investigation of the existing conditions, which the Construction Manager represents it has done. The results of Construction Manager's investigation have been considered in establishing the Guaranteed Maximum Price of the Work. Construction Manager shall not be entitled to a claim for an adjustment in time or price under Owner's General and/or Supplemental Conditions for conditions which Construction Manager discovered in Construction Manager's visual investigation. Before proceeding with the Work, the Construction Manager shall review the Drawings and Specifications and notify the Design Consultant and Owner of any errors, omissions, or discrepancies in the Drawings and Specifications it discovers with respect to the existing conditions. The Construction Manager shall not proceed with the Work if any defect, defined as any error, omission, conflict, inconsistency, or lack of clarity, is known by Construction Manager to exist in the Drawings or Specifications or other Contract Documents. If Construction Manager nevertheless proceeds to perform the Work with such knowledge, then Construction Manager shall be responsible for all foreseeable resulting cost, including the cost of redoing or remedying the Work and time delays resulting therefrom unless and to the extent such costs result from design or concealed conditions. Upon discovering a defect in the Drawings or Specifications, the Construction Manager shall promptly submit a written notice to Owner and Design Consultant.

§ 6.1.13 For items in the Contract Documents that are noted as "Allowances", 100% of any savings shall go to Project contingency. The Cost of the Work included in the Allowances shall be determined in accordance with Owner's General and/or Supplemental Conditions, except that any claim by the Contractor for an adjustment to the Guaranteed Maximum Price based on the cost for Allowance work shall be made within a reasonable time after the issuance of the Drawings and Specifications for the Allowance items.

§ 6.2 Guaranteed Maximum Price
The Construction Manager guarantees that the Contract Sum shall not exceed the Guaranteed Maximum Price set forth in the Guaranteed Maximum Price Amendment, subject to additions and deductions by Change Order as provided in the

Contract Documents. Costs which would cause the Guaranteed Maximum Price to be exceeded shall be paid by the Construction Manager without reimbursement by the Owner.

§ 6.3 Changes in the Work

§ 6.3.1 The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing via a Proposal Request. The Construction Manager may be entitled to an equitable adjustment in the Contract Time and Contract Sum as a result of changes in the Work.

§ 6.3.1.1 The Architect may order minor changes in the Work as provided in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction.

§ 6.3.2 Adjustments to the Guaranteed Maximum Price on account of changes in the Work subsequent to the execution of the Guaranteed Maximum Price Amendment may be determined by any of the methods listed in Article 7 of AIA Document A201–2017, General Conditions of the Contract for Construction.

§ 6.3.3 Adjustments to subcontracts awarded (except those awarded with the Owner's prior consent on the basis of cost plus a fee), on the basis of a stipulated sum shall be determined in accordance with Article 7 of A201–2017, as they refer to "cost" and "fee," and not by Articles 6 and 7 of this Agreement. Adjustments to subcontracts awarded with the Owner's prior consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

§ 6.3.4 In calculating adjustments to the Guaranteed Maximum Price, the terms "cost" and "costs" as used in Article 7 of AIA Document A201–2017 shall mean the Cost of the Work as defined in Article 7 of this Agreement and the term "fee" shall mean the Construction Manager's Fee as defined in Section 6.1.2 of this Agreement.

§ 6.3.5 If no specific provision is made in Section 6.1.3 for adjustment of the Construction Manager's Fee in the case of changes in the Work, ~~or if the extent of such changes is such, in the aggregate, that application of the adjustment provisions of Section 6.1.3 will cause substantial inequity to the Owner or Construction Manager,~~ the Construction Manager's Fee shall be equitably adjusted on the same basis that was used to establish the Fee for the original Work, and the Guaranteed Maximum Price shall be adjusted accordingly.

ARTICLE 7 COST OF THE WORK FOR CONSTRUCTION PHASE

§ 7.1 Costs to Be Reimbursed

§ 7.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Construction Manager in the proper performance of the Work. The Cost of the Work shall include only the items set forth in Sections 7.1 through 7.7.

§ 7.1.2 Where, pursuant to the Contract Documents, any cost is subject to the Owner's prior approval, the Construction Manager shall obtain such approval in writing prior to incurring the cost. The Cost of the Work shall include only the items set forth in Sections 7.1 through 7.8 and the items identified within Section 1 of Exhibit "B" (Allowable General Condition Line Items).

§ 7.1.3 All rates stated in this Article 7 or referenced in exhibits to this Article 7 shall be stipulated rates.

§ 7.1.4 Costs, as defined herein, with the exception of contractually stipulated rates, shall be actual costs paid or incurred by the Construction Manager, less all discounts, rebates and salvages that are obtained by the Contractor, subject to Article 8 of this Agreement. All payments made by the Owner pursuant to this Article 7, whether those payments are actually made before or after the execution of this Agreement, are included within the Guaranteed Maximum Price specified in Section 6.2 above. Notwithstanding the breakdown or categorization of any costs to be reimbursed in this Article 7 or elsewhere in the Contract Documents, there shall be no duplication of payment in the event any particular items for which payment is requested can be characterized as falling into more than one of the types of reimbursable categories.

§ 7.1.5 Where any cost is subject to the Owner's prior approval, the Construction Manager shall obtain this approval prior to incurring the cost. The parties shall endeavor to identify any such costs prior to executing Guaranteed Maximum Price Amendment.

§ 7.2 Labor Costs
§ 7.2.1 Intentionally Deleted.

7.2.1 Wages or salaries of construction workers directly employed by the Construction Manager to perform the construction of the Work at the site or, with the Owner's prior approval, at off-site workshops. Such wages and salaries shall be in accordance with the stipulated rates shown in Exhibit C, and shall be inclusive of all costs for taxes, insurance, contributions, assessments and benefits required by law or collective bargaining agreements and, for personnel not covered by such agreements, customary benefits such as but not limited to; sick leave, medical and health benefits, holidays, vacations, 401k match and pensions (collectively called "Burden Costs").

§ 7.2.2 Compensation, wages or salaries of the Construction Manager's personnel when stationed at the site in whatever capacity employed. Personnel engaged, at shops or on the road, in expediting the production or transportation of materials or equipment shall be considered as stationed at the field office and their compensation paid for that portion of their time spent in connection with this Project. This includes the compensation cost of the regional or general superintendent and MIS staff when performing services for this job. Cost of compensation of project management and its support, for actual hours worked on this Project. Personnel rates are listed in and attached hereto as Exhibit "D". (If it is intended that the wages or salaries of certain personnel stationed at the Construction Manager's principal or other offices shall be included in the Cost of the Work, identify in either Exhibit "D" or Section 14.6, the personnel to be included, whether for all or only part of their time, and the rates at which their time will be charged to the Work.)

Wages or salaries of the Construction Manager's supervisory and administrative personnel when stationed at the site and performing Work, with the Owner's prior approval. Such wages and salaries shall be in accordance with the stipulated rates shown in Exhibit "D" and shall be inclusive of Burden Costs.

§ 7.2.3 Reasonable and customary wages and salaries of the Construction Manager's supervisory or administrative personnel engaged at factories, workshops while traveling, or in regional offices in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.

§ 7.2.4 Costs paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 7.2.1 through 7.2.3. Personnel rates are listed in Exhibit "D".

§ 7.2.5 If agreed rates for labor costs, in lieu of actual costs, are provided in this Agreement, the rates shall remain unchanged throughout the duration of this Agreement, unless the parties execute a Modification.

Compensation for the Construction Manager's supervisory and administrative personnel are stipulated rates attached hereto as Exhibit "D". These rates shall remain unchanged throughout the duration of this Agreement unless the parties execute a Modification. The stipulated rates identified in Exhibit "D" shall be inclusive of labor burden attributable to the rates. The labor burden rate shall be set forth in Exhibit "D".

§ 7.3 Subcontract Costs
Payments made by the Construction Manager to Subcontractors in accordance with the requirements of the subcontracts and this Agreement.

§ 7.4 Costs of Materials and Equipment Incorporated in the Completed Construction
§ 7.4.1 Costs, including transportation and storage at the site, of materials and equipment incorporated, or to be incorporated, in the completed construction.

§ 7.4.2 Costs of materials described in the preceding Section 7.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work.

§ 7.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items

§ 7.5.1 Costs of transportation, storage, installation, dismantling, maintenance, and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment, and tools, that are not fully consumed, shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Construction Manager shall mean fair market value.

§ 7.5.2 Rental charges for temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site, and the costs of transportation, installation, dismantling, minor repairs, and removal of such temporary facilities, machinery, equipment, and hand tools. Rates and quantities of equipment owned by the Construction Manager, or a related party as defined in Section 7.8, shall be set forth in Exhibit "D", Schedule of Rates. The total rental cost of any such equipment may not exceed the purchase price of any comparable item.

§ 7.5.3 Costs of removal of debris from the site of the Work and its proper and legal disposal.

§ 7.5.4 Costs of the Construction Manager's site office, including general office equipment and supplies.

§ 7.5.5 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, subject to the Owner's prior approval.

§ 7.6 Miscellaneous Costs

§ 7.6.1 Premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract. including Subcontractor Default Insurance at a rate of 1.25% of the Cost of the subcontracted Work.

§ 7.6.1.1 Costs for self-insurance, for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior approval.

§ 7.6.1.2 ~~Costs for insurance through a captive insurer owned or controlled by the Construction Manager, with the Owner's prior approval.~~

Owner acknowledges that Construction Manager is utilizing a Contractor Controlled Insurance Program to meet the General Liability, Umbrella and Workers' Compensation insurance requirements under these Contract Documents except for excluded parties and offsite coverage. The parties agree that, except for such excluded parties and offsite coverage, any insurance requirements herein for the Construction Manager or its Subcontractors at any tier shall be covered under Contractor's Controlled Insurance Policy. Construction Manager agrees to maintain such policy and limits for the time periods and amounts as listed in the Contract Documents. The rate for such coverage included in the cost of work is 2.5% of the Contract Sum.

§ 7.6.2 Sales, use, or similar taxes, imposed by a governmental authority, that are related to the Work and for which the Construction Manager is liable.

§ 7.6.3 Fees and assessments for the building permit, and for other permits, licenses, and inspections, for which the Construction Manager is required by the Contract Documents to pay.

§ 7.6.4 Fees of laboratories for tests required by the Contract Documents; except those related to defective or nonconforming Work for which reimbursement is excluded under Article 13 of AIA Document A201–2017 or by other provisions of the Contract Documents, and which do not fall within the scope of Section 7.7.3.

§ 7.6.5 Royalties and license fees paid for the use of a particular design, process, or product, required by the Contract Documents.

§ 7.6.5.1 The cost of defending suits or claims for infringement of patent rights arising from requirements of the Contract Documents, payments made in accordance with legal judgments against the Construction Manager resulting

from such suits or claims, and payments of settlements made with the Owner's consent, unless the Construction Manager had reason to believe that the required design, process, or product was an infringement of a copyright or a patent, and the Construction Manager failed to promptly furnish such information to the Architect as required by Article 3 of AIA Document A201–2017. The costs of legal defenses, judgments, and settlements shall not be included in the Cost of the Work used to calculate the Construction Manager's Fee or subject to the Guaranteed Maximum Price.

§ 7.6.6 Costs for communications and data services, electronic equipment, and software, directly related to the Work and located at the site or principal office, with the Owner's prior approval.

§ 7.6.7 Costs of document reproductions, scanning and delivery charges.

§ 7.6.8 Deposits lost for causes other than the Construction Manager's negligence or failure to fulfill a specific responsibility in the Contract Documents.

§ 7.6.9 Legal, mediation and arbitration costs, including attorneys' fees, other than those arising from disputes between the Owner and Construction Manager, reasonably incurred by the Construction Manager after the execution of this Agreement in the performance of the Work and with the Owner's prior approval, which shall not be unreasonably withheld.

§ 7.6.10 Expenses incurred in accordance with the Construction Manager's standard written personnel policy for relocation and temporary living allowances of the Construction Manager's personnel required for the Work, with the Owner's prior approval.

§ 7.6.11 That portion of the reasonable expenses of the Construction Manager's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.

§ 7.6.12 Costs listed in Exhibit "D" to be reimbursed at the fixed rates set forth therein.

§ 7.6.12 Warranty reserve as specified in Construction Manager's schedule of values. Such reserve shall be billed when the project meets Substantial Completion Minimum Requirements Exhibit "N". The reserve shall be used to satisfy all warranty requirements of the contract documents and will be considered a cost of the work as though fully consumed at substantial completion.

§ 7.6.13 Industry association dues which are charged to Construction Manager based on project size.

§ 7.7 Other Costs and Emergencies

§ 7.7.1 Other costs incurred in the performance of the Work, with the Owner's prior approval.

§ 7.7.2 Costs incurred in taking action to prevent threatened damage, injury, or loss, in case of an emergency affecting the safety of persons and property, as provided in Article 10 of AIA Document A201–2017.

§ 7.7.3 Costs of repairing or correcting damaged or nonconforming Work executed by the Construction Manager, Subcontractors, or suppliers, provided that such damaged or nonconforming Work was not caused by the negligence of, or failure to fulfill a specific responsibility by, the Construction Manager, and only to the extent that the cost of repair or correction is not recovered by the Construction Manager from insurance, sureties, Subcontractors, suppliers, or others.

§ 7.7.4 The costs described in Sections 7.1 through 7.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document A201–2017 or other Conditions of the Contract which may require the Construction Manager to pay such costs, unless such costs are excluded by the provisions of Section 7.9.

§ 7.8.3 Nothing within the Contract Documents shall serve to prevent Construction Manager from self-performing portions of the Work. If Construction Manager so chooses to self-perform portions of the Work, the Construction Manager must submit its bid together with bids from at least two other qualified subcontractors. If Construction Manager's bid is below that of all other qualified bids and meets the requirements of the Contract Documents for that specific portion of the Work, Construction Manager shall be allowed to execute a portion of the Work as a subcontractor. The cost of the self-performed work under this clause shall be under a stipulated sum agreement for the amount of Construction Manager's bid (as it may be adjusted by Change Order).

§ 7.9 Costs Not To Be Reimbursed

§ 7.9.1 The Cost of the Work shall not include the items listed below:

- **.1** Salaries and other compensation of the Construction Manager's personnel stationed at the Construction Manager's principal office or offices other than the site office, except as specifically provided in Section 7.2, or as may be provided in Article 14;
- **.2** Bonuses, profit sharing, incentive compensation, and any other discretionary payments, paid to anyone hired by the Construction Manager or paid to any Subcontractor or vendor, unless the Owner has provided prior approval;
- **.3** Expenses of the Construction Manager's principal office and offices other than the site office;
- **.4** Overhead and general expenses, except as may be expressly included in Sections 7.1 to 7.7;
- **.5** The Construction Manager's capital expenses, including interest on the Construction Manager's capital employed for the Work;
- **.6** Except as provided in Section 7.7.3 of this Agreement, costs due to the negligence of, or failure to fulfill a specific responsibility of the Contract by, the Construction Manager, Subcontractors, and suppliers, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable;
- **.7** ~~Any cost not specifically and expressly described in Sections 7.1 to 7.7;~~
- **.8** Costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded; and
- **.9** Costs for services incurred during the Preconstruction Phase.

10. Overhead and general expenses, except as may be expressly included in Sections 7.1 to 7.8 or Article 11,
11. The Construction Manager's capital expenses, including interest on the Construction Manager's capital employed for the Work;
12. Intentionally Deleted
13. Fees paid to recruiters to hire initial or replacement staff.
14. Replacement or payment for lost or stolen machinery or equipment.

ARTICLE 8 DISCOUNTS, REBATES, AND REFUNDS

§ 8.1 Cash discounts obtained on payments made by the Construction Manager shall accrue to the Owner if (1) before making the payment, the Construction Manager included the amount to be paid, less such discount, in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Construction Manager with which to make payments; otherwise, cash discounts shall accrue to the Construction Manager. Trade discounts, rebates, refunds, and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Construction Manager shall make provisions so that they can be obtained. Construction Manager shall notify the Owner of any discounts, rebates or refunds from subcontractors or vendors for early payment at the beginning of the Project. Unless Owner elects to make payment early to take advantage of said discounts, the Construction Manager may choose to make payments and then accrue the discounts to the Construction Manager.

§ 8.2 Amounts that accrue to the Owner in accordance with the provisions of Section 8.1 shall be credited to the Owner as a deduction from the Cost of the Work.

ARTICLE 9 SUBCONTRACTS AND OTHER AGREEMENTS

§ 9.1 Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or other appropriate agreements with the Construction Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids. The Construction Manager shall obtain bids from Subcontractors, and from suppliers of materials or equipment fabricated especially for the Work, who are qualified to perform that portion of the Work in accordance with the requirements of the Contract Documents. The Construction Manager shall deliver such bids to the Architect and Owner with an indication as to which bids the Construction Manager intends to accept. The Owner then has the right to review the Construction Manager's list of proposed subcontractors and suppliers in consultation with the Architect and, subject to Section 9.1.1, to object to any subcontractor or supplier. Any advice of the Architect, or approval or objection by the Owner, shall not relieve the Construction Manager of its responsibility to perform the Work in accordance with the Contract Documents. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection based on the Construction Manager's subcontractor/vendor qualification process, including, but not limited to, financial strength, insurance limits, reference checks, and subcontractor/vendor's acceptance of the Construction Manager's standard form of agreement.

§ 9.1.1 When a specific subcontractor or supplier (1) is recommended to the Owner by the Construction Manager; (2) is qualified to perform that portion of the Work; and (3) has submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Construction Manager may require that a Change Order be issued to adjust the Guaranteed Maximum Price by the

difference between the bid of the person or entity recommended to the Owner by the Construction Manager and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

§ 9.2 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the Owner's prior written approval. If a subcontract is awarded on the basis of cost plus a fee, the Construction Manager shall provide in the subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Construction Manager in Article 10.

§ 9.2.1 Related Party Transactions

§ 9.2.1.1 The term "related party" shall mean (1) a parent, subsidiary, affiliate, or other entity having common ownership or management with the Construction Manager; (2) any entity in which any stockholder in, or management employee of, the Construction Manager owns any interest in excess of ten percent in the aggregate; (3) or any person or entity which has the right to control the business or affairs of the Construction Manager. The term "related party" also includes any member of the immediate family of any person, who has the right to control the business or affairs of the Construction Manager.

§ 9.2.1.2 If any of the costs to be reimbursed arise from a transaction between the Construction Manager and a related party, the Construction Manager shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction, then the cost incurred shall be included as a cost to be reimbursed, and the Construction Manager shall procure the Work, equipment, goods or service from the related party, as a Subcontractor, according to the terms of Article 9. If the Owner fails to authorize the transaction, the Construction Manager shall procure the Work, equipment, goods or service from some person or entity other than a related party according to the terms of Article 9.

ARTICLE 10 ACCOUNTING RECORDS

The Construction Manager shall keep full and detailed records and accounts related to the Cost of the Work, and exercise such controls, as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Construction Manager shall preserve these records for a period of three (3) years after final payment, or for such longer period as may be required by law. To the extent allowed by law, all such records, audit findings and information shall be kept strictly confidential by Owner, its employees, agents and auditors.

§ 10.2 Throughout the course of construction, the Owner's Designated Representative (ODR) may audit each Application for Payment submitted by the Contractor per the Contract Documents. Should ODR, in accordance with the Contract Documents, reasonably concludes that the Cost of the Work as substantiated by the Contractor's supporting documentation is less than the amount previously billed by the Contractor, then ODR shall withhold such amount from subsequent Applications for Payment. If the Contractor disputes the results of ODR's audit, then Contractor shall, without seeking an initial decision, be entitled to submit a Claim in accordance with Article 15.

ARTICLE 11 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

§ 11.1 Progress Payments

§ 11.1.1 Based upon Applications for Payment submitted to the Architect by the Construction Manager, and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum, to the Construction Manager, as provided below and elsewhere in the Contract Documents.

§ 11.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

« »

§ 11.1.3 Provided that an Application for Payment is received by the Architect not later than the « last » day of a month, the Owner shall make payment of the amount certified to the Construction Manager not later than the « last » day of the « following » month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than « thirty » (« 30 ») days after the Architect receives the Application for Payment.
(Federal, state or local laws may require payment within a certain period of time.)

§ 11.1.4 With each Application for Payment, the Construction Manager shall submit payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner or Architect to demonstrate that payments already made by the Construction Manager on account of the Cost of the Work equal or exceed progress payments already received by the Construction Manager, plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Construction Manager's Fee.

§ 11.1.5 Each Application for Payment shall be based on the most recent schedule of values submitted by the Construction Manager in accordance with the Contract Documents. The schedule of values shall allocate the entire Guaranteed Maximum Price among: (1) the various portions of the Work; (2) any contingency for costs that are included in the Guaranteed Maximum Price but not otherwise allocated to another line item or included in a Change Order; and (3) the Construction Manager's Fee.

§ 11.1.5.1 The schedule of values shall be prepared in such form and supported by such data to substantiate its accuracy as the Architect may require. The schedule of values shall be used as a basis for reviewing the Construction Manager's Applications for Payment.

§ 11.1.5.2 The allocation of the Guaranteed Maximum Price under this Section 11.1.5 shall not constitute a separate guaranteed maximum price for the Cost of the Work of each individual line item in the schedule of values.

§ 11.1.5.3 When the Construction Manager allocates costs from a contingency to another line item in the schedule of values, the Construction Manager shall submit supporting documentation to the Architect and ODR.

§ 11.1.6 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment. The percentage of completion shall be the lesser of (1) the percentage of that portion of the Work which has actually been completed, or (2) the percentage obtained by dividing (a) the expense that has actually been incurred by the Construction Manager on account of that portion of the Work and for which the Construction Manager has made payment or intends to make payment prior to the next Application for Payment, by (b) the share of the Guaranteed Maximum Price allocated to that portion of the Work in the schedule of values.

§ 11.1.7 In accordance with AIA Document A201–2017, as modified by the parties and attached hereto as Exhibit "B" and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 11.1.7.1 The amount of each progress payment shall first include:

.1 Take that portion of the Guaranteed Maximum Price properly allocable to completed Work as determined by multiplying the percentage of completion of each portion of the Work by the share of the Guaranteed Maximum Price allocated to that portion of the Work in the most recent schedule of values. Pending final determination of the total cost of a Construction Change Directive to the Owner for changes in the Work, amounts that the Architect determines, in the Architect's professional judgment, to be reasonably justified; such amounts not in dispute shall be included as provided in Section 7.3.9 of AIA Document A201—2017;

.2 Add that portion of the Guaranteed Maximum Price properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work, or if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing;

.3 Add the Construction Manager's Fee. The Construction Manager's Fee shall be computed upon the Cost of the Work at the rate stated in **Section 6.1.2 of the Agreement** or, if the Construction Manager's Fee is stated as a fixed sum in that Section, shall be an amount that bears the same ratio to that fixed-sum fee as the Cost of the Work bears to a reasonable estimate of the probable Cost of the Work upon its completion;

.4 Subtract retainage of five percent (5%) from that portion of the Work that the Construction Manager self-performs;

.5 Subtract the aggregate of previous payments made by the Owner;

.6 Subtract the shortfall, if any, indicated by the Construction Manager in the documentation required by **Section 11.1.4** to substantiate prior Applications for Payment; and

.7 Subtract amounts, if any, for Work that remains uncorrected and for which the Architect has withheld or nullified a Certificate for Payment as provided in **Article 9** of AIA Document A201—2017.

§ 11.1.7.2 The amount of each progress payment shall then be reduced by:

- **.1** Intentionally Deleted;
- **.2** Intentionally Deleted;
- **.3** Any amount for which the Construction Manager does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Construction Manager intends to pay;
- **.4** For Work performed or defects discovered since the last payment application, any amount for which the Owner or Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017;
- **.5** Intentionally Deleted; and
- **.6** Retainage withheld pursuant to Section 11.1.8.

§ 11.1.7.3 The Owner and Construction Manager shall agree upon (1) a mutually acceptable procedure for review and approval of payments to Subcontractors and (2) the percentage of retainage held on Subcontracts, and the Construction Manager shall execute subcontracts in accordance with those agreements.

§ 11.1.7.4 Except with the Owner's prior approval, the Construction Manager shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

§ 11.1.8 Retainage

§ 11.1.8.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:
(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

«5%»

§ 11.1.8.1.1 The following items are not subject to retainage:
(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

« Notwithstanding anything in the Contract Documents to the contrary, no retainage shall be withheld on the Construction Manager's general conditions costs, insurance and bond costs or the Construction Manager's Fee. »

§ 11.1.8.2 Reduction or limitation of retainage, if any, shall be as follows:
(If the retainage established in Section 11.1.8.1 is to be modified prior to Substantial Completion of the entire Work, insert provisions for such modification.)

« The Owner may release retainage held for a scope completed by a Subcontractor once the Subcontractor's Work has been accepted by the Owner, provided that (i) the Owner is satisfied with the Work of such Subcontractor, and (ii) the Owner has received lien release documentation, and other reasonably required documentation from the Subcontractor and all of its sub-subcontractors and material suppliers in a form and substance satisfactory to the Owner. »

§ 11.1.8.3 Except as set forth in this Section 11.1.8.3, upon Substantial Completion of the Work, the Construction Manager may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 11.1.8. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:
(Insert any other conditions for release of retainage, such as upon completion of the Owner's audit and reconciliation, upon Substantial Completion.)

« Refer to COBC Minimum Requirements for Substantial Completion – A201 Supplemental Information – Article 9.8.1.1 »

§ 11.1.9 If final completion of the Work is materially delayed through no fault of the Construction Manager, the Owner shall pay the Construction Manager amounts in accordance with Article 9 of AIA Document A201–2017.

§ 11.1.10 Intentionally Deleted.

§ 11.1.11 Once the Work and Final Closeout Requirements are one hundred (100%) complete as noted by the Architect, Owner, ODR, and as evidenced by billings, no further retainage shall be withheld and all remaining payments shall be made in full.

§ 11.1.11.1 Upon Substantial Completion of the work, the Construction Manager will be paid a reasonable value or estimate of the "punch list" work determined to be completed by the Contractor.

§ 11.1.12 In taking action on the Construction Manager's Applications for Payment the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Construction Manager, and such action shall not be deemed to be a representation that (1) the Architect has made a detailed examination, audit, or arithmetic verification, of the documentation submitted in accordance with Section 11.1.4 or other supporting data; (2) that the Architect has made exhaustive or continuous on-site inspections; or (3) that the Architect has made examinations to ascertain how or for what purposes the Construction Manager has used amounts previously paid on account of the Contract. Such examinations, audits, and verifications, if required by the Owner, will be performed by the Owner's ODR acting in the sole interest of the Owner.

§ 11.2 Final Payment

§ 11.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Construction Manager when

- **.1** the Construction Manager has fully performed the Contract, except for the Construction Manager's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment;
- **.2** the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment; and
- **.3** a final Certificate for Payment has been issued by the Architect in accordance with Section 11.2.2.2.

§ 11.2.2 Intentionally Deleted.

§ 11.2.2.1 Intentionally Deleted.

§ 11.2.2.2 The final request for payment shall not be made until Construction Manager delivers to Owner a complete release of all claims arising out of this Agreement, subject to any claims reserved in accordance with the terms of the Owner's General and/or Supplemental Conditions, and an affidavit that so far as Construction Manager has knowledge or information, the release includes and covers all materials and services over which Construction Manager has control for which a claim could be filed, subject to any claims reserved in accordance with the terms of the Owner's General and/or Supplemental Conditions.

§ 11.2.2.3 In addition to the procedures contained in Owner's General and/or Supplemental Conditions, Owner shall have no obligation to make final payment until a final accounting of the Cost of the Work has been submitted by Construction Manager and has been verified by Owner or Owner's representatives. The aggregate total of payments to Construction Manager shall not exceed the total of the actual Cost of the Work as verified by Owner or Owner's representative from Construction Manager's final accounting plus the applicable Construction Manager's Construction Phase Fee, as certified for payment in accordance with the Contract, but in no event more than the Guaranteed Maximum Price. If payments made to Construction Manager exceed that which is due and owing pursuant to this Article 11.2, then Construction Manager shall promptly refund such excess to Owner.

§ 11.2.2.4 Intentionally Deleted.

§ 11.2.2.5 No partial payment made hereunder shall be, or shall be construed to be, final acceptance or approval of that part of the services to which such partial payment relates, or a release of Construction Manager of any of Construction Manager's obligations hereunder or liabilities with respect to such services.

§ 11.2.2.6 Any Constriction Manager shall promptly pay all bills validly due and owing for labor and material performed and furnished by others in connection with the performance of the Pre-Constriction Phase Services and the construction of the Work in accordance with the terms of the Construction Manager's applicable agreement with such party.

§ 11.2.2.7 The acceptance by Construction Manager or Construction Manager's successors of final payment under this Agreement, shall constitute a full and complete release of Owner from any and all claims, demands, and causes of action whatsoever which Construction Manager or Construction Manager's successors have or may have against Owner

under the provisions of this Agreement except those previously made in writing and identified by Construction Manager as unsettled at the time of the final request for payment.

§ 11.2.2.8 Intentionally Deleted.

§ 11.2.2.9 The Architect is not responsible for verifying the accuracy of the Construction Manager's final Application for Payment, and all previously approved Applications for Payment.

§ 11.2.2.10 Intentionally Deleted.

§ 11.2.3 The Owner's final payment to the Construction Manager shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment.

« »

§ 11.2.4 If, subsequent to final payment, and at the Owner's request, the Construction Manager incurs costs, described in Sections 7.1 through 7.7, and not excluded by Section 7.9, to correct defective or nonconforming Work, the Owner shall reimburse the Construction Manager for such costs, and the Construction Manager's Fee applicable thereto, on the same basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum Price. If adjustments to the Contract Sum are provided for in Section 6.1.7, the amount of those adjustments shall be recalculated, taking into account any reimbursements made pursuant to this Section 11.2.4 in determining the net amount to be paid by the Owner to the Construction Manager.

§ 11.2.5 Payment Instructions. Upon execution of this Agreement, Contractor shall provide Owner with written payment instructions and all necessary forms required by Owner to effectuate payments to Contractor by wire transfer (the "Payment Information". Contractor shall submit the initial Payment Information to Owner by certified mail or hand delivery only. If Owner receives a request to change such Payment Information, Owner agrees that it will not modify or make a change to this Payment Information without oral confirmation from Contractor's Chief Financial Officer or Controller followed by receipt of a written confirmation executed by both Contractor's Controller and its Chief Financial Officer. Owner shall make no changes to the Payment Information if it does not receive the oral and written confirmations as stated herein. If Owner makes any change to the Payment Information without first receiving the confirmations stated herein, it shall be solely responsible for any monies lost or stolen and not paid to Construction Manager as required under the terms of this Agreement.

§ 11.3 Interest

Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.
(Insert rate of interest agreed upon, if any.)

« Current prime rate as published by Regions Bank plus two percent (2%) per annum. »

ARTICLE 12 DISPUTE RESOLUTION

§ 12.1 Initial Decision Maker

§ 12.1.1 Any Claim between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in this Article 12 and Article 15 of A201–2017. However, for Claims arising from or relating to the Construction Manager's Preconstruction Phase services, no decision by the Initial Decision Maker shall be required as a condition precedent to mediation or binding dispute resolution, and Section 12.1.2 of this Agreement shall not apply.

§ 12.1.2 The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017 for Claims arising from or relating to the Construction Manager's Construction Phase services, unless the parties appoint below another individual, not a party to the Agreement, to serve as the Initial Decision Maker.
(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

« »
« »
« »
« »

§ 12.2 Binding Dispute Resolution
For any Claim subject to, but not resolved by mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:
(Check the appropriate box.)

[« X »] Arbitration pursuant to Article 15 of AIA Document A201–2017

[« »] Litigation in a court of competent jurisdiction

[« »] Other: *(Specify)*

« »

If the Owner and Construction Manager do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 13 TERMINATION OR SUSPENSION
§ 13.1 Termination Prior to Execution of the Guaranteed Maximum Price Amendment
§ 13.1.1 If the Owner and the Construction Manager do not reach an agreement on the Guaranteed Maximum Price, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager, and the Construction Manager may terminate this Agreement, upon not less than seven (7) days' written notice to the Owner.

§ 13.1.2 In the event of termination of this Agreement pursuant to Section 13.1.1, the Construction Manager shall be compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination, in accordance with the terms of this Agreement. In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 5.1.

§ 13.1.3 Prior to the execution of the Guaranteed Maximum Price Amendment, the Owner may terminate this Agreement upon not less than seven (7) days' written notice to the Construction Manager for the Owner's convenience and without cause, and the Construction Manager may terminate this Agreement, upon not less than seven (7) days' written notice to the Owner, for the reasons set forth in Article 14 of A201–2017.

§ 13.1.4 In the event of termination of this Agreement pursuant to Section 13.1.3, the Construction Manager shall be equitably compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination. In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 5.1.

§ 13.1.5 If the Owner terminates the Contract pursuant to Section 13.1.3 after the commencement of the Construction Phase but prior to the execution of the Guaranteed Maximum Price Amendment, the Owner shall pay to the Construction Manager an amount calculated as follows, which amount shall be in addition to any compensation paid to the Construction Manager under Section 13.1.4:

.1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
.2 Add the Construction Manager's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and
.3 Subtract the aggregate of previous payments made by the Owner for Construction Phase services.

§ 13.1.6 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.1.5.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders.
§ 13.1.6.1 If the Owner accepts assignment of subcontracts, purchase orders or rental agreements as described above, the Owner will reimburse or indemnify the Construction Manager for all costs arising under the subcontract, purchase order or rental agreement, if those costs would have been reimbursable as Cost of the Work if the contract had not been terminated. If the Owner chooses not to accept assignment of any subcontract, purchase order or rental agreement that

would have constituted a Cost of the Work had this agreement not been terminated, the Construction Manager will terminate the subcontract, purchase order or rental agreement and the Owner will pay the Construction Manager the costs necessarily incurred by the Construction Manager because of such termination.

§ 13.2 Termination or Suspension Following Execution of the Guaranteed Maximum Price Amendment
§ 13.2.1 Termination
The Contract may be terminated by the Owner or the Construction Manager as provided in Article 14 of AIA Document A201–2017.

§ 13.2.2 Termination by the Owner for Cause
§ 13.2.2.1 If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A201–2017, the amount, if any, to be paid to the Construction Manager under Article 14 of AIA Document A201–2017 shall not cause the Guaranteed Maximum Price to be exceeded, nor shall it exceed an amount calculated as follows:

.1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
.2 Add the Construction Manager's Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager' Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;
.3 Subtract the aggregate of previous payments made by the Owner; and
.4 Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A201–2017.

§ 13.2.2.2 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.2.2.1.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Construction Manager will contain provisions allowing for assignment to the Owner as described above.

§ 13.2.3 Termination by the Owner for Convenience

« If the Owner terminates the Contract after execution of the Guaranteed Maximum Price Amendment, the amount payable to the Construction Manager shall be pursuant to Section 14. 4.3 of A201—2017. »

§ 13.3 Suspension
The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017; in such case, the Guaranteed Maximum Price and Contract Time shall be increased as provided in Article 14 of AIA Document A201–2017, except that the term "profit" shall be understood to mean the Construction Manager's Fee as described in Sections 6.1 and 6.3.5 of this Agreement.

ARTICLE 14 MISCELLANEOUS PROVISIONS
§ 14.1 Terms in this Agreement shall have the same meaning as those in A201–2017. Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 14.2 Successors and Assigns
§ 14.2.1 The Owner and Construction Manager, respectively, bind themselves, their partners, successors, assigns and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 14.2.2 of this Agreement, and in Section 13.2.2 of A201–2017, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 14.2.2 The Owner may, without consent of the Construction Manager, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Construction Manager shall execute all consents reasonably required to facilitate the assignment.

§ 14.3 Insurance and Bonds

§ 14.3.1 Preconstruction Phase

The Construction Manager shall maintain the following insurance for the duration of the Preconstruction Services performed under this Agreement. If any of the requirements set forth below exceed the types and limits the Construction Manager normally maintains, the Owner shall reimburse the Construction Manager for any additional cost.

§ 14.3.1.1 Commercial General Liability with policy limits of «Ten Million Dollars and Zero Cents» ($ «10,000,000.00 ») for each occurrence and « Ten Million Dollars and Zero Cents » ($ « 10,000,000.00 ») in the aggregate for bodily injury and property damage.

§ 14.3.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Construction Manager with policy limits of « Five Million Dollars and Zero Cents » ($ «5,000,000.00 ») per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

§ 14.3.1.3 The Construction Manager may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided that such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 14.3.1.1 and 14.3.1.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 14.3.1.4 Workers' Compensation at statutory limits and Employers Liability with policy limits « One Million Dollars and Zero Cents » ($ « 1,000,000.00 ») each accident, « One Million Dollars and Zero » ($ « 1,000,000.00 ») each employee, and « One Million Dollars and Zero » ($ « 1,000,000.00 ») policy limit.

§ 14.3.1.5 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of « Ten Million Dollars and Zero Cents » ($ « 10,000,000.00 ») per claim and « Ten Million Dollars and Zero Cents » ($ « 10,000,000.00 ») in the aggregate.

§ 14.3.1.6 Other Insurance

(List below any other insurance coverage to be provided by the Construction Manager and any applicable limits.)

Coverage	Limits
Commercial General Liability: $10,000,000 per Occurrence, $10,000,000 Annual Aggregate; Umbrella/Excess: $10,000,000 Automobile Liability: $5,000,000 per Occurrence; Worker's Compensation: Statutory Limits	Liability limited to the amount of insurance provided herein

§ 14.3.1.7 Additional Insured Obligations. To the fullest extent permitted by law, the Construction Manager shall cause the primary and excess or umbrella polices for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Construction Manager's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 14.3.1.8 The Construction Manager shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 14.3.1.

§ 14.3.2 Construction Phase

After execution of the Guaranteed Maximum Price Amendment (Exhibit "A"), the Owner and the Construction Manager shall purchase and maintain insurance as set forth in Article 11 of the AIA Document A201–2017, as modified by the parties.

§ 14.3.2.1 The Construction Manager shall provide bonds as set forth in the contract documents.

§ 14.4 Notice in electronic format, pursuant to Article 1 of AIA Document A201–2017, may be given in accordance with AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:
(If other than in accordance with AIA Document E203–2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

« *This Agreement may be executed in one or more counterparts, each of which will be deemed to be an original copy and all of which, when taken together, will be deemed to constitute one and the same agreement or document, and will be effective when counterparts have been signed by each of the parties and delivered to the other parties. Each party agrees that the electronic signatures, whether digital or encrypted, of the parties included in this Agreement are intended to authenticate this writing and to have the same force and effect as manual signatures. Delivery of a copy of this Agreement bearing an original manual or electronic signature, or through the use of electronic signature software, will have the same effect as physical delivery of the paper document bearing an original signature.* »

§ 14.5 Other provisions:

« »

§ 14.6 Role Utilizations.

§ 14.7 Deductible amounts applicable to insurance claims, and any insurance losses incurred by Construction Manager, shall be reimbursed as Cost of the Work, provided the loss is not due to the sole negligence of Construction Manager or its personnel. Such costs, to the extent incurred, shall constitute an increase in the Guaranteed Maximum Price.

§ 14.8 Intentionally Deleted.

§ 14.9 Builders Risk Property insurance shall be provided by the Construction Manager and shall be included in the Cost of the Work. Any changes in the builder's risk insurance cost shall constitute an increase in the Guaranteed Maximum Price.

§ 14.10 If the Work is not in compliance with the Schedule, the Owner may direct Construction Manager to accelerate the Work, by among other things, establishing additional shifts, paying or authorizing overtime or providing additional equipment.

ARTICLE 15 SCOPE OF THE AGREEMENT

§ 15.1 This Agreement represents the entire and integrated agreement between the Owner and the Construction Manager and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Construction Manager.

§ 15.2 The following documents comprise the Agreement:

.1 AIA Document A133™–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price

.2 AIA Document A133™-2019, as modified by the parties and attached hereto as "Exhibit A", Guaranteed Maximum Price Amendment, if executed

.3 Intentionally Deleted

.4 AIA Document A201™–2017, General Conditions of the Contract for Construction, as modified by the parties and attached hereto as Exhibit "B"

.5 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203-2013 incorporated into this Agreement.)

« Not Included »

.6 Other Exhibits:
(Check all boxes that apply.)

[« »] AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, dated as indicated below:

(Insert the date of the E234-2019 incorporated into this Agreement.)

«Not Included »

[**« »**] Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages

.7 Other documents, if any, listed below:
(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201–2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Construction Manager's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

Exhibit "B" – AIA Document A201-2017, General Conditions of the Contract for Construction, as modified by the parties
Exhibit "C" – Owner's Preliminary Program, dated « » (« » pages)
Exhibit "D" – Schedule of Rates, dated « » (« » pages)
Exhibit "E" – Construction Manager's Certificate of Insurance
Exhibit "F" – Preliminary Project Schedule, dated « » (« » pages)
Exhibit "G" – Performance and Payment Bond Forms
Exhibit "H" – Staffing Plan
Exhibit "I" – Allowable General Conditions
Exhibit "J" – CMAR Project Close-Out Status Guide Forms A & B
Exhibit "K" – CMAR Transfer Checklist Project Closeout Form A
Exhibit "L" – Financial Project Closeout Form B
Exhibit "M" – CMAR Final Completion Guidelines
Exhibit "N" – COBC Minimum Requirements for Substantial Completion

§ 15.3 In the event of any conflict between any provisions of this Agreement and the provisions of the General Conditions attached as Exhibit "C" to this Agreement, this Agreement shall govern. In the event of any conflict between any provisions of the Contractor's Assumptions and Clarifications referenced in Section 3.2.3.2 of this Agreement and the provisions of the other Contract Documents, the provisions of the Contractor's Assumptions and Clarifications shall govern.

This Agreement is entered into as of the day and year first written above.

OWNER *(Signature)*	**CONSTRUCTION MANAGER** *(Signature)*
« »« »	« »« »
(Printed name and title)	*(Printed name and title)*

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AIA® Document A201™ – 2017

General Conditions of the Contract for Construction

for the following PROJECT:
(Name and location or address)

«City Of Bee Cave Public Safety Building
Description: Joint Facility Building: City of Bee Cave Police Department and Lake Travis Fire »
« »

THE OWNER:
(Name, legal status and address)

« City of Bee Cave »
« 4000 Galleria Parkway
Bee Cave, TX 78738
Phone: 512-767-6600 »

THE ARCHITECT:
(Name, legal status and address)

«PGAL
3601 South Congress Avenue, Suite D100
Austin, TX 78704
Phone: 512-236-5100 »

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12 UNCOVERING AND CORRECTION OF WORK

ADDITIONS AND DELETIONS: The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

For guidance in modifying this document to include supplementary conditions, see AIA Document A503™, Guide for Supplementary Conditions.

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding or proposal requirements.

§ 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor including between the Owner's Designated Representative (ODR) and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

§ 1.1.3 The Work

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

§ 1.1.5 The Drawings

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.6 The Specifications

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.7 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.8 Initial Decision Maker

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.

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§ 1.1.9 Owner's Designated Representative (ODR)
The Owner may use an ODR to carry out some of the functions of administration of the Owner's construction project. Should the Owner not use an ODR, then references to ODR in the General Conditions shall be deemed as references to Owner. The Contractor, Architect, and ODR (when applicable) shall cooperate with each other in the performance of their respective functions. The management and reporting systems used by the Owner and/or ODR, including the use of the ODR, may be changed by Owner during the Project; Owner shall promptly provide Contractor with written notice of any such change.

§ 1.2 Correlation and Intent of the Contract Documents
§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results. In the event of conflict or discrepancies among the Contract Documents, the priorities amongst the various documents shall be as follows:

A. The Agreement;
B. Addenda;
C. General and Supplementary Conditions;
D. Specifications; and
E. Drawings

§ 1.3 Capitalization
Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 Interpretation
In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.4.1 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.4.2 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contact Documents in accordance with such recognized meanings.

§ 1.4.3 Optional Materials, Equipment and Processes. Contractor may submit for consideration proposed substitutions of materials, equipment, or processes from those set out in the Contract Documents. Submittals of proposed substitutions must be made in writing and should contain sufficient information to allow the Architect and Owner to determine if the proposed substitution is in fact equal or better than the requirements of the Contract Documents. The Architect shall review proposed substitutions within a reasonable time, so long as that review does not take more than ten (10) calendar days or such shorter amount of time as is necessary to prevent a delay in the Contractor's construction schedule for the Work. Contactor shall bear the risk of any delay in performance caused by submitting substitutions. The Owner may approve substitutions only when the substitution is clearly proven by the Contractor to be equal in performance characteristics to the requirements of the Contract Documents, equally compatible with existing installations and complimentary to the architectural design for the Work.

§ 1.4.4 Intentionally Deleted.

§ 1.4.5 Should the Contractor request a substitution, the Architect shall identify and determine any potential effect the substitution may have on the Project's achievement of Austin Energy Green Building (AEGB) points. The Owner and Contractor shall be entitled to rely on any such representation.

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§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.5.2.1 Forms and Format

The Owner requires that the Contractor shall use and/or respond to certain Owner-Furnished forms during the course of the Project. These forms, as presently constituted, are available from the City of Bee Cave office. From time to time, there may be future revisions, changes, additions, or deletions to these forms. The fact that the Owner modifies and increases reasonable reporting requirements shall not serve as the basis for a Claim for additional time or compensation by the Contractor.

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery. Notwithstanding anything to the contrary, the Contractor may provide e-mail notice to the designated representative of the party to whom the notice is addressed if presented with delays under Section 8.3.1, sub-part (3) and/or delays, disruptions, suspensions, or other impacts under Section 8.3.

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

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

§ 2.2 Evidence of the Owner's Financial Arrangements

§ 2.2.1 Prior to commencement of the Work and upon written request by the Contractor, the Owner, being a public body under the laws of the State of Texas, shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. The Contractor shall have no obligation to commence the Work until the Owner provides such evidence. If commencement of the Work is delayed under this Section 2.2.1, the Contract Time shall be extended appropriately.

§ 2.2.2 Following commencement of the Work and upon written request by the Contractor, the Owner shall furnish to the Contractor reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract only if (1) the Owner fails to make payments to the Contractor as the Contract Documents require; (2) the Contractor identifies in writing a reasonable concern regarding the Owner's ability to make payment when due; or (3) a change in the Work materially changes the Contract Sum. If the Owner fails to provide such evidence, as required, within fourteen days of the Contractor's request, the Contractor may immediately stop the Work and, in that event, shall notify the Owner that the Work has stopped. However, if the request is made because a change in the Work materially changes the Contract Sum under (3) above, the Contractor may immediately stop only that portion of the Work affected by the change until reasonable evidence is provided. If the Work is stopped under this Section 2.2.2, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided in the Contract Documents.

§ 2.2.3 After the Owner furnishes evidence of financial arrangements under this Section 2.2, the Owner shall not materially vary such financial arrangements without prior notice to the Contractor.

§ 2.2.4 Where the Owner has designated information furnished under this Section 2.2 as "confidential," the Contractor shall keep the information confidential and shall not disclose it to any other person. However, the Contractor may disclose "confidential" information, after seven (7) days' notice to the Owner, where disclosure is required by law, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or by court or arbitrator(s) order. The Contractor may also disclose "confidential" information to its employees, consultants, sureties, Subcontractors and their employees, Sub-subcontractors, and others who need to know the content of such information solely and exclusively for the Project and who agree to maintain the confidentiality of such information.

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.3 If the employment of the Architect terminates, the Owner shall employ a successor to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

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§ 2.3.4 The Owner shall furnish surveys describing physical characteristics (including x-y coordinate for building layout and elevation benchmark), legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner, unless a reasonable visual inspection of the site would disclose variances between the site conditions and those clearly shown on Owner's survey. The survey shall not relieve Contractor from its obligations to examine the site.

§ 2.3.5 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness so as not to delay or hinder the progress of the Work. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services.

§ 2.3.6 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.3.7 The Owner, having retained a competent design professional to design the Work of this Agreement, warrants to the Contractor the adequacy of the design for its intended purpose.

§ 2.4 Owner's Right to Stop the Work

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

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

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§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor. The Contractor can rely on written instructions/directions/interpretations of the Architect as well as the Owner's testing firm in performing its work; however, this ability to rely shall not relieve the Contractor from its duties and responsibilities to perform a reasonable visual investigation of project conditions relative to the Contract Documents.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions (if practical without destructive methods) related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the ODR and Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents. The Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies, or omissions in the Contract Documents unless the Contactor recognized such error, inconsistency or omission and failed to report it to the Architect.

§ 3.2.2.1 The Contractor shall meet with the Owner and Architect to discuss alternatives in the event the Owner or Architect recognizes a condition that will affect the ability to achieve AGB requirements. If any condition is discovered by, or made known to, the Contractor that will adversely affect meeting AGB policy requirements for which the Contractor is responsible, the Contractor will promptly provide notice to the Architect and meet with the Owner and Architect to discuss the alternative to remedy the condition.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. The Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities unless the Contractor recognized such error, inconsistency, omission or difference and knowingly failed to report it to the Architect.

§ 3.2.5 The Contractor and each Subcontractor shall reasonably evaluate and have reasonably satisfied themselves as to the conditions and limitations under which the Work is to be performed, including:

1. the location, condition, layout and nature of the Project site and surrounding areas; generally prevailing climatic conditions,
2. anticipated labor supply and costs;
3. availability and cost of materials, tools, and equipment; and other similar issues.

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§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences, or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors. It is understood and agreed that the relationship of Contractor to Owner shall be that of an independent contractor. Nothing contained herein or inferable here from shall be deemed or construed to (1) make Contractor the agent, servant, or employee of the Owner, or (2) to create any partnership, joint venture, or other association between Owner and Contractor. Any direction or instruction by Owner or any of its authorized representatives in respect to the Work shall relate to the results the Owner desires to obtain from the Work and shall in no way affect Contractor's independent contractor status described herein.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.4 Labor and Materials

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work. In the event that any of the foregoing is directly impacted by any of the events set forth in Section 8.3.1 of this Contract, the Contractor shall be entitled to an equitable adjustment to the Contract Time and/or Contract Sum.

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Contractor shall not permit employment of unfit persons or persons not properly skilled in tasks assigned to them.

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§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment. The Contractor's warranty shall be limited to one (1) year from Substantial Completion and any extended warranties shall be directed between Owner and the subcontractor or manufacturer. In the event Owner claims that Contractor has breached any warranty, Owner shall give Contractor notice and no more than thirty (30) days to cure, or reasonable timeline as proposed by Contractor for any alleged breach of any warranty. In the event of breach of warranty for non-operational essential building operation systems, Contractor shall cure or provide timeline to cure in no more than (7) days, after which Owner may resolve warranty breach at Contractor cost.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

§ 3.5.3 When deemed necessary by the Owner and prior to installation of any item specifically made subject to a performance standard or regulatory agency standard under any provision of the Contract Documents, Contractor shall furnish proof of conformance to the Architect. Proof of conformance shall be in the form of:

1. an affidavit from the manufacturer certifying that the item is in conformance with the applicable standard, or
2. an affidavit from a testing laboratory certifying that the product has been tested within the past year and is in conformance with the applicable standard, or
3. such further reasonable proof as is required by the Architect.

§ 3.5.4 The warranties of Contractor provided in Section 3.5.1 shall in no way limit or abridge the warranties of the suppliers of equipment and systems which are to comprise a portion of the Work and all of such warranties shall be in form and substance as required by the Contract Documents. Contactor shall take no action or fail to act in any way which results in the termination or expiration of such third-party warranties, or which otherwise results in prejudice to the rights of Owner under such warranties. Contractor agrees to provide all notices required for the effectiveness of such warranties and shall include provisions in the contracts with the providers and manufacturers of such systems and equipment whereby Owner shall have a direct right, but not a duty, of enforcement of such warranty obligations.

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.6.1 The City of Bee Cave stipulates that it is an exempt organization as defined by the Limited Sales, Excise and Use Tax Act and as such is exempt from the payment of the sales tax on materials and supplies used in the performance of this Contract. The Contractor shall issue exemption certificates to its suppliers and subcontractors in lieu of said sales tax for all such materials and supplies and said exemption certificates must comply with current rulings of the Texas State Comptroller.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded. Tap and impact fees, as well as utility (municipal or utility company), soils, and material inspection fees, are paid by the Owner.

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§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work (together "Applicable Law"). If there is a change in Applicable Law after the Agreement has been signed by the parties, then the Contractor shall comply with that change; Contractor shall be provided extensions to the Contract Time and be compensated for the reasonable and verified additional costs of said compliance by Change Order, pursuant to Article 7. The Contractor shall procure and obtain all bonds required of the Owner or the Contractor by the municipality in which the Project is located or by any other public or private body with jurisdiction over the Project. In connection with such bonds, the Contactor shall prepare all applications, supply all necessary back-up material and furnish its surety with any required personal undertakings. The Owner shall obtain and pay all charges for all easements, license, access, or approvals for street closings, traffic control, parking meter removal, neighboring property, and other similar matters in accordance with the Contractor's site logistics plan and any other easements, licenses, access, or approvals as may be reasonably necessary or appropriate from time to time for the performance of the Work.

§ 3.7.3 It is not the Contractor's responsibility to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, building codes, and rules and regulations. However, if the Contractor observes that portions of the Contract Documents are at variance therewith, the Contractor shall, upon discovery, notify the Architect in writing, and necessary changes shall be accomplished by appropriate modifications. If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work. Contractor shall be entitled to an equitable adjustment be made in the Contract Sum or Contract Time, or both, and Architect shall offer its recommendation. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances (coordinate with by the Architect and ODR) shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

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§ 3.8.2 Unless otherwise provided in the Contract Documents,

- **.1** allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- **.2** Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- **.3** whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Intentionally Deleted.

§ 3.8.4 The Contractor shall not commence any Work involving allowances until the Owner receives all pricing data and other information requested in connection with such allowance and authorizes the Contractor in writing to proceed with the Work covered by that allowance. The Contractor shall not exceed the amount for any allowance without prior written permission of the Owner. Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Owner may notify the Contractor, stating whether the Owner (1) has reasonable objection to the proposed superintendent or (2) requires additional time for review. Failure of the Owner to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, promptly after being awarded the Contract, shall submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall contain detail appropriate for the Project, including (1) the date of commencement of the Work, interim schedule milestone dates, and the date of Substantial Completion; (2) an apportionment of the Work by construction activity; and (3) the time required for completion of each portion of the Work. The schedule shall provide for the orderly progression of the Work to completion and shall not exceed time limits current under the Contract Documents. The schedule shall be revised at appropriate intervals as required by the conditions of the Work and Project.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the ODR's review and Architect's approval. The Architect's information shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect and ODR reasonable time to review submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

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§ 3.10.4 Ownership of Float: Unless indicated otherwise in the Contract Documents, Contractor shall develop its schedule, pricing, and execution plan to provide a maximum 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 the 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.

§ 3.10.5 The process of approving Contractor's schedules and updates to Contractor's schedule shall not constitute a warranty by the Owner that any non-Contractor milestones or activities will occur as set out on Contractor's schedule. Approval of Contractor's schedule does not constitute a commitment by the Owner to furnish any Owner-furnished information or material any earlier than Owner would otherwise be obligated to furnish that information or material under the Contract Documents. In the event there is interference with the Work, which is beyond its control, Contractor shall attempt to reschedule the Work in a manner that will hold resulting additional time and costs to a minimum. The construction schedule shall be in a detailed format satisfactory to the Owner and the Architect and shall also:

1. provide a graphic representation of all major activities and events that will occur during performance of Work;
2. identify each phase of construction and occupancy; and
3. set forth dates that are critical in ensuring the timely and orderly completion of the Work in accordance with the requirements of the Contact Documents (hereinafter referred to as "Milestone Dates").

If not accepted, the construction schedule shall be promptly revised by the Contractor in accordance with the recommendations of the Owner and the Architect and re-submitted for acceptance. The Contractor shall monitor the progress of the Work for conformance with the requirements of the construction schedule and shall promptly advise the Owner of any delays or potential delays. The accepted construction schedule shall be updated to reflect actual conditions (sometimes referred to herein as progress reports) as set forth in Section 3.10.1 or if requested by either the Owner or the Architect. In the event any progress report indicates any delays, the Contractor shall propose an affirmative plan to correct the delay, including overtime and/or additional labor, if necessary. In no event shall any progress report constitute an adjustment in the Contract Time, any Milestone Date or the Contract Sum unless any such adjustment is agreed to by the Owner and authorized pursuant to Change Order.

§ 3.11 Documents and Samples at the Site

Upon request from the Owner, the Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

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§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents. The Contractor, in making this representation, is relying on the Architect's having fully coordinated the design drawings and the Contract Documents.

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

§ 3.12.8 The Work shall be in accordance with reviewed and approved submittals (Architect has review the submittals and 'takes no exception') except that the Contractor shall not be relieved of responsibility for deviations from requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples or similar submittals unless the Contractor has specifically informed the Architect in writing of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals by the Architect's approval thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law. If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall cause such services or certifications to be provided by a properly licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings and other submittals related to the Work designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor all performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review, approve, or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Contractor shall not be responsible for the adequacy of the performance and design criteria specified in the Contract Documents.

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§ 3.12.10.2 The Contractor represents and warrants that all Shop Drawings shall be prepared by persons and entities possessing expertise and experience in the trade for which the Shop Drawing is prepared and, if required by the Architect or applicable law, by a licensed engineer.

§ 3.12.10.3 Adequate copies of Shop Drawings for architectural, structural, mechanical, and electrical work shall be submitted to the Architect for review.

§ 3.13 Use of Site

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

§ 3.13.1 Only materials and equipment which are to be used directly in the Work shall be brought to and stored on the Project site by the Contractor. After equipment is no longer required for the Work, it shall be promptly removed from the Project site. Protection of construction material and equipment stored at the Project site from weather, theft, damage, and all other adversity is solely the responsibility of the Contractor, provided such construction material and equipment is under the care, custody, or control of the Contractor, Subcontractor, or Sub-subcontractor.

§ 3.13.2 The Contractor and any entity for which the Contractor is responsible shall not erect any sign on the Project site without the prior written consent of the Owner.

§ 3.13.3 Contractor shall ensure that the Work, at all times, is performed in a manner that affords reasonable access, both vehicular and pedestrian, to the site of the Work and all adjacent areas. The Work shall be performed, to the fullest extent reasonably possible, in such a manner that public areas adjacent to the Project site shall be free from unreasonable interferences from debris, building materials and equipment likely to cause hazardous conditions. Without limitation of any other provision in the Contract Documents, Contractor shall use its best efforts to minimize any interference with the occupancy or beneficial use of:

1. any area and buildings adjacent to the site or the Work; or
2. the building in the event of partial occupancy.

§ 3.13.4 Without prior approval of the Owner, the Contractor shall not permit any workers to use any existing facilities at the Project site, including, without limitation, lavatories, toilets, entrance, and parking areas other than those designated by the Owner. Without limitation of any other provision of the Contract Documents, the Contractor shall use its best efforts to comply with all rules and regulations promulgated by the Owner in connection with the use and occupancy of the Project site and the Building, as may be reasonably amended from time to time.

§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

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§ 3.15 Cleaning Up

§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials caused as a result of the Contractor's work from and about the Project. The Contractor shall perform the following final cleaning at the completion of the Work:

1. Remove all temporary protections;
2. Remove marks, stains, fingerprints and other soil or dirt from all surfaces and other work;
3. Remove spots, mortar, plaster, soil and point from ceramic tile, marble and other finish materials from all surfaces and other Work;
4. Clean fixtures, cabinet work, and equipment, removing stains, paint, dirt, and leave in an undamaged and new condition; and
5. Clean all surfaces and other work in accordance with recommendations of the manufacturer

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so upon seventy-two (72) hours advance written notice to Contractor, and the Owner shall be entitled to reimbursement of reasonable costs from the Contractor.

§ 3.16 Access to Work

The Contractor shall provide the Owner, ODR and Architect with access to the Work in preparation and progress wherever located.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for such loss unless such information is promptly furnished to the Architect.

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§ 3.18 Indemnification

§ 3.18.1 THE CONTRACTOR SHALL, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW AND EXCEPT AS SET FORTH IN SECTION 3.18.2 BELOW, INDEMNIFY, DEFEND, AND HOLD HARMLESS THE PROJECT AND THE OWNER AND THE OWNER'S CONSTITUENT PARTNERS, MEMBERS AND LENDERS, THE DEVELOPER AND ALL OF THE FOREGOING PARTIES' EMPLOYEES, PARTNERS, MEMBERS, STOCKHOLDERS, OFFICERS AND DIRECTORS AND THEIR RESPECTIVE HEIRS, EXECUTORS, ADMINISTRATORS, SUCCESSORS AND ASSIGNS (COLLECTIVELY, THE "OWNER PARTIES") FROM AND AGAINST ANY CLAIMS, DEMANDS, DEBTS, CAUSES OF ACTION, LIABILITIES, LOSSES, DAMAGES, COSTS, EXPENSES, INCLUDING REASONABLE AND NECESSARY ATTORNEYS' FEES, AWARDS, COURT COSTS, PENALTIES, FINES OR JUDGMENTS (COLLECTIVELY, "CLAIMS"), RESULTING FROM OR ARISING OUT OF PERFORMANCE OF THE WORK, PROVIDED THAT SUCH CLAIM IS ATTRIBUTABLE TO BODILY INJURY OR DEATH OF ANY PERSON OR DAMAGE TO PROPERTY (OTHER THAN THE WORK ITSELF), BUT ONLY TO THE EXTENT CAUSED BY (1) THE NEGLIGENT ACTS OR OMISSIONS OF THE CONTRACTOR, ANY OF ITS SUBCONTRACTORS, ANY OF THEIR SUB-SUBCONTRACTORS OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY THEM OR ANYONE FOR WHOSE ACTS SUCH THEY MAY BE LIABLE; (2) ACTUALFAILURE OF CONTRACTOR OR ITS SUBCONTRACTORS OR SUB-SUBCONTRACTORS TO COMPLY WITH APPLICABLE LAW, APPLICABLE CODES AND STANDARDS OR SAFETY REQUIREMENTS UNDER THIS AGREEMENT; (3) ACTUAL VIOLATION OR INFRINGEMENT OF ANY DOMESTIC OR FOREIGN PATENTS, COPYRIGHTS OR TRADEMARKS OR OTHER INTELLECTUAL PROPERTY, OR ANY IMPROPER USE OF CONFIDENTIAL INFORMATION OR OTHER PROPRIETARY RIGHTS BY CONTRACTOR OR ANY SUBCONTRACTOR OR SUB-SUBCONTRACTOR IN CONNECTION WITH THE WORK, EXCEPT TO THE EXTENT ANY SUCH ITEM IS SPECIFIED OR REQUIRED FOR USE BY OWNER OR THE CONTRACT DOCUMENTS OR ATTRIBUTABLE TO CONTRACTOR'S COMPLIANCE WITH OWNER PARTY DIRECTION; (4) ACTUAL CONTAMINATION OR POLLUTION ARISING SOLEY OUT OF THE NEGLIGENT ACTS OR OMISSIONS OF CONTRACTOR'S OR ANY SUBCONTRACTOR'S OR SUB-SUBCONTRACTOR'S USE, HANDLING OR DISPOSAL OF HAZARDEOUSS MATERIALS; (5) FAILURE OF CONTRACTOR TO MAKE PAYMENTS TO ANY SUBCONTRACTOR IN ACCORDANCE WITH THE RESPECTIVE SUBCONTRACT PROVIDED SUCH FAILURE IS NOT DUE TO A DEFAULT BY THE OWNER OF ANY OF ITS PAYMENT OBLIGATIONS UNDER THE CONTRACT DOCUMENTS; OR (6) ANY AND ALL LIENS WHICH MAY AT ANY TIME BE RECORDED AGAINST THE PROJECT, OR ANY PORTION THEREOF, BY SUBCONTRACTORS, SUB-SUBCONTRACTORS OR ANY OR ALL OF THEM PROVIDED SUCH CLAIMS ARE NOT DUE TO A DEFAULT BY THE OWNER OF ANY OF ITS PAYMENT OBLIGATIONS UNDER THE CONTRACT DOCUMENTS.

§ 3.18.2 THE INDEMNIFICATION OBLIGATIONS CONTAINED IN THIS SECTION 3.18 SHALL NOT BE CONSTRUED AS TO NEGATE, ABRIDGE OR OTHERWISE REDUCE ANY OTHER RIGHT OR OBLIGATION OF INDEMNITY WHICH WOULD OTHERWISE EXIST UNDER THE CONTRACT DOCUMENTS AND/OR UNDER THE LAW AS TO ANY PARTY DESCRIBED IN THIS SECTION 3.18.2. NOTWITHSTANDING THE FOREGOING, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE CONTRACTOR SHALL INDEMNIFY, HOLD HARMLESS AND DEFEND THE OWNER PARTIES FROM AND AGAINST ALL CLAIMS ARISING OUT OF OR RESULTING FROM PERFORMANCE OF THE WORK, PROVIDED THAT SUCH CLAIM IS ATTRIBUTABLE TO BODILY INJURY,SICKNESS, DISEASE OR DEATH OF, ANY EMPLOYEE OF THE CONTRACTOR, OR OF ANY AGENT OF THE CONTRACTOR, OR ANY OF ITS SUBCONTRACTORS, ANY OF THEIR SUB-SUBCONTRACTORS OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM OR ANYONE FOR WHOSE ACTS SUCH PARTIES MAY BE LIABLE (EMPLOYEE CLAIM(S)") EXCEPT TO THE EXTENT SUCH EMPLOYEE CLAIM, DAMAGE, LOSS OR EXPENSE IS CAUSED, OR IS ALLEGED TO BE CAUSED, IN PART BY THE NEGLIGENCE OF ANY OF THE OWNER PARTIES, BUT CONTRACTOR SHALL NOT BE REQUIRED TO INDEMNIFY OWNER PARTIES FOR EMPLOYEE CLAIMS TO THE EXTENT CAUSED BY THE NEGLIGENCE, OR WILLFUL MISCONDUCT OF ANY OWNER PARTIES. THE INDEMNIFICATION OBLIGATIONS UNDER THIS SECTION 3.18 SHALL NOT BE LIMITED BY ANY LIMITATION ON THE AMOUNT OR TYPE OF DAMAGES, COMPENSATION OR BENEFITS PAYABLE BY OR FOR CONTRACTOR UNDER WORKERS COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEE BENEFIT ACTS. THE CONTRACTOR SHALL PROVIDE LIABILITY INSURANCE COVERING CONTRACTOR'S OBLIGATIONS UNDER THIS SECTION 3.18.

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§ 3.18.3 The Contractor warrants and covenants that the Work shall be free of all products, constituents, materials or processes containing asbestos, lead-based paint or any other Hazardous Materials (as defined below), except where such products, constituents, materials or processes are required by the Contract Documents or are otherwise commonly used in construction projects similar to the Work required by this Contract, and then, in either such event, only if such products, constituents, materials or processes are utilized in full compliance with all applicable laws. "**Hazardous Materials**" means substances, materials or waste the generation, handling, storage, treatment or disposal of which is regulated by any local or state government authority or laws, as a "hazardous waste", "hazardous material" or "hazardous substance", and including, without limitation, those designated as a "hazardous substance" under Section 31 l or listed pursuant to Section 307 of the Clean Water Act (33 U.S.C. Scs. 1321, 1317), defined as a "hazardous waste" under Section 1004 of the Resources Conservation and Recovery Act (42 U.S.C. Sec. 6903), or defined as "hazardous substance" under Section 101 of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. Sec. 950 l) and including, without limitation, petroleum products and byproducts, PCBs and asbestos.

§ 3.18.4 The provisions of this Section 3.18 shall survive the termination or expiration of the Contract Documents and shall not be limited in any way by the amount or type of insurance obtained by the Owner, the Owner Parties, the Contractor or any Subcontractor, including, without limitation, benefits payable by or for the Contractor, or any Subcontractor under any workers' compensation act, disability benefit acts, or other employee benefit acts.

§ 3.18.5 If any Subcontractor or other person performing by, through or under the Contractor, records or files a claim of lien or a lis pendens against the Project, the Contractor shall promptly, and at its own expense, procure, furnish and record appropriate statutory release bonds which will extinguish or expunge said claim or lis pendens. Notwithstanding any provision of the Contract Documents to the contrary, the Contractor shall have no obligation to the Owner under the Contract Documents or otherwise with respect to any claim, lien or lis pendens resulting from the Owner's failure, if any, to pay the Contractor if required by and in accordance with the Contract Documents.

§ 3.18.6 The obligations of the Contractor under this Section 3. 18 shall not extend to the liability of the Architect, or the Architect's consultants, or the agents, servants or employees of any of them, arising out of: (i) defects in plans, designs, or specifications prepared, approved, or used by the Architect or its consultants; or (ii) negligence of the Architect or its consultants in the rendition or conduct of professional duties called for or arising out of the Contract Documents and the plans, designs, or specifications that are a part of the Contract Documents.

ARTICLE 4 ARCHITECT

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

§ 4.1.3 Owner shall notify Contractor when the duties, responsibilities, or limitation of authority of the Architect have been modified.

§ 4. 1.4 In case of termination of employment of the Architect, the Owner may elect to appoint a replacement Architect, or at its option may elect to complete the Project using members of Owner's staff to perform the balance of the Architect's functions on the Work.

§ 4.1.5 Except as herein expressly provided, the Contractor shall not be relieved of its obligation to perform the Work in strict accordance with the Contract Documents by the activities or duties of the Architect.

§ 4.2 Administration of the Contract

§ 4.2.1 Designated portions of the administration of the Contract will be performed by the Architect and the ODR as representatives of the Owner. The Architect will be treated as the Owner's representative to the extent set out in the Contract Documents. The Architect shall not have the authority to act on behalf of Owner unless such authority is expressly granted in the Contract Documents, nor shall such authority be implied from any act or representation of the Architect.

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§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for, the construction means, methods, techniques, sequences, or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents, except as provided in Section 3.3.1. In no event shall Owner or any other party, aside from the Contractor, have control over, be in charge of, or be responsible for construction means, methods, techniques, sequences, procedures, or for safety precautions and programs in connection with the Work, since these are solely Contactor's responsibility, except as provided in Section 3.3.1. Owner will not be responsible for the Contractor's failure to carry out the Work in accordance with the Contract Documents. Owner will not have control over, be in charge of, and will not be responsible for the acts or omissions of Contractor, Subcontractors, or their agents or employees, or of any other persons performing portions of the Work, unless such acts or omissions were directed by Owner or in accordance with the Contract Documents.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect and/or Owner shall submit copies of such reports to Contractor within three (3) days of Architect submitting such reports to Owner. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 Communications

The Owner and Contractor shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, within ten (10) calendar days or such shorter time as is necessary to prevent a delay to Contractor's construction schedule. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component. The Architect shall properly report to Contractor and Owner any errors, inconsistencies and omissions discovered by the Architect in the shop drawings, product data, and samples,

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§ 4.2.8 The Architect will prepare Construction Change Directives, and may authorize minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

§ 4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

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

§ 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

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

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall

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be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.2.5 The Contractor shall not sublet the Work as a whole. The approval of Subcontractors in no way relieves the Contractor from full responsibility for performance and completion of the Work and its obligations under the Contract Documents.

§ 5.2.6 Intentionally Deleted.

§ 5.3 Subcontractual Relations

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

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- **.1** assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and
- **.2** assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 30 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

§ 5.4.4 Each subcontract shall specifically provide that the Owner shall only be responsible to the Subcontractor for obligations under such subcontract should Owner accept the assignment of such subcontract in accordance with Section 5.4.1 above so as to be afforded the rights of such subcontract agreement under this conditional assignment.

§ 5.5 RESPONSIBLITY

§ 5.5.1 Contractor shall be fully responsible for the performance of its Subcontractors, including those selected or approved by the Owner.

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ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation. To the extent the Owner chooses to perform construction or operations related to the Project, or to award separate contracts in connection with other portions of the Project or other construction or operations on the site, the Owner shall be required to secure a separate permit for that Work, if required by the authority having jurisdiction. Regardless, the Owner shall ensure that the Contractor is listed as an additional insured on the other contractor's general liability and excess liability policy. Further, the Owner agrees to defend, indemnify and hold harmless the Contractor from any claims made against the Contractor resulting from damage to property (other than the Work) or injury to, or death of, persons in or about the Project caused by, arising out of or in connection with the construction, services, labor, materials, and equipment which, on or after the date hereof, have been performed, provided or supplied to the Project by the Owner or its other Contractor.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement and shall be granted any necessary extensions to the deadline for Substantial Completion necessitated by revisions to the Contractor's construction schedule caused by other work. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.1.5 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them in accordance with Article 6 herein. The Contractor shall participate with other Separate Contractors and the Owner in reviewing their construction schedules in accordance with Article 6 herein.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Owner or Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor's delays, improperly timed activities, damage to the Work or defective construction.

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§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5. The Owner or its separate contractor shall promptly remedy damage that the Owner or its separate contractor causes to the Contractor's completed or partially completed construction.

§ 6.2.5 The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up after seventy-two (72) hours advanced written notice and opportunity to cure and the Architect will allocate the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents. The Contract Sum and/or Contract Time shall be increased for changes in the Work if the provisions of Article 7 have been met.

§ 7.1.1.1 No change in the Contract Sum and/or Contract Time will be allowed for a change in the Work unless prior to performing the changed Work the Contractor has been issued a Construction Change Directive or has provided the Owner in writing with a proposal for any change in price and/or change in Contract Time caused by the change in Work, and a Change Order is subsequently executed. A field directive or field order shall not be recognized as having any impact upon the Contract Sum or the Contract Time, and Contractor shall have no Claim therefore, unless it shall, prior to complying with the directive and in any event within ten (10) business days of receiving the directive, submit a change proposal to the Owner, and a Construction Change Directive is issued, or a Change Order is subsequently executed, or Contractor satisfies the requirements of Article 15.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work. Except as permitted in Section 7.3, a change in the Contract Sum or the Contract Time shall be accomplished only by Change Order.

§ **7.1.4** The Contractor, upon receipt of written notification by the Architect of a proposed item of change in the Work, shall prepare as soon as possible a Change Proposal in such form or forms as directed by the Architect.

§ 7.1.4.1 Each separate Change Proposal shall be numbered consecutively and shall include materials, costs, labor costs, fees, overhead and profit. The Proposal shall, to the extent reasonably possible, specify all costs related to the proposed change in the Work, including any currently foreseeable disruption or impact on performance or schedule.

§ 7.1.4.2 The Subcontractor's itemized accounting shall be included with the Change Proposal.

§ 7.1.4.3 If a Change Proposal is returned to the Contractor for additional information or if the scope of the proposed change in the Work is modified by additions, deletions or other revisions, the Contractor shall revise the Change Proposal accordingly and resubmit the revised Change Proposal to the Architect.

§ 7.1.4.4 A revised Change Proposal shall bear the original Change Proposal number sufficed by the letter "R" to designate a revision in the original Change Proposal. If additional revisions to a revised Change Proposal are necessary, each subsequent revision shall be identified by an appropriate numeral suffix immediately following the "R" suffix.

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§ 7.1.4.5 Upon written approval of a Change Proposal by the Owner, the Architect will prepare a Change Order authorizing such change in the Work.

§ 7.4.4.6 The Contractor shall request extensions of Contract Time and an adjustment in the Contract Sum due to changes in the Work at the time of submitting its Change Proposal.

§ 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

- **.1** The change in the Work;
- **.2** The amount of the adjustment, if any, in the Contract Sum; and
- **.3** The extent of the adjustment, if any, in the Contract Time.

§ 7.2.2 Methods used in determining adjustment to the Contract Sum may include those listed below:

1. mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation. Contractor's overhead and profit shall not exceed the Fee Percentage or 4.00%, whichever is less, of the Cost of the Work under any such proposal. Sufficient substantiating data shall include a proposal itemized for the various components of work added or deleted, segregated by labor, material, and equipment. Details to be submitted will include detailed line item estimates showing detailed material quality take-offs, material prices by item and of related labor hour pricing information and extension (by true item by drawings as applicable);
2. unit prices stated in the Contract Documents or subsequently agreed upon and supported by sufficient substantiating data to permit evaluation;
3. Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee not to exceed the Fee Percentage or 4.00%, whichever is less, of the Cost of the Work; or
4. as provided in Section 7.3.7.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 The Construction Change Directive shall provide for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- **.1** Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- **.2** Unit prices stated in the Contract Documents or subsequently agreed upon;
- **.3** Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- **.4** As provided in Section 7.3.4.

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§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

.1 Reasonable Costs of labor, including applicable Social Security, old age and unemployment insurance, payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Owner;

.2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;

.3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others at rates that are no greater than market rates in the locale of the Work at the time of the Work. Unless otherwise established in the contract, the rental value of the contractor's own equipment shall not be more than normal local rental rates for Contractor-owned equipment;

.4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the Work or change; and

.5 Costs of project management, supervision and field office personnel directly attributable to the Work or change, regardless of whether such personnel are located at the Project site.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change.

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

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

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§ 7.4 Minor Changes in the Work
The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

ARTICLE 8 TIME

§ 8.1 Definitions
§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 Progress and Completion
§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, prematurely commence operations on the site or elsewhere prior to the effective date of insurance required by Article 11 to be furnished by the Contractor and Owner. The date of commencement of the Work shall not be changed by the effective date of such insurance. Throughout the duration of the Project, the Contractor shall notify the Owner in writing, not less than five days (or some other agreed upon period) of any substantial change or upcoming expiration of an insurance policy required by Article 11 to be furnished by the Contractor.

§ 8.3 Delays and Extensions of Time
§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by way of example, including but not limited to, (i) labor disputes, (ii) fire, (iii) unusual delay in deliveries, (iv) unavoidable casualties, (v) viruses, pandemics, or epidemics and associated quarantining or work/travel restrictions, shelter in place, stay at home, disaster declaration, public health emergency, or other employee, business, or jobsite restrictions or requirements ordered or otherwise required by any governing authority in response to such public health crisis, (vi) local, state or national government or civil actions, (vii) supply chain disruptions, (viii) civil unrest, (ix) terrorism, (x) adverse weather conditions documented in accordance with Section 15.1.6.2, (xi) or other causes beyond the Contractor's control; (4) by delay authorized by the Owner pending mediation and binding dispute resolution; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay, then as a result of any the foregoing, then the Time(s) of Completion shall be extended for a period equal to the length of such delay and the Contract Sum shall be adjusted by Change Order, if, within twenty-one (21) days after recognizing the occurrence of such delay, Contractor requests in writing a time extension and/or an adjustment in the Contract Sum for such delay; however, as it relates to delays for adverse weather conditions, Contractor shall make such request within thirty-one (31) days of the month in which the adverse weather conditions occurred.

The Contract Time shall be extended for a reasonable time to reflect the impact of the delay on Work critical to achieve Substantial Completion within the Contract Time, to the extent that the performance of the Work was not delayed by any other cause for which the Contractor is not entitled to an extension in the Contract Time under the Contract Documents. Adjustments in the Contract Time will be permitted for a delay only to the extent not caused by the Contractor, and only if Contractor satisfies the conditions of this Section 8.3. Contractor has the burden to prove that any of the foregoing alleged causes of delay impacted construction progress on the Critical Path, as a condition precedent to any extension of the Contract Time.

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§ 8.3.1.1 The Contractor shall anticipate and include in the construction schedule the risk of lost time due to weather conditions as indicated below. Any documented loss of time in excess of the provisions include below will be grounds for an adjustment to the Contract Time and Sum, or alternatively justifiable grounds for the request for additional compensation to provide acceleration of the schedule to overcome the lost time. For purposes of assigning the risk associated with weather, this Agreement contemplates that the weather losses will be reconciled monthly against the data provided below with a Change Order issued to address any required adjustments to the contract time and sum. In the event that there are fewer lost days than scheduled below, there will be no credit given to be applied against future months.

Jan.	Feb.	Mar.	Apr.	May	Jun.	Jul.	Aug.	Sept.	Oct.	Nov.	Dec.
3	4	3	4	4	4	2	2	3	3	2	2

A request for a time extension based on adverse weather conditions will not be granted unless the actual days of adverse weather conditions for the period when the critical path of the Project is subject to impact from adverse weather conditions exceeds the monthly allowance of Adverse Weather Days for the same period. Contractor will submit claimed adverse weather days in accordance with the submission times provided in Section 8.3.1.

§ 8.3.2 Owner, after consultation with the ODR and Architect, may grant time extensions to the extent it believes them to be proper. Time extensions granted by the Owner may be incorporated into schedules for completion of the Work. In the event that Contractor believes that it is entitled to additional time extensions beyond those granted by the Owner, it may make a claim for them in accordance with Article 15.

§ 8.3.3 Intentionally Deleted

§ 8.3.4 In the event Contractor would like to request additional Contract Time, the method and manner by which it should do so as well as the limits and conditions are as set out in the Contract Documents. In the event a court of competent jurisdiction may find exception to or invalidate, in whole or in part Section 8.3, including but not limited to any determination that all or a portion of the section is unenforceable, then the remainder of the provisions of the contract relating to extensions of time and claims for delay shall remain in full force and effect. In the event this clause appears to conflict with any other contract provision, including any clauses which seemingly require the Owner to grant extensions of time or claims for delay, Section 8.3 shall supersede those provisions except as set forth herein.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 9.2 Schedule of Values

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, before the first Application for Payment, the Contractor shall submit a schedule of values fairly allocating the various portions of the Work, to the Owner, ODR and Architect before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, as reasonably required by the Architect. This schedule, once approved by the Owner and Architect, and updated for the changes in the Work, shall be used as a basis for reviewing the Contractor's Applications for Payment.

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The schedule of values shall be used only as a basis for reviewing the Contactor's Applications for Payment and is not to be taken as evidence of market or other value. The schedule shall not overvalue early job activities. The schedule shall follow the trade divisions of the Specifications so far as practicable. Any changes to the schedule of values shall be submitted to the Owner, ODR and Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Owner, ODR and Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

§ 9.3 Applications for Payment

§ 9.3.1 At least ten (10) days before the date established for each progress payment, the Contractor shall submit to the Architect and ODR an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

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

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

§ 9.3.3 Upon payment by the Owner of the invoiced cost, the Contractor warrants that title to all such work, materials and equipment covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment, all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, such title shall be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work. No work, material or equipment covered by an Application for Payment shall be subject to an agreement under which an interest is retained or an encumbrance is attached by the seller, the Contractor, or other party beyond having received payment applicable payment from Owner.

§ 9.4 Certificates for Payment

§ 9.4.1 The Architect will, after reviewing a draft of the Contractor's Application for Payment submitted by the Contractor to the Architect and ODR, within seven (7) days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

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§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.5 Decisions to Withhold Certification

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

- **.1** defective Work not remedied;
- **.2** third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor, provided such claims are not due to Owner's failure to pay Contractor (assuming that all contractual requirements to receive payment has been met);
- **.3** failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
- **.4** reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- **.5** damage to the Owner or a Separate Contractor;
- **.6** reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- **.7** repeated and substantial failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

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§ 9.6.2 The Contractor shall pay each Subcontractor, in accordance with its subcontract and applicable law, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner. Owner is not obligated to monitor detailed payments to Subcontractors or Sub-subcontractors unless otherwise required by law, and nothing in this Section shall create any right on the part of a Subcontractor or Sub-subcontractor against Owner or Architect.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within fourteen (14) days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor, Sub-subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 9.6.9 The Contractor shall not withhold as retainage a greater percentage on Subcontractors or materialmen than the percentage Owner withheld as retainage from payments to the Contractor.

§ 9.7 Failure of Payment

§ 9.7.1 If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

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§ 9.8 Substantial Completion

§ 9.8.1 The Work or designated portions thereof as set out herein will not be considered Substantially Complete until (and the term ”Substantial Completion" shall mean) the performance of the Work, or designated portion thereof, is to the point where the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use. The only remaining work shall be minor in nature, so that the Owner or Owner’s tenants could occupy the applicable portion of the Project on that date, and the completion of the Work by the Contractor would not materially interfere with or hamper the Owner or Owner's tenants’ normal work operations or other intended use. As a further condition of Substantial Completion of the whole or designated portion thereof, the Contractor shall certify that all remaining Work with respect thereto will be completed within thirty (30) calendar days, unless another time period has been approved by Owner. The Contractor shall then promptly proceed to complete or correct the Work and otherwise render the Project suitable for Final Completion, including the submission of all AGB compliance documentation, Project record drawings, record specifications, record project data, original executed documents required for final payment, and other closeout documents specified herein, in the Project Manual, or as reasonably required by Owner, within thirty (30) calendar days after the date of Substantial Completion, unless another time period has been approved by Owner.

§ 9.8.1.1 Compliance for Substantial Completion Payment shall also be included in the following Exhibit(s):

1. Exhibit N – COBC Minimum Requirements for Substantial Completion

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor’s list, the Architect (and his consultants) will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect’s inspection discloses any item, whether or not included on the Contractor’s list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, as defined above in Section 9.8.1, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion. Upon Substantial Completion, the Owner shall become responsible for building security and for payment of all utilities associated with the Work.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

§ 9.8.6 The Contractor shall keep all required insurance in full force, and utilities on, until the Certificate of Substantial Completion is issued, and accepted by the Owner in writing, regardless of the stated date of Substantial Completion. Acceptance by the Owner shall not be unreasonably withheld or delayed. The Contractor shall not be responsible for utility or insurance certificates in areas which have been accepted by the Owner.

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§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect. For any partial occupancy or use, the Owner shall reduce retainage proportionately to the Contractor at the time of partial occupancy or use.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.9.4 The Owner shall provide reasonable notice to the Contractor of the Owner's intent to take early occupancy with a description of the area to be occupied, and the Contractor shall comply to the fullest extent reasonably practicable and shall cooperate with the Owner to obtain all certificates of occupancy and other approvals by public authorities necessary to permit such occupancy. The Contractor shall cooperate reasonably with the Owner in making building services available for the Owner's use, such as heating, ventilating, cooling, water, electrical, lighting, telephone, and elevator facilities (including operators, if necessary) for that portion of the Project to be occupied by Owner, and, if the equipment required to furnish such services is not entirely completed at the time the Owner desires to occupy the aforesaid portions of the Project, then the Contractor shall make every reasonable effort to complete same as soon as possible to the extent that the necessary equipment can be put into operation and use. Contractor shall be compensated if additional costs are required to satisfy Owner's requests. The date of all applicable warranties shall commence with respect to the portion of the Work the Owner intends to occupy.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled. In no event shall the Architect unreasonably withhold the final Certificate of Payment.

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§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.2.1 Prior to final payment to the Contractor, the Contractor shall furnish Owner an electronic set of the Drawings & Specifications accurately showing the Project as constructed in the format designated by the Owner, or when it is impractical to do so, one (1) complete set of marked-up copies of the Drawings and Specifications accurately showing the Project as constructed. Such Specifications and Drawings shall be marked to show all changes and modifications that have been incorporated into the Work as performed. Further, prior to final payment Contractor shall submit all warranties, operations, and maintenance data and/or other data and "closeout" documents required under the Contract Documents or otherwise reasonably required by Owner.

Compliance for Final Payment shall also be included in the following Exhibit(s):

1. Exhibit J – CMAR Project Close-Out Status Guide Forms A& B
2. Exhibit K - CMAR Transfer Checklist Project Closeout Form A
3. Exhibit L - CMAR_ Financial Project Closeout Form B
4. Exhibit M - CMAR Final Completion Guidelines

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

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

- **.1** liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- **.2** failure of the Work to comply with the requirements of the Contract Documents;
- **.3** terms of special warranties required by the Contract Documents; or

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract.

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§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

- **.1** employees on the Work and other persons who may be affected thereby;
- **.2** the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and
- **.3** other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall erect and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards, promulgating safety regulations, and notifying owners and users of adjacent sites and utilities of the safeguards. The Contractor shall also be responsible, at the Contractor's sole cost and expense, for all measures reasonably necessary to protect any property adjacent to the Project and improvements therein from the Work. Any liability associated with damage to such property or improvements shall be handled in accordance with Article 10.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 Injury or Damage to Person or Property

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

§ 10.2.9 When all or a portion of the work is suspended for any reason, the Contractor shall do all things reasonably necessary to protect the Owner's premises and all persons from damage and injury

§ 10.2.10 The Contractor shall promptly report in writing to the Owner and Architect all accidents arising out of or in connection with the Work which cause of death, personal injury, or property damage, giving full details and statements of any witnesses. In addition, if death, serious personal injuries, or serious property damages are caused, the accident shall be reported promptly by telephone or messenger to the Owner and the Architect.

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§ 10.2.11 The Contractor shall be responsible for the protection and security of the Work, until it receives written notification that the Substantial Completion of the work has been accepted by the Owner, which such acceptance shall not be unreasonably withheld or delayed.

§ 10.3 Hazardous Materials and Substances

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB) or mold, encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner, ODR and Architect of the condition in writing.

§ 10.3.1.1 Contractor is responsible for reviewing all Asbestos Hazard Emergency Act Management Plans on file with Owner and for obtaining sign-off from the Owner prior to commencing the Work, utilizing Owner's approved form. Unless otherwise required by the Contract Documents, the Contractor agrees that it shall not transport to, use, generate, dispose of, or install at the Project site any Hazardous Substance (as defined in Section 10.3.5), except in accordance with applicable Environmental Laws. Further, in performing the Work, Contactor shall not, unless otherwise required by the Contract Documents, cause any release of Hazardous Substances into, or contamination of, the environment, including the soil, the atmosphere, any water course, or ground water, except in accordance with applicable Environmental Laws (as hereafter defined at Section 10.3.5). In the event Contractor wishes to conduct any inspection or testing at the Project, it shall ensure that Owner is properly notified, as well as any landlord in the event Owner is leasing the Project premises.

§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, ODR, Subcontractors, Architect, Architect's consultants, their respective officers, directions, trustees board members, volunteers, invitees, and agents and employees of any of them from and against any and all claims, liabilities of every kind, damages, losses, and expenses, including but not limited to, expenses of litigations, court costs, punitive damages and attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances. In the event Contractor encounters on the Project site any Hazardous Substance, or what Contractor may reasonably believe to be a Hazardous Substance, and which is being introduced to the Work, or exists on the Project site, in a manner violative of any applicable Environmental Laws, Contractor shall immediately stop work in the area affected and report the condition to Owner and Architect in writing. The Work in the affected area shall not thereafter be resumed until such Hazardous Substance has been rendered harmless.

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§ 10.3.4.1 In the event Contractor fails to stop the Work upon knowingly encountering a Hazardous Substance at the Project site, to the fullest extent permitted by law, Contractor hereby indemnifies and holds Owner, Architect, Owner's ODR and their respective officers (when applicable to the Project), directors, trustees, agents, board members, volunteers, invitees, and employees harmless from and against any and all claims damages, losses, causes of action, suits and liabilities of every kind, including, but not limited to, expenses of litigation, court costs, punitive damages and attorneys' fees, solely caused by Contractor's failure to stop the Work.

10.3.4.2 Owner and Contractor may enter into a separate agreement and/or Change Order for Contractor to remediate and/or render harmless the Hazardous Substance, but Contractor shall not be required to remediate and/or render harmless the Hazardous Substance absent such agreement. Contractor shall not be required to resume work in any area affected by the Hazardous Substance until such time as the Hazardous Substance has been remediated and/or rendered harmless in accordance with Section 10.3.2 above.

§ 10.3.4.3 For purposes of this Agreement, the term "Hazardous Substance" shall mean and include any element, constituent, chemical, substance, compound, or mixture, which are defined as a hazardous substance by any local, state or federal law, rule, ordinance, by-law, or regulation pertaining to environmental regulation, contamination, clean-up or disclosure, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"), the Resource Conservation and Recovery Act ("RCRA"), the Toxic Substances Control Act ("TSCA"), the Clean Water Act ("CWA"), the Clean Air Act ("CAA"), the Marine Protection Research and Sanctuaries Act ("MPRSA"), the Occupational Safety and Health Act ("OSHA"), the Superfund Amendments and Reauthorization Act of 1986 ("SARA"), or other state superlien or environmental clean-up or disclosure statutes including all state and local counterparts of such laws (all such laws, rules and regulations being referred to collectively as "Environmental Laws"). It is the Contractor's responsibility to comply with this Section 10.3 based on the law in effect at the time this Agreement is executed; however, Contractor shall comply with any amendments to those laws or enactment of new laws for all services rendered alter the effective date of this Agreement and shall be entitled to any equitable adjustment in the Contract Time and Contract Sum reasonably necessary to account for Contractor's compliance with such changes in those laws.

§ 10.3.4.4 In those instances in which the presence of a Hazardous Substance was set forth in the AHERA documents or in which Contractor has other written notice of such through information given to Contractor by Owner or its representative prior to execution of the Agreement, Contactor shall not be entitled to a Claim for any delays, disruption, or interference it encounters. In those instances of Work stoppage due to the existence of such Hazardous Substances which were not set forth in the AHERA plans and of which Contractor never received prior written notice of from Owner before execution of this Agreement, Contractor shall be entitled to a Claim for delay or Work stoppage if the requirement of Article 15 is met.

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred, including without limitation, attorney's fees and legal costs.

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

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ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, ODR, Architect, and Architect's consultants, and LTFR (Lake Travis Fire Rescue "ESD No. 6") shall be named as additional insureds under the Contractor's

commercial general liability policy or as otherwise described in the Contract Documents. Such insurance will protect the Contractor from claims set forth below which may arise out of or result from the Contractor's ongoing operations and completed operations under the Contract and for which the Contractor may be liable, whether such operations be by the Contractor or by a Subcontractor (or Sub-subcontractor) or by anyone directly or indirectly employed for any of them, or by anyone for whose acts any of them may be liable:

1. Claims under workers' compensation that are applicable to the Work to be performed;
2. Intentionally deleted;
3. Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;
4. Claims for damages insured by usual personal injury liability coverage;
5. Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
6. Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle;
7. Claims for bodily injury or property damage arising out of completed operations; and
8. Claims involving contractual liability insurance applicable to the Contractor's obligations under Section 3.18.

All insurance to be provided by the Contractor shall be written by companies acceptable to Owner. All insurance carriers must be rated by AM Best A-VII or better unless approved by Owner.

§ 11.1.2 The insurance required by Section 11.1.1 shall be written for not less than the following limits of liability:

a. Workers' Compensation
   1) State — Statutory
   2) Employer's Liability — $1,000,000.00 per accident

b. Commercial General Liability (including Premises-Operations; Independent Contactor's Protective; Products and Completed Operation Broad Form Property Damage; Personal and Advertising Injury)

   Per Occurrence, per project — $1,000,000.00
   Medical Payments, Per Occurrence — $5,000

   Completed Operations and Products Liability shall be maintained for the full period of statutory limitations after final payment.

c. Business Automobile Liability (on all owned, non-owned and hired vehicles)
   Combined Single Limit Per Accident — $5,000,000.00

d. **EXCESS LIABILITY** (Follow form)
   Combined Single Limit — $10,000,000

§ 11.1.3 Certificates of insurance acceptable to the Owner shall be filed with the Owner prior to commencement of the Work and thereafter upon renewal or replacement of each required policy of insurance. These certificates and the insurance policies required by this Section 11.1 shall contain a provision that coverages afforded under the policies will not be canceled or allowed to expire until at least 30 days' prior written notice has been given to the Owner. An additional certificate evidencing continuation of liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment as required by Section 9.10.2 and thereafter by request from Owner upon renewal or replacement of such coverage until the expiration of the time required by Section 11.1.2. Information concerning reduction of coverage shall be furnished by the Contractor within 10 days.

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§ 11.1.4 The Contractor shall cause the commercial liability coverage required by the Contract Documents to include (1) the Owner, ODR, the Architect and the Architect's Consultants as additional insureds for claims caused in whole or in part by the Contractor's acts or omissions during the Contractor's operations; and (2) the Owner and LTFR (Lake Travis Fire Rescue "ESD No. 6") as an additional insured for claims caused in whole or in part by the Contractor's acts or omissions during the Contractor's completed operations.

§ 11.1.5 Contractor's coverage is not permitted to include any of the following endorsements:

1. Contractual Liability Limitation, CG21 39 or its equivalent
2. Amendment Of Insured Contract Definition, CG 24 26 or its equivalent
3. Exclusion - Explosion, Collapse And Underground Property Damage Hazard, CG 21 42 or CG 21 43 or its equivalent
4. Limitation of Coverage to Designated Premises or Project, CG 21 44 07 98 or its equivalent
5. Exclusion - Damage to Work Performed By Subcontractors On Your Behalf, CG 22 94 or CG 22 95 or its equivalent
6. Any type of Classification or Business Description Limitation endorsement
7. Any type of Construction Defect Complete Operations exclusion endorsement
8. Any type of endorsement modifying the Employer's Liability exclusion
9. Any type of Habitational or Residential exclusion
10. Any type of Punitive, Exemplary or Multiplied Damages exclusion
11. Any type of Subsidence exclusion if the Contractor is engaged in any type of earth movement work, including but not limited to soil compaction, fill or installation of storm or sewer drains

§ 11.1.6 Contractor shall add Owner as an additional insured to any policies of insurance purchased by Contractor required by this Section 11.1.2, using an endorsement form at least as broad as CG 2026 1185 or its equivalent, except workers' compensation, and such policies shall state that they shall be primary to any and all other available policies of insurance and shall be endorsed to waive subrogation, using an endorsement form at least as broad as CG 24 04 (Ed. 11-85] or its equivalent. Owner shall be added as an "alternate employer" on Contractor's workers' compensation insurance. Contractor shall furnish to Owner a Certificate of Insurance showing compliance with this obligation.

§ 11.1.7 Contractor must certify in writing to Owner that Contractor provided workers' compensation insurance coverage for each employee of the Contractor employed on the Project and Contractor shall provide a certificate from each Subcontractor certifying that the Subcontractor provides Workers' Compensation Insurance for each employee of the Subcontractor employed on the Project. The Contractor's certification must be received by Owner prior to Notice to Proceed. The certificate from each Subcontractor must be received by Contractor prior to each Subcontractor being allowed to work on the Project. In the event any Subcontractors' insurance coverage on any policy will expire prior to completion of the Project as a whole, Subcontractor shall provide to Contractor new certificates of insurance from the Subcontractor showing replacement coverage has been obtained prior to the expiration of the current policy period.

§ 11.1.8 Additional Requirement for Worker's Compensation Insurance Coverage:

A. Definitions:

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

Duration of the Project - includes the time from the beginning of the Work on the Project until the Contractor's/person's work on the Project has been completed and accepted by the governmental entity.

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Persons providing services on the Project - 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 services related to the Project. "Services" does not include activities unrelated to the Project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

B. The Contractor shall provide coverage, based on proper reporting of classification 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.

C. The Contractor must provide a certificate of coverage to the Owner prior to being awarded the Contract.

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

E. The Contractor shall obtain from each person providing services on the Project:

1. a certificate of coverage, prior to that person beginning work on the Project, so the governm‹mta1 entity will have on file certificates of coverage showing coverage for all persons providing services on the Project; and
2. no later that 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.

F. The Contractor shall retain all required certificates of coverage set forth in Section 11.1.3 for the duration of the Project and for one year thereafter.

G. 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.

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

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

(1) provide coverage, based on 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 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;

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(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 Owner 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 ii contracts, to perform as required by paragraphs (1) - (7), with the certificates of coverage to be provided to the person for whom they are providing services.

J. By signing this Contract or providing or causing to be provided a certificate of coverage, the Contractor is representing to the Owner 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 Texas Worker's Compensation Commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

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

§ 11.1.11 Notice of Cancellation or Expiration of Contractor's Required Insurance. Within thirty (30) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 11.1.12 Builder's Risk Insurance. Until the Work is completed and accepted by the Owner, the Contractor shall purchase and maintain property insurance upon the attire Work at the Project site to the full insurable value thereof. The property insurance shall also cover portions of the Work stored off site after written approval of the Owner of the value established in the approval, and also portions of the Work in transit. This insurance shall include the interests of the Owner, the Contractor, Subcontractors and Sub-subcontractors in the Work and shall insure against the perils of fire, wind, storm, hail, lightning, and extended coverage including flood and earthquake and shall include all risk insurance for physical loss or damage, including, without duplication of coverage, theft, vandalism and malicious mischief. The insurance shall cover reasonable compensation for Architect's services and expenses required as a result of an insured loss. This must be an all-risk policy.

Such insurance shall be evidenced by the kind of policy which does not have to be adjusted or reported upon periodically but provides constant insurance at full one hundred percent (100%) of all insurable values as they are created during construction by performance of the Contract. When permissible by law, the Certificate of Insurance must include the names of the insured Contractor and The City of Bee Cave.

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§ 11.1.12.1 Loss under such All-Risk Builder's Risk Insurance shall be made payable to the Contractor. The Contractor shall pay Subcontractors their just shares of insurance proceeds received by the Contractor, and by appropriate agreements, written where legally required for validity, shall require Subcontractors to make payments to their Sub-subcontractors in similar manner.

§ 11.1.12.2 In the case of loss under the risks covered, and of collection by insured, the Contractor shall act as trustee for all parties concerned as their interests may appear.

§ 11.1.12.3 An All-Risk Builder's Risk Insurance Policy Certificate shall be delivered to the Owner, and the original being retained by the Contractor (and Certificates or copies being furnished the separate Subcontractors, if any).

§ 11.1.12.4 Builders Risk Property insurance shall be provided by the Contractor and shall be included in the Cost of the Work. Any changes in the builder's risk insurance cost shall constitute an increase in the Guaranteed Maximum Price.

§ 11.1.12.5 Deductible amounts applicable to insurance claims, and any insurance losses incurred by Contractor or Owner, shall be reimbursed as Cost of the Work, provided the loss is not due to the sole negligence of Contractor or its personnel. Such costs, to the extent incurred, shall constitute an increase in the Guaranteed Maximum Price. Notwithstanding anything to the contrary, in no event shall the Contractor 's deductible responsibility exceed $25,000; any remaining deductible costs shall be reimbursed as Cost of the Work and shall constitute an increase in the Guaranteed Maximum Price.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. Should any of the Work of this Contract include renovation, rehabilitation, or addition to existing structure, the Owner shall purchase "all risk" property insurance for the replacement value of such existing structure and any of its contents. The Owner agrees that the insured value of the structure and any contents under the property insurance policy is the sole source of recovery to the Owner in the event of a loss, or loss exceeding the insured value of the existing structure. The Owner shall waive all rights for damages to such existing structures and its contents and shall waive subrogation rights in favor of Contractor, Subcontractor, Sub-subcontractors, agents and their respective employees.

§ 11.2.2 Failure to Purchase Required Property Insurance. If the Owner fails to purchase and maintain the required property insurance, with all of the coverages and in the amounts described in the Agreement or elsewhere in the Contract Documents, the Owner shall inform the Contractor in writing prior to commencement of the Work. Upon receipt of notice from the Owner, the Contractor may delay commencement of the Work and may obtain insurance that will protect the interests of the Contractor, Subcontractors, and Sub-Subcontractors in the Work. When the failure to provide coverage has been cured or resolved, the Contract Sum and Contract Time shall be equitably adjusted. In the event the Owner fails to procure coverage, the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent the loss to the Owner would have been covered by the insurance to have been procured by the Owner. The cost of the insurance shall be charged to the Owner by a Change Order. If the Owner does not provide written notice, and the Contractor is damaged by the failure or neglect of the Owner to purchase or maintain the required insurance, the Owner shall reimburse the Contractor for all reasonable costs and damages attributable thereto.

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§ 11.2.3 Notice of Cancellation or Expiration of Owner's Required Property Insurance. Within three (3) business days of the date the Owner becomes aware of an impending or actual cancellation or expiration of any property insurance

required by the Contract Documents, the Owner shall provide notice to the Contractor of such impending or actual cancellation or expiration. Unless the lapse in coverage arises from an act or omission of the Contractor: (1) the Contractor, upon receipt of notice from the Owner, shall have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by either the Owner or the Contractor; (2) the Contract Time and Contract Sum shall be equitably adjusted; and (3) the Owner waives all rights against the Contractor, Subcontractors, and Sub-subcontractors to the extent any loss to the Owner would have been covered by the insurance had it not expired or been cancelled. If the Contractor purchases replacement coverage, the cost of the insurance shall be charged to the Owner by an appropriate Change Order. The furnishing of notice by the Owner shall not relieve the Owner of any contractual obligation to provide required insurance.

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

§ 11.2.9 Before an exposure to loss may occur, the Owner shall file with the Contractor a copy of each policy that includes insurance coverages required by this Section 11.3. Each policy shall contain all generally applicable conditions, definitions, exclusions, and endorsements related to this Project. Each policy shall contain a provision that the policy will not be canceled or allowed to expire, and that its limits will not be reduced, until at least 10 days' prior written notice has been given to the Contractor.

§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, (including without limitation permanent property insurance obtained by Owner after completion of the Work), except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, ODR, ODR's consultants,

Separate Contractors, subcontractors, sub-subcontractors, agents and employees of any of them, by appropriate agreements, written where legally required for validity, similar waivers each in favor of other parties enumerated herein. The policies shall provide such waivers of subrogation by endorsement or otherwise. A waiver of subrogation shall be effective as to a person or entity even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, did not pay the insurance premium directly or indirectly, and whether or not the person or entity had an insurable interest in the property damaged.

§ 11.3.2 Intentionally Deleted.

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

A loss insured under the Contractor's property insurance shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.3.

§11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Contractor as fiduciary and made payable to the Contractor as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause. The Contractor shall pay the Architect and Owner their just shares of insurance proceeds received by the Contractor, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Intentionally Deleted.

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§ 11.4.1 PERFORMANCE BOND AND PAYMENT BOND

§ 11.4.1.1 The Contractor will furnish bonds covering faithful performance of the Contract and payment of obligations arising thereunder as required by Chapter 2253, Texas Government Code, Title 10 (Vernon Supp. 1999), and as stipulated in bidding requirements or specifically required in the Contact Documents on the date of execution of the Contract.

§ 11.4.1.2 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.4.1.3 If the Contract amount is $100,000.00 or more, the Contractor shall furnish an original Performance Bond equal to one hundred percent (100%) of the Contract Sum. If the Contract amount is $25,000.00 or more, the Contractor shall furnish an original Payment Bond equal to one hundred percent (100%) of the Contract Sum. There shall be separate bonds, the terms of which and the sureties of which are satisfactory to the Owner, and which comply with Chapter 2253, Texas Government Code, Title 10 (Vernon Supp. 1999), and all other applicable law. Contractor shall furnish a copy of the Payment Bond to each of its Subcontractors at the beginning of the Work. Contractor shall provide the original bonds to Owner prior to the commencement of the Work.

§ 11.4.1.4 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense unless the condition was caused by the Owner or a separate contractor in which event the Owner shall be responsible for payment of such costs.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

§ 12.2.1.1 The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, whether discovered before or after Substantial Completion and whether or not fabricated, installed, or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.1.2 The Owner shall promptly remedy damage and loss arising in conjunction with the Project caused in whole or in part by the Architect, any engineer hired by the Owner, and any other contractor under contract with the Owner, or anyone directly or indirectly employed by any of them, or anyone for whose acts they may be liable.

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§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

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

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

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

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be affected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents including obligations arising prior to the date of the assignment. The Contractor shall execute all consents reasonably required to facilitate the assignment, except that Contractor shall not be required to continue work on the project, in the event of an Owner default with its lender, unless Contractor is fully compensated for all work performed prior to any Owner default and all subsequent work which may be required.

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§ 13.2.3 Assignment. This Agreement is a personal service contract for the services of Contractor, and Contractor's interest in the Contract, duties hereunder and/or fees due hereunder may not be assigned or delegated to a third party, The benefits and burdens of this Agreement are, however, assignable by Owner to a lender providing construction financing for the Project in accordance with Section 13.2.2 above.

§ 13.2.4 Written Notice
Written notice shall be deemed to have been duly served only if the writing is delivered in person to the office of the party set out on the first page of the Standard Form of Agreement Between Owner and Contractor, or to such other address as has been previously clearly identified in writing by the addressee, or if delivered by mail or in form of electronic transmission to that office, or sent by registered or certified mail to that address, or sent in accordance with e-mail notice as set for in Section 1.6 above.

§ 13.3 Rights and Remedies
§ 13.3.1 Neither Contractor nor any of its materialmen, laborers or Subcontractors shall have any lien rights against the Owner's land, buildings or funds. No materialmen, laborers or Subcontractors of the Contractor shall have any enforceable rights against the Owner on this Contact. Materialmen, laborers and Subcontractors of the Contractor may have rights under any Payment Bond provided by the Contractor but cannot look to the Owner for any help in enforcement of those rights.

§ 13.3.2 No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.3.3 Notwithstanding anything herein to the contrary, neither the execution of this Contract by Owner nor any other conduct of any representative of Owner relating to the Contract shall be considered a waiver of sovereign immunity to suit beyond what is provided for by Section 271.152 of the Texas Local Government Code.

§ 13.4 Tests and Inspections
§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Owner, after timely notice to the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public authority, and shall bear all related costs of tests, inspections, and approvals. The Owner shall give the Contractor and Architect timely notice of when and where tests and inspections are to be made so that the Contractor and Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals. The Contractor can rely and act upon such test results, inspection reports, and approvals procured by the Owner.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

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§ 13.5 Intentionally Deleted.

§ 13.6 Equal Opportunity
§ 13.6.1 During the performance of this Contract, the Contractor agrees as follows:

1. The Contractor will not discriminate against any employee or applicant for employment because of race, color, sex, religion, national origin or age.

2. The Contractor will take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, sex, religion, national origin or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment, or recruitment advertising; Payoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the requirements of these non-discrimination provisions

§ 13.6.2 CERTIFICATION OF NONSEGREGATED FACILITY
§ 13.6.3 This Section is applicable to Contracts and Subcontracts exceeding $10,000.00 which are not exempt from the provisions of the Equal Opportunity Clause.

§ 13.6.4 By the signing of this Contact, the Contractor signifies that it does not maintain or provide for its employees any segregated facilities at any of its establishments, and that ii does not permit its employees to perform their services at any location, under its control, where segregated facilities are maintained. It certifies further that it will not maintain or provide for its employees any segregated facilities at any of its establishments, and that it will not permit its employees to perform their services at any location, under its control, where segregated facilities are

maintained. The undersigned agrees that a breach of this certification is a violation of the Equal Opportunity Clause in this Contract. As used in this certification, the term "segregated facilities" means any waiting rooms, work areas, restrooms and washrooms, restaurants and other eating areas, time clocks, locker rooms and other storage or dressing areas, parking lots, drinking fountains, recreation or entertainment areas, transportation, and housing facilities provided for employees which are degraded on the bases or race, creed, color, or national origin because of habit, local custom, or otherwise. It further agrees that (except where it obtained identical certifications from proposed consultants for specific time period) it will obtain identical certification from proposed Subcontractors prior to the award of a Contract exceeding $10,000.00 which are not exempt from the provisions of the Equal Opportunity Clause; that it will retain such certifications in its files; and that it will forward the following notice to such proposed Subcontractors (except where the proposed Subcontractors have submitted identical certifications for specific time periods): **Notice to Prospective Subcontractors of requirement for certification of nonsegregated facilities.** A certification of nonsegregated facilities, as required by the May 19, 1967 Order (32 FR. 7439, May 19, 1967) on elimination of segregated facilities, by the Secretary of Labor, must be submitted prior to the award of a Contract exceeding **$10,000.00** which is not exempt from the provisions of the Equal Opportunity Clause. The certification may be submitted either for each subcontract or for all subcontracts during a period (i.e., quarterly, semiannually, or annually),

Note: The penalty for making false statements in offers is prescribed in 18 U.S.C. 1001.11.

§ 13.6.5 PREVAILING WAGE RATES
§ 13.6.5.1 In compliance with laws of the State of Texas relating to labor (Acts 1933, 43 Leg. p. 91, Chapter 45) the building construction wage rates listed in the Contract Documents have been ascertained and determined by the

Owner as the general prevailing rates in the locality of The City of Bee Cave for the classifications listed. The Contractor and each Subcontractor shall pay to all laborers, workers and mechanics employed by them in the execution of this Contract not less than such rates for each craft or type of worker or mechanic needed to execute the Contract. If it becomes necessary to employ any person in a trade or occupation not herein listed, such person shall be paid not less than after hourly rate fairly comparable to the rates shown hereinafter.

§ 13.6.5.2 This determination of prevailing wages shall not be construed to prohibit the payment of more than the rates named.

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§ 13.6.5.3 The attention of the Contractor and all Subcontractors is called to the following laws of the State of Texas relating to labor: Texas Governmental Code § 2258.021 et seq. In compliance with the above cited code, the Contractor shall forfeit, as a penalty to the Owner, Sixty dollars ($60.00) for each laborer, worker or mechanic employed, for each calendar day, or portion thereof, such laborer, worker or mechanic is paid less than the rates stipulated hereinafter for any Work done under this Contract by him or by any Subcontractor under him.

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination or Suspension by the Contractor

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

- **.1** Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- **.2** An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- **.3** Intentionally Deleted;
- **.4** The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2;
- **.5** if the Owner suspends the Work for convenience in accordance with paragraph 14.3 herein; or
- **.6** if Owner is responsible for providing the property insurance coverage required within the Contract Documents and Contractor becomes aware that Owner did not procure, or has failed to maintain, coverage of the nature and quality set forth in the Contract Documents.
- **.7** Causes beyond the Contractor's control arising out of or related to events described in Section 8.3.1(3)(v)-(ix), inclusive.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work under direct or indirect contact with the Contractor, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

§ 14.1.5 Notwithstanding anything to the contrary contained herein or in the other Contract Documents, neither the Owner nor any other party shall be responsible for damages for loss of anticipated profits on Work not performed on account of any termination for cause described in Section 14.2.1.

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§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- **.1** repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- **.2** fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers, provided such non-payment is not due to the Owner's failure to pay the Contractor for work performed;
- **.3** repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- **.4** otherwise is guilty of substantial breach of a provision of the Contract Documents.
- **.5** fails to furnish the Owner within a reasonable amount of time, after receipt of written request from Owner, with assurances reasonably satisfactory to the Owner evidencing the Contractor's ability to complete the Work in compliance with all the requirements of the Contract Documents, or
- **.6** repeatedly fails to proceed continuously and diligently with the construction and completion of the Work, except as permitted under the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, fourteen (14) days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- **.1** Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Owner;
- **.2** Accept assignment of subcontracts pursuant to Section 5.4; and
- **.3** Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, or its surety, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work along with all supporting documentation.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract. Subject to this Section 14.2, the Owner expressly waives any delay damages which may be incurred by Owner after termination of the Contractor.

§ 14.2.5 If a Performance Bond has been furnished and the Contractor is declared by the Owner to be in default under the Contract, the Surety shall promptly remedy the default by completing the Contract in accordance with its terms and conditions, or by obtaining a bid or bids in accordance with its terms and conditions. At Owner's election, upon determination by the Owner and the Surety of the lowest responsible bidder, the Surety will complete the Work or will arrange for a Contract between such bidder and the Owner, and make available as Work progresses sufficient funds to pay the cost of completion less the balance of the Contract Sum, but not exceeding the Penal Sum of the bond and other costs and damages for which the Surety may be liable under the bond. The phrase "balance of the Contract Sum" as used herein shall mean the total amount properly payable by the Owner to the Contractor under the Contract and amendments thereto less the amount previously paid by the Owner to the Contractor.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

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.1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or

.2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, upon thirty (30) days written notice to Contractor, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

.1 cease operations as directed by the Owner in the notice;

.2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and

.3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders as to that portion of the Work that is the subject of the Owner's termination.

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for (i) Work properly executed; and (ii) costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the reasonable overhead and profit on items (i) and (ii) in this section as well as on the Work not executed.

§ 14.4.4 Intentionally Deleted.

ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. LTFR's (Lake Travis Fire Rescue "ESD No. 6") right to assert Claims under this Article shall be to the same extent, and subject to the same limitations, as the Owner's right.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the ODR and Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within twenty-one (21) days after occurrence of the event, except as it relates to Claims related to adverse weather conditions, which shall be initiated within thirty-one (31) days of the month in which the adverse weather conditions occurred, giving rise to such Claim or within twenty-one (21) days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

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§ 15.1.3.3 To the extent it is necessary and within a reasonable period of time after Contractor has initiated a Claim in accordance with Section 15.1.3 above, , the Contractor shall further set out the specific matter of the Claim, and the impact or damages which may occur or have occurred as a result thereof, to the extent the impact or damages can be assessed at the time of the notice. If the impact or damages cannot be assessed as of the date of the notice, the notice shall be amended at the earliest date that is reasonably possible.

§ 15.1.4 Continuing Contract Performance
§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost
If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time
§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.1.1 Claims Handling During Construction
After receipt of a Notice of Claim, the Owner may elect to refer the matter to the Architect or another party for review. Contractor will attend meetings scheduled at a mutually agreeable time and place that are called to review and discuss the Claims and mitigation of the problem and shall furnish any reasonable factual backup for the Claim requested.

§ 15.1.6.1.2 CLAIMS HANDLING FOLLOWING CONSTRUCTION
The acceptance of final payment shall constitute a waiver of Claims by the Contractor which have not previously been identified in a Notice of Claim.

§ 15.1.6.1.2.1 If a Claim has not been resolved within three (3) months of the date of the final Application for Payment through Claim review procedures, mediation, or other Claim settlement negotiations, then Contractor at that time, but not before, shall be entitled to institute binding arbitration in accordance with Article 15 herein.

§ 15.1.6.2 Adverse Weather Conditions Lost days include days in which weather prevents critical path work from being performed. This includes days in which critical path work cannot continue in the aftermath of weather events. For example, if the day after a rain or ice event, the critical path work cannot commence because of the need for drying, this is considered a lost work day due to weather.

Extended periods with temperatures not rising above 40 degrees are not normal for this location. If concrete pours have to be pushed more than 2 days due to cold weather which prevents critical path concrete placement in accordance with ACI standards, then the temperature shall be the grounds for a weather delay starting on the 3rd day. For purposes of determining reasonableness of precautionary or preventative measures, this Agreement does not include the use of extraordinary measures such as the addition of hot water, tenting, or temporary heating unless specifically included within the GMP.

When the use of a crane or any aerial lift is required to advance critical path work, sustained winds in excess of the stated safe operating limits of the crane or aerial list and/or lightning strikes within a safety radius will cause the crane or aerial lift to be shut down. When these event result in more than 2 hours of down time for the crane or aerial lift, this shall be considered a lost day due to weather.

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§ 15.1.6.3 The Contractor will not be allowed time extensions that are due to

.1 when the principal units of work and task on the critical path are not in progress or are not delayed by the event of the delay, interference, disruption, or hindrance;

.2 while materials are drying and it is possible for the Contractor to enclose the area and use drying devices provided Owner compensates Contractor for costs incurred for such devices;

.3 when an event of delay, interference, disruption, or hindrance occurs in a day other than a working day or other day when the Contractor had not originally planned to work.

.4 when events of concurrent delay overlap the claimed delay; and/or when an extension of time is precluded by any other provision of the contract documents.

§ 15.1.7 Waiver of Claims for Consequential Damages

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

.1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and

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

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, or, (2) provide a response in one of the following forms: (a) reject the Claim in whole or in part, (b) approve the Claim, (c) suggest a compromise, or (d) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will respond in one of the forms listed above in 15.2.2.

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§ 15.2.5 The initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to litigation or arbitration as selected by the Parties in the Agreement. The initial decision shall be admissible in any subsequent proceeding but shall not be deemed binding on either party.

§ 15.2.6 Executive Meetings

§ 15.2.6.1 If requested by either party within ten (10) days of receipt of the initial decision, the parties shall attempt in good faith to resolve the Claim by negotiation between executives who have authority to settle the controversy and who are at a higher level of management than the persons with direct responsibility for administration of this Agreement. These executives shall meet within thirty (30) days of such request at a mutually acceptable time and place.

§ 15.2.6.2 Unless otherwise agreed in writing by the negotiating parties, the above-described negotiation shall end at the close of the first meeting of executives described above ("First Meeting"). Such closure shall not preclude continuing or later negotiations, if desired.

§ 15.2.6.3 All offers, promises, conduct and statements, whether oral or written, made in course of the negotiation by any of the parties, their agents, employees, experts and attorneys are confidential, privileged and inadmissible for any purpose, including impeachment, in arbitration or other proceeding involving the parties, provided that evidence that is otherwise admissible or discoverable shall not be rendered inadmissible or non-discoverable as a result of its use in the negotiation.

§ 15.2.6.4 At no time prior to the First Meeting shall either side initiate an arbitration or litigation related to this Agreement except to pursue a provisional remedy that is authorized by law or by AAA Rules by agreement of the parties. However, this limitation is inapplicable to a party if the other party refuses to comply with the requirements of 15.2.6.1 and 15.2.6.3 above.

§ 15.2.6.5 All applicable statutes of limitation and defenses based upon the passage of time shall be tolled while the procedures specified in 15.2.6.1 above are pending and for fifteen (15) days thereafter. The parties will take such action, if any, required to effectuate such tolling.

§ 15.2.6.6 Either party may, within 30 days of (a) the expiration of the ten day period set forth in 15.2.6.1 above without a request by either party for a meeting of executives; or (b) the expiration of the fifteen day period specified in 15.2.6.5 above. If both parties fail to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

§ 15.2.8 If a Claim relates to or is the subject of a mechanic's lien, the party asserting such Claim may proceed in accordance with applicable law to comply with the lien notice or filing deadlines.

§ 15.3 Mediation

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

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§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then the party receiving the demand waives its right to binding dispute resolution proceedings with respect to the initial decision.

§ 15.3.4 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 15.4 Arbitration

§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

§ 15.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

§ 15.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 15.4.3 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

§ 15.4.3.1 The Parties expressly agree that the Arbitration Rules are modified so that those cases falling under the regular track will result in an award no more than six (6) months from the date of the confirmation of appointment of the arbitrators. In all cases in which less than $1,000,000 in total is at issue, there shall be a sole arbitrator and the Parties shall each have three preemptory strikes in selection of the arbitrator, plus all strikes for cause that can be justified. In all cases in which $1,000,000 or more in total is at issue, there shall be three arbitrators and the Parties shall each have five preemptory strikes plus all strikes for cause that can be justified. The place of mediation and arbitration shall be in Travis County, Texas, USA. The Parties understand and agree that the arbitration award shall be binding upon, and shall include, any and all agents, employees, successors, and assigns of either party this Contract.

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§ 15.4.4 Consolidation or Joinder

§ 15.4.4.1 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 15.4.4.2 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.

§ 17 BUSINESS ETHICS

During the course of pursuing contracts, and the course of Contract performance, Contractor and its Subcontractors and vendors will maintain business ethics standards aimed at avoiding apparent impropriety or conflicts of interest. No substantial gifts, entertainment, payments, loans or other considerations beyond that which would be collectively categorized as incidental shall be made to any personnel of the ODR, the Owner or its Architects, or to family members of any of them. At any time Contractor believes there may have been a violation of this obligation, Contractor shall notify Owner of the possible violation. Owner is entitled to request a representation letter from Contractor, its Subcontractors or vendors at any time to disclose all things of value passing from Contractor, its Subcontractnts or vendors to Owner's personnel and its Architects.

ARTICLE 18 SOVEREIGN IMMUNITY

§ 18.1 No Waiver of Immunity. Owner does not waive or relinquish any immunity or defense on behalf of itself and its officers, trustees, employees, and agents as a result of their execution of this Contract and performance of the functions or obligations described herein. Nothing herein shall be construed as creating any personal liability on the part of any officer, trustee, director, employee, or representative of the Owner.

§ 18.2 Nothing in this Contract shall be construed to create a claim or cause of action against Owner for which it is not otherwise liable, nor to waive any immunity or defense to which Owner may be entitled, nor to create an impermissible deficiency debt of Owner.

ARTICLE 19 BACKGROUND CHECKS, CERTIFICATES AND TAXES

§ 19.1 Failure to comply with the provisions of Section 19 and its subsections constitutes a default under this Contract, entitling Owner to terminate this Contract for cause.

§ 19.2 All individuals or entities entering into a contact with Owner must adhere to the following applicable Texas laws as they pertain to their individual type of ownership:

§ 19.3 Corporations (domestic [formed under Texas law] or foreign [formed under laws of another state]) Shall be properly registered with the Texas Secretary of State and the Comptroller of Public Accounts as required by TITLE 34, Part 1, Chapter 5, Subchapter V, Rule 3.546 of the Texas Administrative Code. A current "Certificate of Good Standing" from the Texas Comptroller of Public Accounts shall be made available upon request stating that tire corporation charter is current, and all Texas Franchise Reports and Taxes are paid.

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User Notes: (1313295971)

§ 19.4 Partnership and Joint Stock Companies, and Limited Liability Partnerships (domestic [formed under Texas law] or foreign [formed under laws of another stated) shall be properly registered with the Texas Secretary of State in accordance with Texas law. All partners in a partnership must file a ”Certificate of Limited Partnership" with the Texas Secretary of State, which shall be made available for inspection upon request.

§ 19.5 Contractor, whether Corporate, Partnership, or Sole Owner, must be current on its Bee Cave Property Taxes. If commercial personal property is located in the jurisdiction, current renditions of these properties must be filed with the Chief Appraiser, as required by Chapter 22, Section 22.01, of the "TEXAS PROPERTY TAX CODE", and Contractor must be current on all applicable ad valorem taxes owing to Owner.

§ 19.6 Contractor certifies, to the best of its knowledge and belief, that it is not presently debarred, suspended for debarment, declared ineligible, or voluntary excluded from covered transactions by any federal department or agency.

§ 19.7 Contractor agrees to comply with all applicable requirements of all federal laws, executive orders, regulations, applicable guidelines, and policies governing this program, particularly relating to nondiscrimination. These include but are not limited to: (i) Title VI of the Civil Rights Act of 1964, as amended; (ii) Title IX of the Education Amendments of 1972, as amended; (iii) Section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975, as amended; and (iv) the Americans with Disabilities Act, as amended.

ARTICLE 20 REFORMATION

§ 20.1 If any provision of this Contract is held to be illegal, invalid, or unenforceable under present or future laws, such provision shall be reformed to provide as close to the original intent of the provision as possible while still being enforceable. However, in the event such a reformation is not possible then (i) such provision shall be fully severable; (ii) this Contract shall be construed and enforced as if such illegal, invalid, or unenforceable provision had never been comprised a part of this Contract; and (iii) the remaining provisions of this Contract shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance from this Contract. In the event any law, ordinance, standard, specification, rule of authority is referenced and/or incorporated herein, such reference shall be construed to be the law, ordinance, rule, or authority in effect at the time this Contract was executed. A contract provision that requires the Contractor to satisfy a higher level of performance or standard than a law, ordinance, rule, or authority shall be given precedence in interpreting the obligations of the Contractor.

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User Notes: (1313295971)

City Council Meeting
11/14/2023
Agenda Item Transmittal

Agenda Item:	**14.**
Agenda Title:	**Discuss and consider action to authorize staff to publish request for proposals for Grant Writing professional services for the City of Bee Cave Capital Improvement Projects.**
Council Action:	**Consideration & Approval**
Department:	**City Manager**
Staff Contact:	**Chelsea Maldonado//Brian Jorgensen T&T Heery**

1. INTRODUCTION/PURPOSE

Discuss and consider action to authorize staff to publish request for proposals for Grant Writing professional services for the City of Bee Cave.

2. DESCRIPTION/JUSTIFICATION

a) Background

The city has identified a need to pursue a mix of funding sources for its capital projects, future developments, and improvements, to minimize total budget impact of these projects. This funding mix may consist of grants, bonds, and fundraising. A grant professional or grant team will allow the city to understand current availability of dollars, timelines, regulations, and methodologies, while allowing the selected professional(s) to successfully pursue grant dollars.

b) Issues and Analysis

The attached RFP seeks a grant writing professional and/or team that has experience in public work domains, such as, community development, criminal justice, infrastructure, and parks & recreation. Bee Cave Central Park has been identified as the greatest in need of additional funding among the CIP items. Additionally, we are looking forward to a professional that will examine all the city's current and future projects and how they may benefit from available grant dollars. The current schedule will allow immediate release of the RFP with proposals due in December.

3. FINANCIAL/BUDGET

Amount Requested	Fund/Account No.
Cert. Obligation	GO Funds
Other source	Grant title

Addtl tracking info

4. TIMELINE CONSIDERATIONS

5. RECOMMENDATION

Authorization for staff to release RFP

ATTACHMENTS:

	Description	Type
🗋	BCCP - Grant Writer RFP - 1108 2023	Backup Material

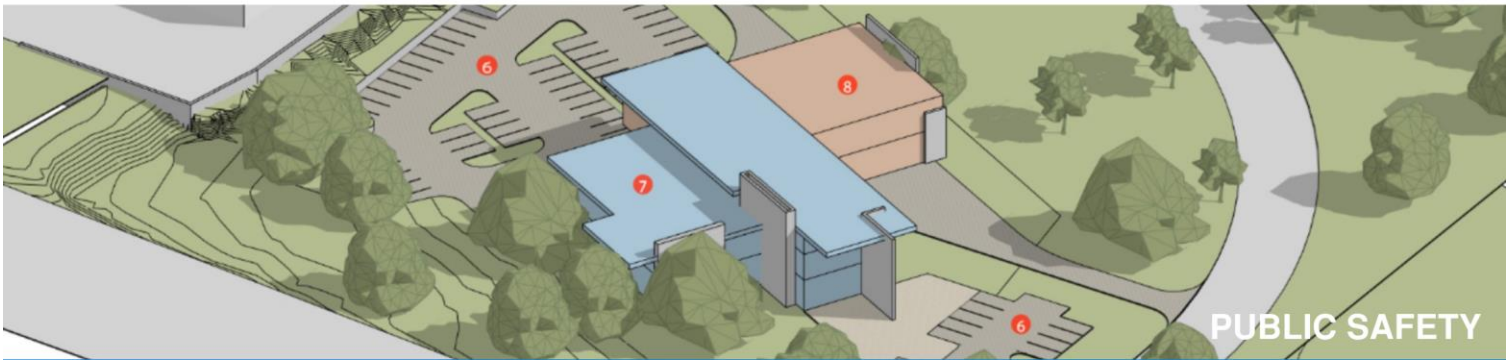
BEE CAVE
TEXAS

Request for Proposal

For Grant Writing Services

Bee Cave Capital Improvement Plan 2021

DUE: December 19, 2023



Introduction:

As of March 2021, the City of Bee Cave ("City") had a population estimated at 14,265; 8,879 within City limits and 5,386 within the ETJ. The City's population growth projects a population of approximately 15,000 people within the City limits by 2038. To meet this growth the City strategically identified areas of priority with a Capital Improvement Plan ("CIP"). On October 26, 2021, the City Council approved the CIP that incorporates creating new roads, library, police station, and central park, among other things. Among other recognitions, the City is a Platinum Certified Scenic City and intends to maintain and improve upon the current infrastructure and amenities to continue to beautify the Hill Country.

The Capital Improvement Plan can be accessed at the link **HERE**

The City is issuing this Request for Proposal to identify qualified candidates for contractual grant writing services. The City is seeking to contract with an individual, or firm, that specializes in the management of the overall grant process and can assist the City to maximize the benefits of grant funding that advances the initiatives within the CIP and beyond.

The City intends to retain a qualified and capable firm to perform Professional Services throughout the execution of the CIP, and possibly beyond. The City will give prime consideration to the firms with extensive experience in assessing the benefits of each project, identifying potential grant avenues with the highest potential to generate funds for the identified CIP projects, and other projects as identified as priorities by the City. The City reserves the right to negotiate with the selected firm(s) and is not obligated to enter any contract with any Respondent(s) on any terms or conditions.

Background:

It is the intention of the City to apply for grants which address documented City needs associated with service delivery and necessary capital infrastructure improvements. In addition, it is the intent of the City to apply for grants which not only are consistent with identified City needs but those grants that can be property and efficiently administered. The goal of the City's grant program is to secure funding for services and projects which the City would otherwise be required to increase the current budget by increasing taxes or bond capacity.

The major current and future anticipated needs as identified by the CIP are as follows in no particular order of priority;

1. **Central Park**

   Over the last twenty-seven months, the City has engaged in a collaborative effort to develop a Bee Cave Central Park Master Plan that contemplates how the park is used now, and how it will be used in the future. This Central Park Master plan was adopted by the Bee Cave City Council September 12th, 2023. In summary, the Central Park Master Plan sets forth the goals and vision of the park that shall be implemented in the City's FY 21-22 to FY 25-26 Capital Improvements Plan.

   The Central Park Master Plan best introduces respondents to the project location, history, and goals. The City has established a goal of $15M to be raised through fundraising and grants that would be used towards the programming aspects of the plan. All are encouraged to consider the Master Plan in their submission.

   The Central Park Master Plan can be accessed at the link **HERE**

2. **Public Library**

   A new public library will be required to handle the department's current needs and growth well into the future. It is also notable that the Bee Cave public library serves communities beyond the city and ETJ, such as Lakeway, Spicewood, Steiner Ranch, Oak Hill, and others. The City of Bee Cave has selected a building site adjacent to the Central Park and the local development referred to as "The Backyard." As design and construction is underway, the current library staff will remain in the existing public library within Bee Cave City Hall. The City's public library is currently under design with an anticipated construction completion the first quarter 2026. The City would be interested in any grants that would go towards constructing the City's new $19M Public Library Building or renovating the existing City Hall Library space after the new building opens. All are encouraged to consider the Master Plan in their submission.

   The Public Library Facility Master Plan can be accessed at the link **HERE**

3. Public Safety Building

The City has undertaken a Needs Assessment and Site Analysis Study that shows a new police facility will be required to handle not only the department's current needs, but also the anticipated growth well into the future. The directly adjacent Lake Travis Fire Rescue ("LTFR") Station #603 will join the Bee Cave Police Department in the design and construction of this new $17M building and the facility should be considered a Joint Facility, known as the Bee Cave Public Safety Building. A needs assessment for LTFR is currently being performed and included in the programming and planning of the joint facility. Both the Police Department and LTFR will remain in their existing buildings through the course of design and construction.
The new Public Safety Building is currently in the process of design with an anticipated completion date in the first quarter 2026.

Scope of Services:

Turner & Townsend Heery, as Owner's Designated Representative ("ODR"), has been selected to assist The City of Bee Cave ("Owner") in overseeing the design and development of improvements within the CIP which is currently the Public Library, Public Safety Building, and Central Park.

The individual or firm(s) selected shall be required to provide professional administrative and management services whose level and scope will be determined by the City of Bee Cave and the ODR.

Grant writing services may include, but not be limited to:

a) Preparation and submittal of all completed grant forms by the appropriate deadline; and
b) Coordination with preliminary designs and budgets, as well as fundraising efforts for the projects within the CIP.

Administrative services may include, but not be limited to:

a) Provision of general advice and technical assistance on regulatory matters and implementing project activities included in the approved grant application;
b) Assistance in the procurement process such as preparing notices and solicitation of bids for engineering, construction activities, or other grant-related services;
c) Assistance in meeting financial, administrative, and bookkeeping requirement of the City or funding source, including review of invoices

received for payment, preparation of grant fund drawdown requests and retention of all pertinent records and documents sufficient to reflect all charges submitted;

d) Assistance in meeting record keeping requirements of the City or funding source, including the establishment and maintenance of an acceptable filing system;
e) Assistance in contract administration and monitoring requirements of the City, including enforcement of compliance requirements;
f) Assistance in the grant process for the proposed project, including preparing and submitting necessary documentation to the appropriate agency for clearance or approval, and preparing Request for Release of Funds and required certifications and submitting them to the regulating authority;
g) Assistance in meeting all special condition requirements stipulated in the grant contract;
h) Act as a liaison between the City, construction contractors to ensure an efficient, smoothly managed program that may be associated with grant requirements;
i) Furnish necessary forms and submit all required reports as outlined in the grant contract;
j) Prepare and submit any program amendments, including re-assessments as necessary during the duration of the project; and
k) Prepare and coordinate the submission of appropriate documents for the grant contract closeout and completion.

Scope of Work Summary

The following are typical services and/or items that the successful consultant will be required to provide the City if it is awarded the contract and should be addressed in each proposal. Essential tasks and deliverables for the grant writer consultant shall include:

1. Funding needs analysis – Work with the City's departments to assess the validity of current funding priority areas and identify new priority areas for funding.
2. Grant Funding Research – Conduct research to identify grant resources including, but not limited to federal, state, foundation, agencies and organizations that support the City's funding needs and priorities in the following general areas by way of illustration but not limitation:
    a. Community/Economic Development
    b. Criminal Justice Technology and Programs
    c. Infrastructure Development and Maintenance
    d. Parks and Recreation
    e. Parks Programming and Phased Development

f. Other areas as identified through the needs assessment process or newly identified or prioritized projects identified by the City

3. On-call Grant Research – In addition to the areas defined above, other areas may be also identified through the funding needs analysis process and throughout the duration of the contract.
4. Grant proposal Development – Provide grant proposal writing services associated with the completion of grant application on behalf fo the City, including the preparation of funding abstracts, production and submittal of applications to funding sources. A copy of each grant application submitted is to be provided to the City.
5. Monthly reports – the successful consultant shall submit monthly reports to the City summarizing the amount of time expended and describe activities undertaken during the previous month and activities expected to be taken in the next month.
6. Master Plan Review and subsequent grant submissions should be based upon priorities, objectives, and goals determined in conjunction with the City.

The City anticipates that teams submitting proposals will have expertise in:

- Similar sized municipalities
- Grants involving city parks, libraries, public safety buildings, city halls, or community complexes
- Working collaboratively with multiple stakeholders
- Identifying potential areas for grants not currently identified
- community engagement
- forecasting the likeliness of being successful in being awarded
- any other professional services needed for grant writing
- delivering projects that are sensitive to community needs
- delivering forecasts and timely reports

The Estimated Schedule for the Primary Projects

This is for both the Public Library and Public Safety Building. The City Park design schedule is anticipated to also be closely aligned with this schedule. Once design is complete construction is expected to begin and take between 14 to 18 months depending on the project. Construction on the City Park will be limited to the infrastructure components leaving programming to commence based upon funding through grants and fundraising.

An estimated schedule can be found at this link **HERE**.

It is anticipated that the grants identified and pursued would be prioritized based upon the largest return and to be aligned as much as possible to the anticipated schedule. It is understood that the grant writing will be dependent upon the design and budget development and would expect the selected grant writer(s) to be able to identify multiple grants, prioritize based upon potential return and likeliness of success, coordinate with other stakeholders (like the Design Team, City Staff, ODR, GC schedule) and communicate progress throughout.

Request for Proposal Format

Please Include the following in your proposal:

1. **Introduction and Letter of Interest:**
    a. This document shall be restricted to 2-letter size pages in length. This document shall be in essay form that allows personal expression as to:
        i. Why do you believe your firm is aptly suited to fill the need of grant writer for the City?
        ii. What value-added qualities or attributes does your firm possess that would render superior performance on your services for the City?
        iii. Identify specific, verifiable instances in which other clients have benefitted as a result of your association with their grant writing endeavors.
        iv. Define the methodology/approach to be used to identify the needs of the City which would be eligible for funding through grants.
        v. Detail the procedure to be utilized in identifying grants which would address the needs identified above.
        vi. Detail your firm's historic success rate for similar type grants.
2. **Firm Background Information:**
    a. Provide a firm overview including the following:
        i. Firm Name
        ii. Address
        iii. City, State, Zip
        iv. Contact information for two primary representatives from your firm
        v. Type of Firm (Corporation, Partnership, Sole Proprietorship, Joint Venture)
        vi. Federal Employer Identification Number
        vii. Year Firm was established
        viii. Years in Business under its present name

ix. All other names by which your organization has been known
x. The length of time known by each name

b. List experience in the identification and preparation of grants for municipalities. Specifically, detail experience with federal and state grants for public safety agencies, infrastructure improvement, parks, recreation, technology community development, and capital assets.

3. **Project Team:**
   a. Provide resumes of the principal individuals who will be directly responsible for the City's grant writing. Indicate for each principal team member:
      i. The specific role each person will play for the duration of the contract.
      ii. The number of years of experience
      iii. The supervisory responsibilities
      iv. A list of relevant project experience
      v. Indicate whether the proposed team members have previously worked together, and on what grants or projects.
   b. Provide a recommended team, including if there are in house or consultants utilized. The City shall not require that you include or exclude consultants, but rather wishes to review the respondents recommended staffing and consulting plan based on information provided in this RFP.
      i. Identify what disciplines your firm provides in-house and which disciplines will be provided by a consultant.
      ii. Please provide a firm overview and experience list for each consultant, as well as the number of years your firm has worked with each consultant.
   c. Generally, detail the involvement and role of the City staff and City resources in the grant writing process. Describe, in detail, the process that would be utilized to prepare the actual grant application.

4. **Scope of Work and Fee Schedule:**
   a. Detailed scope of work based on project description and timeline stated above including deliverables schedule
   b. List assumptions and exclusions
   c. List additional project scope and services that your team could provide
   d. Short summary of your project approach as it applies to these project and anticipated services/deliverables.
   e. Describe in detail the fee structure being proposed for providing grant writing services.

f. If in house or third party consultants are utilized, then a detailed fee schedule shall be provided for these costs.

5. **Relevant Project Experience & References:**
   a. Provide a list of relevant awarded active and past grants within the last five (5) years.
   b. In addition to the list provided above, highlight and provide a detailed overview of at least three (3), but not more than five (5), recent grants for projects similar in scope to the Bee Cave CIP projects. Highlighted grant projects shall not be limited to the last five (5) years, but shall be completed in no more than the last fifteen (15) years. Provide the following information for each project:
      i. Project name
      ii. Location with address
      iii. Client name (complete with agency name, contact person, address, and phone). This should be the person whom you have done business with on each of the grants listed.
      iv. Estimated and final project cost
      v. Amount of grants applied for and amounts of grants awarded.
      vi. Statement indicating source of funding (Bond, Grant, Fundraising)
   c. Two client references of your choosing with project description, relevancy to this project, budget and timeline, and primary contact and phone number/email.

Evaluation Process

The selection process consists of evaluation of responses to this RFP, establishing a short-list of teams to be interviewed by the Selection Committee, references, and demonstrated ability to successfully acquire significant grant funding that have made impacts within similarly sized municipalities. The Committee consists of Turner & Townsend Heery (ODR) staff, City of Bee Cave staff, and potentially a community member or stakeholder.

The Committee will review and evaluate proposals based on the following criteria:

1. *Responding Firm's Approach and Methodology of the grant process, success rate, and Interest Letter Response – 30%*
2. *Grant Writing Delivery Team Successful Relevant Experience – 25%*
3. *Demonstrated experience in obtaining grants for similar sized projects,*

scope and budget, and comparable demographic municipalities – 20%

4. *Responding Firm's Scope of Work Statement and Fee Proposal – 15%*
5. *Relevant References – 10%*

Once we have reviewed proposals, the ODR will invite the shortlisted firms for interviews with our partners before making a final decision.

Questions, Submission, and Additional Requirements:

A **Pre-Proposal Conference** will be held online (MS TEAMS) on **November 29, 2023 at 1:00pm-2:00pm. CST**. The purpose of this conference will be to address questions from interested parties early in the submittal process. **Contact Chelsea Maldonado at 512.743.8462 via call/text or via email at chelsea.maldonado@turntown.com to register no later 4:00pm CST November 24, 2023.** Attendance at this meeting is not mandatory, but strongly encouraged.

Please direct **questions** regarding this RFP to Chelsea Maldonado – *Project Manager* by **December 6, 2023.** All questions and answers will be compiled into one document that will shared with all proposers via the City of Bee Cave website by **December 8, 2023.**

Any/All addenda shall be posted in a timely manner to the City of Bee Cave website.

Direct all questions and inquires by **email only** to:

Chelsea.maldonado@turntown.com

The ODR shall be the sole point of contact. Any inquires or questions directed at city staff not disclosed to the ODR, may result in disqualification of your submission.

No lobbying of selection committee members, City Staff, or City Council members will be permitted during the RFP process.

Submission:

Submittals should be sealed in an envelope or box marked with "RFP – Grant Writing Services – Bee Cave CIP" on the outside of the envelope. The submittal envelope or box must also have the Consultant's name and complete return address on the outside of the envelope.

All interested firms must submit two (2) printed and bound copies of their qualifications and one electronic PDF copy via USB drive, no later than 2:00 p.m., on **December 19, 2023**, addressed to:

Bee Cave City Hall
4000 Galleria Parkway
Bee Cave, TX 78738
Attn of: Kaylynn Holloway, City Secretary

For questions or inquires regarding delivery, or drop off:
Kaylynn Holloway
512.767.6641
kholloway@beecavetexas.gov

Supplemental Information:

1. Submittals received after the above mentioned time and date may be rejected as non-responsive. Submittals that do not meet the requirements outlines in this RFP may, at the City's discretion, be deemed non-responsive. Submittals which are delivered by telephone, facsimile (fax), or electronic mail (e-mail) will not be acknowledged or considered.

2. Any clarifications or interpretations of this RFP that materially affect or change its requirements will be posted by the Owner on the City website as addenda. It is the responsibility of all respondents to obtain this information in a timely manner. All such addenda issued by the Owner before the qualifications are due, are considered to be part of the RFP, and respondents shall acknowledge receipt of each additional addendum in its qualifications. Respondents shall consider only those clarifications and interpretations that the Owner issues by addenda prior to the deadline listed below. 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 qualifications.

3. No lobbying of selection committee members, City staff, or City Council members will be permitted during the RFP process.

4. Each responding firm certifies by submission of its qualifications that neither it nor its principals are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in this transaction by any Federal, State or local department or agency.

5. The City reserves the right to terminate this process at any time and no guarantee is expressed or implied that obligates the City to contract services for the proposed project. The City shall not be liable to any firm for costs associated with responding to the RFP or any costs associated with negotiations.

6. Any contract resulting from this solicitation will be in the form a Standard Professional Services Agreement with modifications by the City and as negotiated with the selected firm(s).

7. A selection committee will review all submittals. During the selection process, the committee reserves the right, where it may serve the City's best interest, to request additional information or clarification from responders. After review of submittals and prior to final ranking, the committee may, at its discretion, select a firm or conduct interviews with the short-listed firm(s). The Committee's decision will be submitted to the City Council for consideration. The City Council's decision on the recommended firms are ratified by minute order and will include instruction to staff to begin contract negotiations with the "top" ranked firm.

8. Receipt of all addenda to this RFP, if any, must be acknowledged by attaching a signed copy of each addendum to the RFP submittal. All addenda shall become part of the requirements of this RFP. Failure to acknowledge receipt of an addendum may result in the rejection of the RFP submittal. All addenda will be posted at the same website as the RFP.

9. The anticipated timelines for this RFP are listed below. Applicants will be notified of any change to the deadline for questions or deadline for RFP submittal.

RFP Timeline (Projected):

RFP Issued:	November 15, 2023
Pre-Proposal Conference:	November 29, 2023
Deadline for Submittal of questions:	December 6, 2023
RFP Submittal Deadline:	December 19, 2023
Evaluation Process Completed:	January 9, 2023
City Staff Conducts Interview(if required)	January 22-26, 2023
City Council Authorizes Staff to Negotiate Contract	February 13, 2023*

*Date subject to change in consideration of interview necessity and changes of council meeting dates

THE CITY OF BEE CAVE, TEXAS
RESERVATION OF RIGHTS

In connection with the RFP, the City reserves all rights (which may be exercised by the City in its sole discretion) available to it under applicable laws, including without limitation, and with or without cause and with or without notice, the right to:

I. Cancel the RFP, in whole or in part at any time before the execution of a contract by the City, without incurring any cost, obligations or liabilities.

II. Issue addenda, supplements, and modifications to this RFP.

III. Revise and modify, at any time before the RFP submittal due date, the factors and/or weights of factors the City will consider in evaluating the Statement of Qualifications (SOQ) and to otherwise revise or expand its evaluation methodology as set forth herein.

IV. Extend the RFP submittal due date.

V. Investigate the qualifications of any firm under consideration and require confirmation of information furnished by a firm.

VI. Require additional information from a firm concerning contents of its SOQ and/or require additional evidence of qualifications.

VII. Waive or permit corrections to data submitted with any response to this RFP until such time as the City of Bee Cave declares, in writing, that a particular stage or phase of its review of the responses has been completed or closed.

VIII. Reject at any time, any or all submittals, responses and SOQs received.

IX. Terminate at any time, evaluations of responses received.

X. Seek assistance of independent technical experts and consultants in the SOQ evaluation.

XI. Hold interviews and conduct discussions and correspondence with one or more of the firms responding to this RFP to seek an improved understanding and evaluation of the responses to this RFP.

XII. Seek or obtain from any source that has the potential to improve the understanding and evaluation of the responses to this RFP.

XIII. Disclose information contained in an SOQ to the public as described herein or referenced in this RFP.

XIV. Authorize firms to substitute key personnel until the City declares, in writing, that a particular stage or phase of its review has been completed and closed.

XV. Waive deficiencies in a SOQ, accept and review a non-conforming RFP submittal or seek clarifications or supplements to an RFP submittal.

XVI. Disqualify any firm that changes its SOQ without the City's authorization.

XVII. Exercise any other right reserved or afforded to the City under this RFP. The City reserves the right to modify the process in its sole discretion to address applicable law and/or the best interest of the City.

XVIII. The City shall not, under any circumstances, be bound by or liable for any obligations with respect to the Project until such time (if at all) a contract has been awarded and all approvals obtained in form and substance satisfactory to the City have been executed and authorized by the City, and then only to the extent set forth.

Resources:

Please review the attached resources for background information about the project:

- **City of Bee Cave Capital Improvements Plan**
- **Facility Master Plan Report for Bee Cave Public Library**
- **City of Bee Cave Central Park Master Plan 2023**

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City Council Meeting
11/14/2023
Agenda Item Transmittal

Agenda Item:	**15.**
Agenda Title:	**Discuss and consider action on a Memorandum of Understanding between the City of Bee Cave Municipal Court and the Village of the Hills, Texas for hosting and operating municipal court under concurrent jurisdiction.**
Council Action:	**Discussion and possible action**
Department:	**City Manager**
Staff Contact:	**Clint Garza**

1. INTRODUCTION/PURPOSE

The purpose of this item is for staff to update City Council on discussions between the City staff and Village of the Hills staff regarding concurrent municipal court jurisdictions.

2. DESCRIPTION/JUSTIFICATION

a) Background

The Village of the Hills reached out to staff to discuss the possibility of assisting with municipal court services for The Village.

The Village identified a need for municipal court services for ordinance and code violations from within their jurisdiction but does not currently have a municipal court in which to hear cases related to said violations. Conversely, the City has operated municipal court for a number of years and has staff and legal counsel in place to support the judicial functions.

The City Manager and legal counsel will provide additional background in open session as well as answer questions from the body.

b) Issues and Analysis

Costs associated with implementation with the agreement(s) will be reimbursed to the city through a combination of fines and contribution from the Village.

3. FINANCIAL/BUDGET

Amount Requested	Fund/Account No.
Cert. Obligation	GO Funds
Other source	Grant title
Addtl tracking info	

4. TIMELINE CONSIDERATIONS

5. RECOMMENDATION

ATTACHMENTS:

	Description	Type
🗋	Draft MOU	Backup Material

MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF BEE CAVE MUNICIPAL COURT AND THE VILLAGE OF THE HILLS, TEXAS FOR HOSTING AND OPERATING MUNICIPAL COURT UNDER CONCURRENT JURISDICTION

This Memorandum of Understanding ("MOU") is between City of Bee Cave Municipal Court, (hereinafter referred to as "Bee Cave"), a home rule municipal corporation of the State of Texas, and the Village of the Hills, Texas (hereinafter referred to as "Village"), a general law type B municipal corporation of the State of Texas, regarding the hosting and operation of a municipal court of record hosted by the City of Bee Cave, Texas.

1. Bee Cave hosts a municipal court of record within its territorial and jurisdictional limits.
2. The Village, though having a municipal court pursuant to state law, does not host or operate its municipal court.
3. The Village has requested assistance in hosting and operating its municipal court.
4. Texas Government Code § 29.003(i) authorizes two municipalities to jointly create concurrent jurisdiction of their municipal courts, which allows for the municipal court for Bee Cave to have jurisdiction over offenses occurring within the territorial limits of the Village as if the municipal court of Bee Cave were the original jurisdiction.
5. The city council of the Village and the city council of Bee Cave have agreed to create such concurrent jurisdiction as authorized by state law.
6. Under this agreement, the municipal court of Bee Cave has concurrent jurisdiction over all offenses committed within the territorial limits of the Village and which would fall within the jurisdiction that a municipal court of the Village would possess under state law.
7. Under this agreement, the Presiding Judge of the Municipal Court for Bee Cave is authorized to administer the judicial tasks and supervise the court administrative tasks necessary to accomplish the utilization of concurrent jurisdiction.
8. Under this agreement, the City Attorney for Bee Cave, as the designated prosecutor for the State of Texas, is authorized to act as the attorney for the State of Texas and prosecute all offenses within the original and concurrent jurisdiction within Bee Cave municipal court jurisdiction.
9. Under this agreement, the City Manager of Bee Cave is authorized to take such necessary action within city administration tasks necessary to accomplish the intent of this agreement including coordinating with the administrative staff at the Village, coordinating with surrounding agencies, and implementing such administrative changes necessary to allow the Bee Cave municipal court to take full advantage of such concurrent jurisdiction.
10. Under this agreement, Bee Cave agrees to allocate the appropriate and required court costs to the State of Texas.

DRAFT

11. Under this agreement, and in contemplation of the costs to Bee Cave for hosting the Village's municipal court, Bee Cave will retain all fines collected from adjudicating the Village's municipal court's docket.
12. The term of this agreement begins on _____, 2023 and continues until either party terminates the agreement in accordance with 13 below.
13. This agreement may be terminated by either party with thirty (30) days written notice.

City of Bee Cave, Texas

(979) 209-5100

_____ _____
Signature Date

Village of the Hills, Texas

_____ _____
Signature Date

DRAFT

City Council Meeting
11/14/2023
Agenda Item Transmittal

Agenda Item:	**16.A.**
Agenda Title:	**Consultation with Attorney regarding pending litigation styled Citizens for Preservation of The Brown Property v. City of Bee Cave.**
Council Action:	
Department:	**City Manager**
Staff Contact:	**Clint Garza, City Manager**

1. INTRODUCTION/PURPOSE

2. DESCRIPTION/JUSTIFICATION

a) Background

b) Issues and Analysis

3. FINANCIAL/BUDGET

Amount Requested	Fund/Account No.
Cert. Obligation	GO Funds
Other source	Grant title
Addtl tracking info	

4. TIMELINE CONSIDERATIONS

5. RECOMMENDATION

City Council Meeting
11/14/2023
Agenda Item Transmittal

Agenda Item:	**16.B.**
Agenda Title:	**Deliberation regarding the potential acquisition of real property for public purposes**
Council Action:	
Department:	**City Manager**
Staff Contact:	**Clint Garza**

1. INTRODUCTION/PURPOSE

2. DESCRIPTION/JUSTIFICATION

a) Background

b) Issues and Analysis

3. FINANCIAL/BUDGET

Amount Requested	Fund/Account No.
Cert. Obligation	GO Funds
Other source	Grant title
Addtl tracking info	

4. TIMELINE CONSIDERATIONS

5. RECOMMENDATION

City Council Meeting
11/14/2023
Agenda Item Transmittal

Agenda Item:	**16.C.**
Agenda Title:	**Consultation with attorney regarding legal issues associated with city's intellectual property rights, marketing campaigns, promotional product distribution and updates in state law.**
Council Action:	
Department:	**City Manager**
Staff Contact:	**Clint Garza, City Manager**

1. INTRODUCTION/PURPOSE

2. DESCRIPTION/JUSTIFICATION

a) Background

b) Issues and Analysis

3. FINANCIAL/BUDGET

Amount Requested	Fund/Account No.
Cert. Obligation	GO Funds
Other source	Grant title
Addtl tracking info	

4. TIMELINE CONSIDERATIONS

5. RECOMMENDATION

City Council Meeting
11/14/2023
Agenda Item Transmittal