



# City of Killeen

## Agenda

### City Council

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Tuesday, March 3, 2026

3:00 PM

City Hall  
Council Chambers  
101 N. College Street  
Killeen, Texas 76541

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#### Call to Order and Roll Call

<input type="checkbox"/> Riakos Adams, Mayor	<input type="checkbox"/> Joseph Solomon
<input type="checkbox"/> Ramon Alvarez	<input type="checkbox"/> Vacant
<input type="checkbox"/> Anthony Kendrick	<input type="checkbox"/> Vacant
<input type="checkbox"/> Jessica Gonzalez	<input type="checkbox"/> Vacant

#### Invocation

#### Pledge of Allegiance

#### Approval of Agenda

#### Presentations

1. [PR-26-006](#) Presentation from Pioneers in Patient Care to Killeen Fire Department

#### Work Session

Discuss agenda items 2-11 for the March 3, 2026 Regular Session

#### Citizen Comments on Agenda Items

*This section allows members of the public to address the Council regarding any item, other than a public hearing item, on the agenda for Council's consideration. Each person shall sign up prior to the start of the Council meeting, may speak only one (1) time, and such address shall be limited to three (3) minutes. A timer will be placed so that the speaker and citizens can see it. A majority vote of the City Council is required for any time extensions. The Mayor and Councilmembers shall have one (1) minute to respond to citizen comments with a statement or explanation without engaging in dialogue.*

#### Regular Session

#### Consent Agenda

2. [MN-26-009](#) Consider Minutes of Special City Council Meeting of February 3, 2026.

3. [MN-26-010](#) Consider Minutes of Regular City Council Meeting of February 3, 2026.
4. [RS-26-038](#) Consider a memorandum/resolution approving the investment reports for the quarter ended December 31, 2025.  
**Attachments:** [Quarterly Investment Report December 31, 2025](#)  
[Presentation](#)
5. [RS-26-039](#) Consider a memorandum/resolution approving an Interlocal Agreement with League of Oregon Cities to participate in the National Purchasing Partners Government Cooperative.  
**Attachments:** [Interlocal Agreement](#)  
[Presentation](#)
6. [RS-26-040](#) Consider a memorandum/resolution consenting to the creation of an emergency services district proposed to be known as Bell County Emergency Services District No. 3, which includes a portion of the extraterritorial jurisdiction of the City of Killeen.  
**Attachments:** [Petition Letter & Bell County Filed Petition](#)  
[Map of Requested Area](#)  
[Presentation](#)
7. [RS-26-041](#) Consider a memorandum/resolution approving a Design-Build Agreement with Synergy Commercial Construction for the construction of two box hangars at Skylark Field Airport, in the amount of \$206,528.40.  
**Attachments:** [Agreement](#)  
[Certificate of Interested Parties](#)  
[Presentation](#)
8. [RS-26-042](#) Consider a memorandum/resolution approving a Design-Build Agreement with Synergy Commercial Construction for the finish out of the restroom in an existing box hangar at Skylark Field Airport, in the amount of \$143,373.05.  
**Attachments:** [Agreement](#)  
[Certificate of Interested Parties](#)  
[Presentation](#)
9. [RS-26-043](#) Consider a memorandum/resolution electing a Mayor Pro-Tem.  
**Attachments:** [Presentation](#)
10. [RS-26-044](#) Consider a memorandum/resolution appointing Councilmembers to various boards, commissions and committees.  
**Attachments:** [Presentation](#)

11. [OR-26-006](#) Consider an ordinance ordering the May 2, 2026 Special Election for the purpose of electing a Councilmember for District 3.
- Attachments:** [Ordinance](#)  
[Exhibit A - Order of Special Election for Municipalities](#)  
[Presentation](#)

### Discussion Items

12. [DS-26-020](#) Receive Quarterly Financial Report
- Attachments:** [Presentation](#)
13. [DS-26-021](#) Discuss and consider March 17, 2026 meeting date.

### Adjournment

*I certify that the above notice of meeting was posted on the Internet and on the bulletin board at Killeen City Hall on or before 5:00 p.m. on February 24, 2026.*

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Laura J. Calcote, City Secretary

*The public is hereby informed that notices for City of Killeen meetings will no longer distinguish between matters to be discussed in open or closed session of a meeting. This practice is in accordance with rulings by the Texas Attorney General that, under the Texas Open Meetings Act, the City Council may convene a closed session to discuss any matter listed on the agenda, without prior or further notice, if the matter is one that the Open Meetings Act allows to be discussed in a closed session.*

*This meeting is being conducted in accordance with the Texas Open Meetings Law [V.T.C.A., Government Code, § 551.001 et seq.]. This meeting is being conducted in accordance with the Americans with Disabilities Act [42 USC 12101 (1991)]. The facility is wheelchair accessible and handicap parking is available. Requests for sign interpretive services are available upon requests received at least 48 hours prior to the meeting. To make arrangements for those services, please call 254-501-7717, City Secretary's Office, or TDD 1-800-734-2989.*

## Notice of Meetings

*The Mayor and/or City Council have been invited to attend and/or participate in the following meetings/conferences/events. Although a quorum of the members of the City Council may or may not be available to attend this meeting, this notice is being posted to meet the requirements of the Texas Open Meetings Act and subsequent opinions of the Texas Attorney General's Office. No official action will be taken by Council.*

- *Motown Downtown, February 28, 2026, 4:00 p.m., Downtown Killeen, 324 N. Gray St – off Ave B and Gray St.*
- *Leadership Killeen Class of 2024–2025 Silhouettes Reveal and Ribbon Cutting, March 31, 2026, 11:00 a.m., Killeen Chamber of Commerce One Santa Fe Plaza*
- *51st Annual NAACP Freedom Fund & Scholarship Banquet, April 10, 2026, 6:30 p.m., Killeen Civic and Conference Center*

**Dedicated Service -- Every Day, for Everyone!**



# City of Killeen

## Staff Report

File Number: PR-26-006

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Presentation from Pioneers in Patient Care to Killeen Fire Department



# City of Killeen

## Staff Report

File Number: MN-26-009

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Consider Minutes of Special City Council Meeting of February 3, 2026.

**City of Killeen**  
Special City Council Meeting  
Killeen City Hall  
February 3, 2026 at 2:00 p.m.

Presiding: Mayor Debbie Nash-King

Attending: Mayor Protem Riakos Adams, Councilmembers Anthony Kendrick, Nina Cobb (*arrived at 2:30 p.m.*), Joseph Solomon (*arrived at 2:01 p.m.*), Ramon Alvarez and Jessica Gonzalez

Also attending were City Manager Kent Cagle, Assistant City Manager Jeffery Reynolds, City Attorney Holli Clements, City Secretary Laura Calcote and Sergeant-at-Arms Moore

### Approval of Agenda

*Motion was made by Councilmember Alvarez to approve the agenda, as presented. Motion was seconded by Mayor Protem Adams. The motion carried unanimously (4-0).*

### Executive Session

**DS-26-008** Discuss and conduct interviews for Councilmember At-Large applicants

At 2:04 p.m., Mayor Nash King called for City Council to recess the meeting into Executive Session.

Per V.T.C.A., Government Code Section 551.074 - Personnel Matters, the City Council will interview and discuss applicants for the vacant Councilmember At-Large position.

At 2:58 p.m., Mayor Nash King reconvened the City Council meeting into Regular Session.

### Citizen Comments on Agenda Items

Mellisa Brown spoke regarding RS-26-022.

Michael Fornino spoke regarding RS-26-022.

Sherry Volpicella spoke regarding RS-26-022.

### Resolutions

**RS-26-022** Discuss candidates and consider a potential memorandum/resolution appointing a Councilmember to fill the unexpired term for the Councilmember At-Large vacancy.

*Motion was made by Councilmember Solomon to not appoint a Councilmember At-Large and to disapprove RS-26-022. Motion was seconded by Councilmember Kendrick. The motion carried 4-1-1, with Councilmember Alvarez in opposition and Councilmember Gonzalez abstaining.*

### Adjournment

With no further business, upon motion being made by Mayor Protem Adams, seconded by Councilmember Alvarez, and unanimously approved, the meeting was adjourned at 3:11 p.m.



# City of Killeen

## Staff Report

File Number: MN-26-010

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Consider Minutes of Regular City Council Meeting of February 3, 2026.

**City of Killeen**  
City Council Meeting  
Killeen City Hall  
February 3, 2026 at 3:31 p.m.

Presiding: Mayor Debbie Nash-King

Attending: Mayor Protem Riakos Adams, Councilmembers Anthony Kendrick, Nina Cobb, Joseph Solomon, Ramon Alvarez and Jessica Gonzalez

Also attending were City Manager Kent Cagle, Assistant City Manager Jeffery Reynolds, Assistant City Manager Laurie Wilson, City Attorney Holli Clements, City Secretary Laura Calcote and Sergeant-at-Arms Moore

Don Smith gave the invocation. Councilmember Gonzalez led everyone in the Pledge of Allegiance.

### Approval of Agenda

*Motion was made by Mayor Protem Adams to approve the agenda, as presented. Motion was seconded by Councilmember Kendrick. The motion carried unanimously (6-0).*

### Presentations

**PR-26-004** Presentation of two awards from the Killeen Rodeo Committee to City Council

Killeen Rodeo Committee Co-Chairs, Brett Gordon and Mike Adamson, presented the City Council with two plaques honoring the 2025 Rodeo Killeen.

### Work Session

Discuss agenda items 2 - 9 for the February 3, 2026 Regular Session

### Citizen Comments on Agenda Items

Michael Fornino spoke regarding RS-26-026 and DS-26-009.

Mellisa Brown spoke regarding RS-26-026, DS-26-009 and DS-26-010.

Khandiese Cooper spoke regarding DS-26-011.

Ashley Smith spoke regarding OR-26-004.

**Regular Session**

**Consent Agenda**

- MN-26-006** Consider Minutes of Regular City Council Meeting of January 6, 2026.
- MN-26-007** Consider Minutes of Special City Council Meeting of January 6, 2026.
- RS-26-023** Consider a memorandum/resolution authorizing City of Killeen officials to submit the grant application for the Fiscal Year 2027 Victims of Crime Act (VOCA) Crisis Assistance Program grant through the Office of the Governor, Criminal Justice Division and to accept any subsequently awarded grant.
- RS-26-024** Consider a memorandum/resolution approving a Letter of Agreement with MoboTrex, LLC for upgrading traffic signal system equipment for year one of a five-year maintenance plan, in the amount of \$616,126.00.
- RS-26-025** Consider a memorandum/resolution approving a Chapter 311 tax increment reimbursement agreement with Killeen Investments, LLC, for the reimbursement of off-site public improvements and additions to the City's wastewater sewer system, in the amount of \$119,865.00.
- RS-26-026** Consider a memorandum/resolution appointing members to the Charter Review Committee.
- RS-26-027** Consider a memorandum/resolution approving Early Voting and Election Day Joint Election Contracts with Killeen Independent School District.
- OR-26-004** Consider an ordinance ordering the May 2, 2026 General Election for the purpose of electing a Mayor and three Councilmembers At-Large.

The City Secretary read the caption of the ordinance:

**AN ORDINANCE ORDERING THE HOLDING OF AN ELECTION IN THE CITY OF KILLEEN, TEXAS, FOR THE PURPOSE OF ELECTING A MAYOR AND THREE COUNCILMEMBERS AT-LARGE; PROVIDING FOR THE FILING OF WRITTEN APPLICATION TO HAVE THEIR NAMES PRINTED ON THE OFFICIAL BALLOT; SPECIFYING THAT THE PROVISIONS OF THE GENERAL ELECTION LAWS SHALL CONTROL ALL QUESTIONS PERTAINING TO SUCH ELECTION; DESIGNATING THE POLLING LOCATIONS; PRESCRIBING THE CONTENTS OF THE OFFICIAL BALLOT; PROVIDING FOR ELECTION WORKER COMPENSATION; AND PROVIDING FOR POSTING AND PUBLICATION OF NOTICE OF ELECTION AND CONTAINING MISCELLANEOUS PROVISIONS.**

*Motion was made by Mayor Protem Adams to approve the Consent Agenda, as presented. Motion was seconded by Councilmember Kendrick. The motion carried unanimously (6-0).*

### Discussion Items

**DS-26-009** Discuss and consider scope of review for the Charter Review Committee

Staff Comments: Holli Clements, City Attorney  
Ms. Clements presented this item to City Council for discussion and consideration. City Council discussed several Charter review topics, which included, but were not limited to, recall procedures, moving city elections to November in odd-numbered years and Council term limits and compensation.

*Motion of direction was made by Councilmember Alvarez to approve and reference the City Attorney overview of the Charter amendments for Articles 3, 6, 9 and 10. Motion was seconded by Mayor Protem Adams. The motion carried unanimously (6-0).*

**DS-26-010** Discussion regarding land banking

Staff Comments: Wallis Meshier, Executive Director of Development Services  
Ms. Meshier presented this item to City Council for discussion. Ms. Meshier was available to provide additional information and to answer questions.

*Motion of direction was made by Councilmember Alvarez for staff to proceed with Alternative #3: Assembly of Properties: Establish a "Parcels in Trust" program, but assemble the foreclosed properties in accordance with LGC, Sec. 272.001(g), and sell a group of properties to a single developer for the purpose creating of low to moderate income housing. Motion was seconded by Councilmember Cobb. The motion carried unanimously (6-0).*

**DS-26-011** Reunification Center Project and RFQ Update

Staff Comments: Tiffanie McNair, Executive Director of Community Development  
Ms. McNair presented this item to City Council for discussion. Ms. McNair was available to provide additional information and to answer questions.

*Motion of direction was made by Mayor Protem Adams to direct staff to proceed with engaging with Families In Crisis for emergency shelter expansion and CenTex-ARC for a transitional housing project. Motion was seconded by Councilmember Cobb. The motion carried unanimously (5-0).*

**DS-26-012** Proposed change to operational hours for Municipal Court and Utility Collections

Staff Comments: Lorianne Luciano, Assistant Director of Finance  
Ms. Luciano presented this item to City Council for discussion and consideration. Ms. Luciano was available to provide additional information and to answer questions.

*Motion of direction was made by Mayor Protem Adams for staff to proceed, as presented, with the new operational hours for Utility Collections from 7:00 a.m. - 6:00 p.m. and Municipal Court from 7:15 a.m. - 5:30 p.m. and for implementation to begin in April 2026. Motion was seconded by*

*Councilmember Kendrick. The motion carried unanimously (6-0).*

**DS-26-013** Discuss Financial Governance Policy Updates

Staff Comments: Lorianne Luciano, Assistant Director of Finance  
Ms. Luciano presented this item to City Council for discussion. Ms. Luciano was available to provide additional information and to answer questions.

**DS-26-014** City Auditor Briefing

Staff Comments: Matthew Grady, City Auditor  
Mr. Grady presented this item to City Council for discussion. Mr. Grady was available to provide additional information and to answer questions.

**Executive Session**

**DS-26-015** Conduct Annual Evaluation of the City Auditor

At 5:58 p.m., Mayor Nash King called for City Council to recess the meeting into Executive Session.

Per V.T.C.A., Government Code Section 551.074 - Personnel Matters, the City Council will conduct a City Auditor annual review. Public discussion of this matter would not be in the best interest of the city.

At 6:22 p.m., Mayor Nash King reconvened the City Council meeting into Regular Session.

**Resolutions**

**RS-26-028** Consider a memorandum/resolution confirming the City Auditor's annual evaluation and consideration for an adjustment to pay.

*Motion was made by Councilmember Alvarez to approve RS-26-028 and to provide the City Auditor with a five percent (5%) cost of living increase. Motion was seconded by Councilmember Kendrick. The motion carried unanimously (6-0).*

**Adjournment**

With no further business, upon motion being made by Mayor Protem Adams, seconded by Councilmember Alvarez, and unanimously approved, the meeting was adjourned at 6:23 p.m.



# City of Killeen

## Staff Report

File Number: RS-26-038

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Consider a memorandum/resolution approving the investment reports for the quarter ended December 31, 2025.

**DATE:** March 3, 2026  
**TO:** Kent Cagle, City Manager  
**FROM:** Judith Tangalin, Executive Director of Finance  
**SUBJECT:** Quarterly Investment Report

### **BACKGROUND AND FINDINGS:**

The attached investment reports summarize all investment activity for the quarter ended December 31, 2025. The highlights of the report are as follows:

#### **Quarter ended December 31, 2025:**

	July -Sept. 2025	Oct -Dec. 2025	Change
Interest Income	\$3,179,662	\$3,098,789	-2.54%
Investment Balance	\$284,690,582	\$332,814,504	16.90%
Average Yield	4.20%	4.04%	-3.81%

### **THE ALTERNATIVES CONSIDERED:**

N/A

#### **Which alternative is recommended? Why?**

N/A

### **CONFORMITY TO CITY POLICY:**

The City of Killeen's investment policy requires that a quarterly report of investment activity be submitted to the City Council within a reasonable time after the end of each quarter. The quarterly report includes a detailed description of the investment position of the City, summarizes the investment activity in each pooled fund group, states the total rate of return on the investment portfolio, and contains information regarding the market value and book value of each separately invested asset.

**FINANCIAL IMPACT:**

**What is the amount of the revenue/expenditure in the current fiscal year? For future years?**

N/A

**Is this a one-time or recurring revenue/expenditure?**

N/A

**Is this revenue/expenditure budgeted?**

N/A

**If not, where will the money come from?**

N/A

**Is there a sufficient amount in the budgeted line-item for this revenue/expenditure?**

N/A

**RECOMMENDATION:**

City Council approve the attached investment reports for the quarter that ended December 31, 2025.

**DEPARTMENTAL CLEARANCES:**

Legal

**ATTACHED SUPPORTING DOCUMENTS:**

Quarterly Investment Report December 31, 2025  
Presentation



PUBLIC FUNDS ADVISORY

# City of Killeen

## Quarterly Investment Report

PRESENTED BY:

SCOTT GRUBER, CMT - DIRECTOR, ADVISORY SERVICES

DECEMBER 31, 2025



MEEDER  
PUBLIC FUNDS

# Compliance Certification



The undersigned have acknowledged that they have reviewed this quarterly investment report for the period ending December 31, 2025. The City officials designated as investment officers by the City's Investment Policy attest that all investments are in compliance with the Texas Public Funds Investment Act and the City's Investment Policy.

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Executive Director of Finance

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Assistant Director of Executive Finance

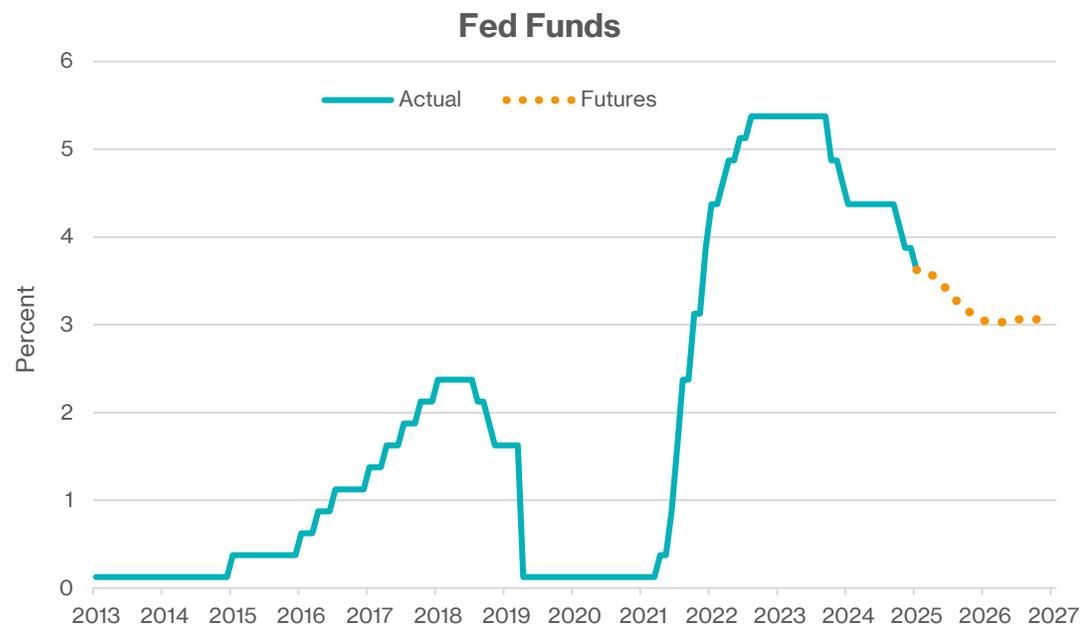
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Controller

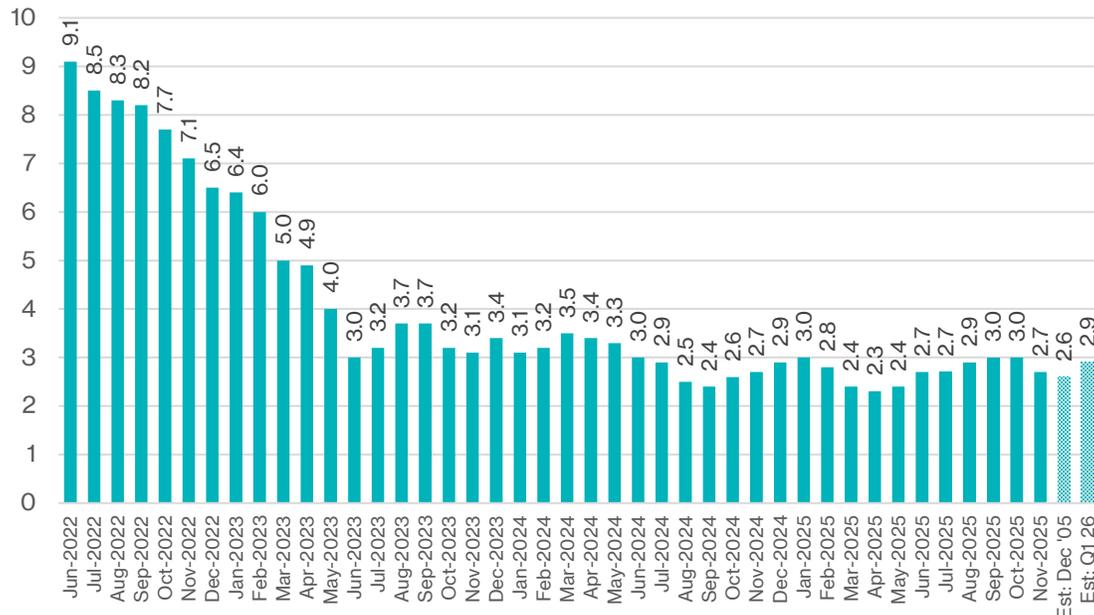
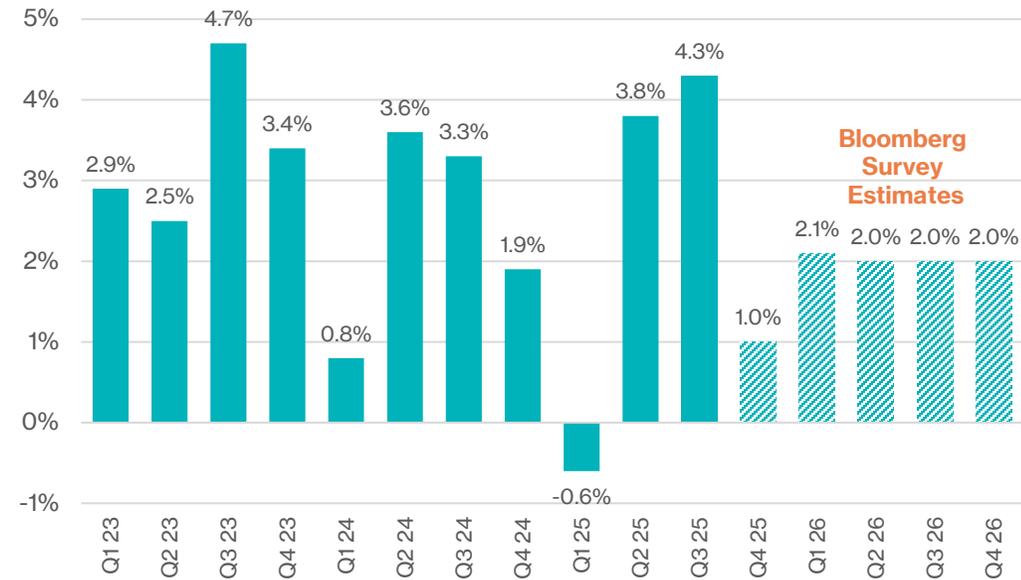
## OBSERVATIONS AND EXPECTATIONS

- Interest rates across the yield curve were lower for 2025, except for the 30-Yr T-Bond
- Softening of the labor market was the primary catalyst for lower rates
- GDP continued to grow strongly in Q3 2025, posting a 4.3% rate
- The futures market is projecting the Fed Funds rate to bottom out around 3% in 2026-27
- Inflation remains sticky and above the Fed 2 percent target rate

- The Fed Funds futures market is expecting two .25% rate cuts during 2026.
- The Federal Reserve's median Dot Plot shows only one cut for 2026.



- Economists surveyed by Bloomberg are expecting a slowing of GDP for Q4 2025 due to the federal government shutdown.
- Consumer spending, which comprises about 70% of U.S. economic activity, is projected to remain positive for 2026, especially spending by those in the upper-half of income levels.

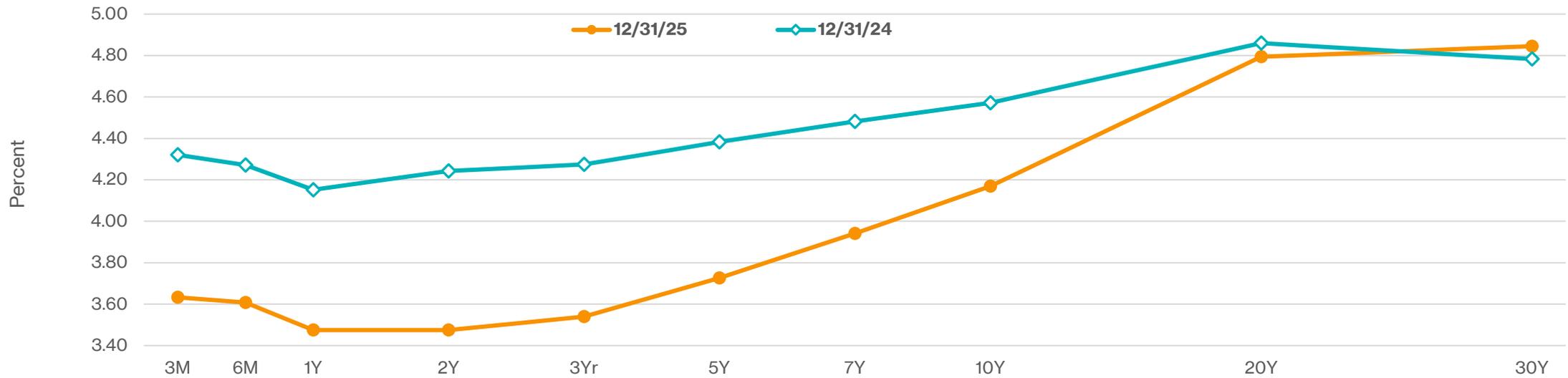
**CPI YoY Percent**

**Real GDP QoQ**


SOURCES: BLOOMBERG

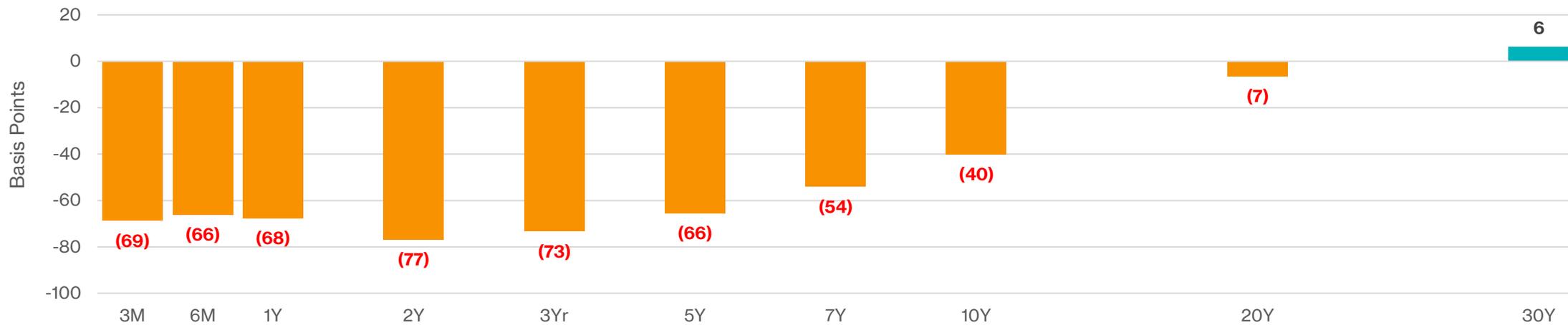
- Inflation remains above the Fed's 2% target on a year-over-year basis.
- Bloomberg's survey of economists predicts inflation will climb in the first part of 2026.

SOURCE: BLOOMBERG

### U.S. Treasury Yield Curve Change



### Basis Point Change





**M E E D E R**  
PUBLIC FUNDS

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# PORTFOLIO REVIEW

# Quarterly Portfolio Summary – All Funds



This quarterly report is prepared in compliance with the Investment Policy and Strategy of the City of Killeen and the Public Funds Investment Act (Chapter 2256, Texas Government Code).

Portfolio as of September 30, 2025		Portfolio as of December 31, 2025	
Beginning Book Value	\$285,761,373	Ending Book Value	\$333,268,156
Beginning Market Value	\$287,119,929	Ending Market Value	\$335,003,094
Unrealized Gain/(Loss)	\$1,358,556	Unrealized Gain/(Loss)	\$1,734,939
		Change in Unrealized Gain/(Loss)	\$133,459
Weighted Average Maturity	500 days	Weighted Average Maturity	439 days
Weighted Average Yield	4.27%	Weighted Average Yield	4.03%

Portfolio Market Value by Fund	9/30/2025	12/31/2025	Change
Pooled Investments	\$286,292,061.65	\$334,549,442.42	\$48,257,380.77
Internal Services Fund	\$189,553.28	\$188,208.53	(\$1,344.75)
Enterprise Funds	\$261.47	\$289.27	\$27.80
General Fund	\$308,081.11	\$265,153.94	(\$42,927.17)
<b>Total</b>	<b>\$286,789,957.51</b>	<b>\$335,003,094.16</b>	<b>\$48,213,136.65</b>

# Portfolio Summary – Investment Pool

As of 12/31/2025

## Your Portfolio

Cash/LGIPs	\$123,947,102
Securities Book Value	\$208,867,402
Total Portfolio Book Value	\$332,814,504

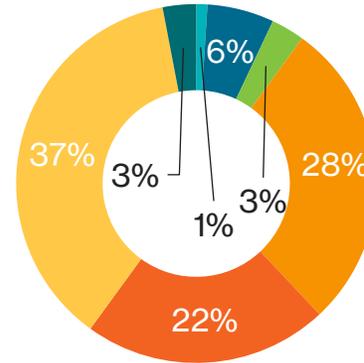
## Your Securities

Weighted Average Maturity	1.21 years
Weighted Average Yield	4.04%

## Interest Earnings:

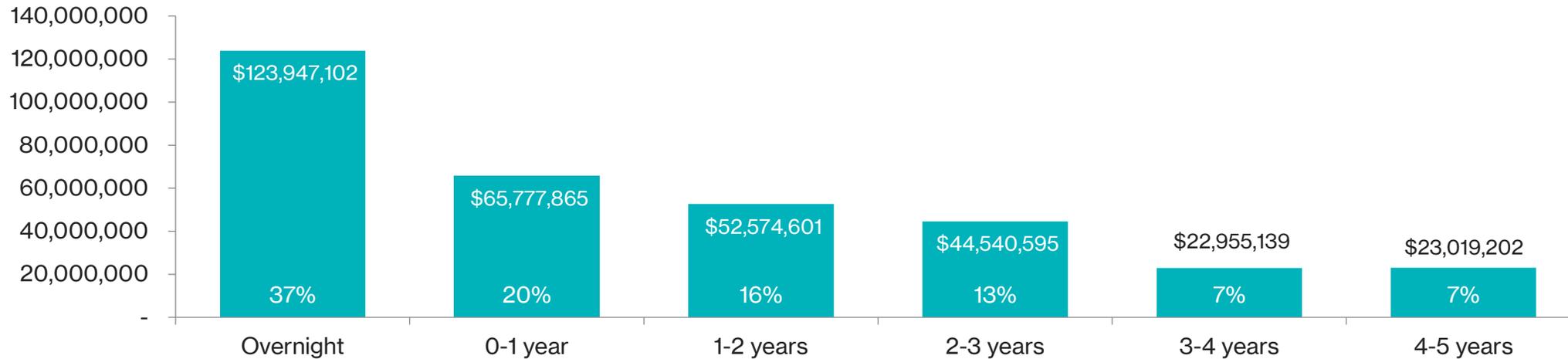
Quarterly Interest Earned	\$3,098,789
Year-to-date Interest Earned	\$3,098,789

## Your Asset Allocation



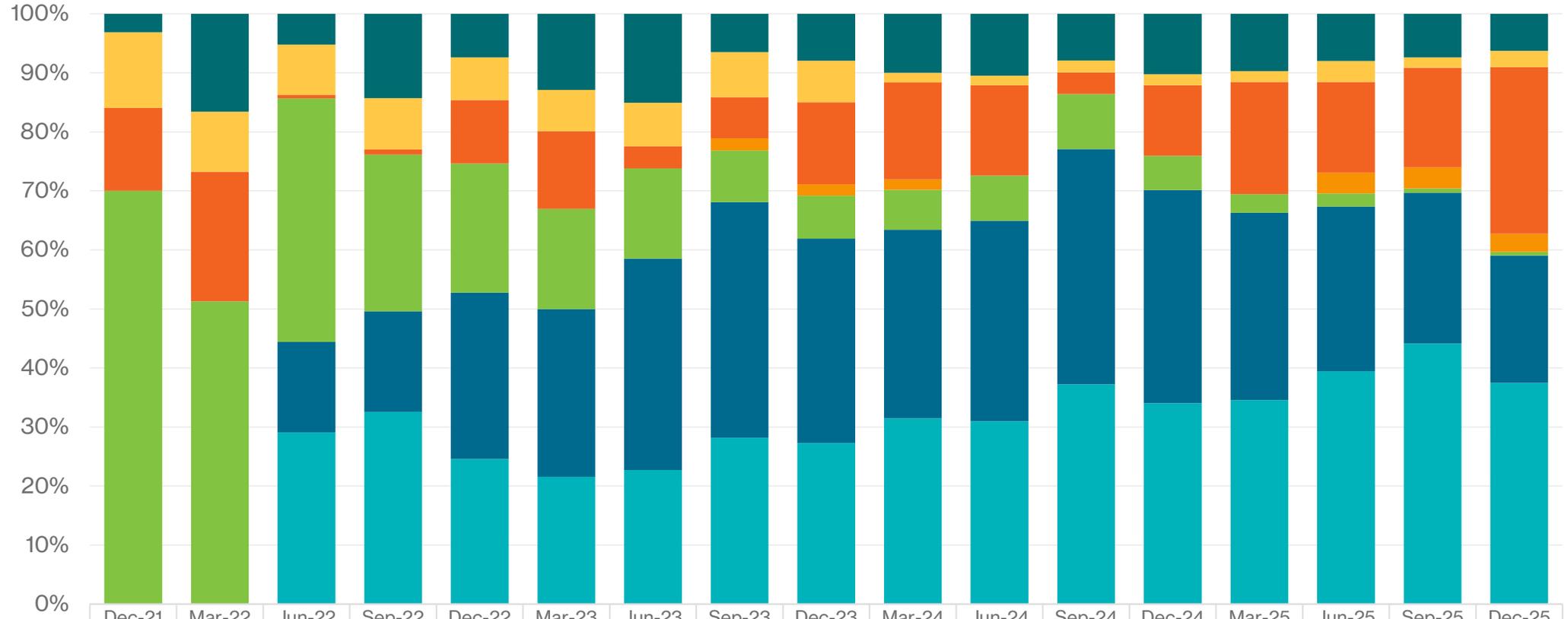
- Certificates of Deposit
- Cash & Equivalents
- Money market
- Local Government Investment Pools
- US Government Agencies
- US Treasuries
- Commercial Paper

## Your Maturity Distribution



YIELD AND INTEREST INCOME INFORMATION IS ANNUALIZED. ALL YIELD INFORMATION IS SHOWN GROSS OF ANY ADVISORY AND CUSTODY FEES AND IS BASED ON YIELD TO MATURITY AT COST. PAST PERFORMANCE IS NOT A GUARANTEE OF FUTURE RESULTS.

# Asset Composition



	Dec-21	Mar-22	Jun-22	Sep-22	Dec-22	Mar-23	Jun-23	Sep-23	Dec-23	Mar-24	Jun-24	Sep-24	Dec-24	Mar-25	Jun-25	Sep-25	Dec-25
■ Cash	3.11%	16.59%	5.19%	14.28%	7.38%	12.88%	15.07%	6.49%	7.95%	10.01%	10.48%	7.91%	10.25%	9.70%	7.98%	7.36%	6.28%
■ Money Market	12.83%	10.18%	8.52%	8.71%	7.25%	7.01%	7.40%	7.63%	7.05%	1.61%	1.65%	1.99%	1.89%	1.84%	3.55%	1.77%	2.77%
■ LGIPs	14.02%	21.93%	0.61%	0.87%	10.73%	13.14%	3.69%	6.97%	13.89%	16.43%	15.26%	3.68%	11.93%	19.00%	15.39%	16.89%	28.19%
■ Commercial Paper	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	0.00%	2.08%	1.92%	1.79%	0.00%	0.00%	0.00%	0.00%	3.52%	3.57%	3.08%
■ Certificates of Deposit	70.03%	51.29%	41.26%	26.53%	21.89%	17.00%	15.30%	8.76%	7.25%	6.72%	7.68%	9.32%	5.81%	3.15%	2.21%	0.72%	0.62%
■ U.S. Government Agencies	0.00%	0.00%	15.31%	17.04%	28.15%	28.39%	35.83%	39.88%	34.63%	31.97%	33.94%	39.86%	36.08%	31.73%	27.89%	25.54%	21.59%
■ U.S. Treasury Securities	0.00%	0.00%	29.11%	32.57%	24.59%	21.59%	22.70%	28.20%	27.31%	31.48%	30.99%	37.23%	34.05%	34.59%	39.46%	44.16%	37.46%

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**Meeder Public Funds**  
901 Mopac Expressway South  
Building 1, Suite 300  
Austin, TX 78746

866.633.3371



**M E E D E R**

**PUBLIC FUNDS**

[MeederPublicFunds.com](http://MeederPublicFunds.com)



PUBLIC FUNDS ADVISORY

# City of Killeen

## Quarterly Investment Report

PRESENTED BY:

SCOTT GRUBER, CMT - DIRECTOR, ADVISORY SERVICES

DECEMBER 31, 2025

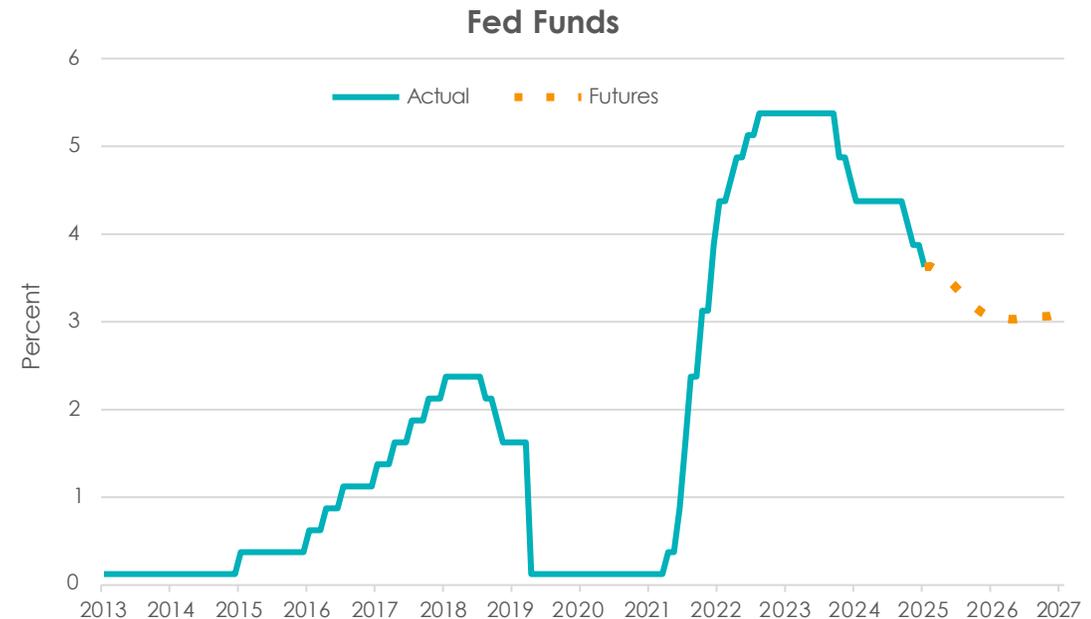


MEEDER  
PUBLIC FUNDS

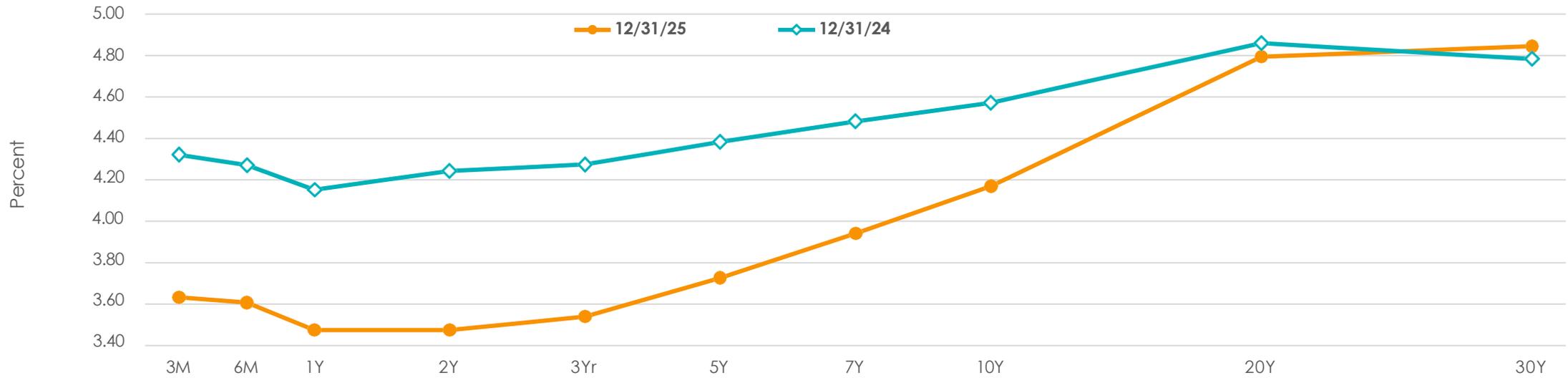
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- The futures market is projecting the Fed Funds rate to bottom out around 3% in 2026-27
- Inflation remains sticky and above the Fed 2 percent target rate

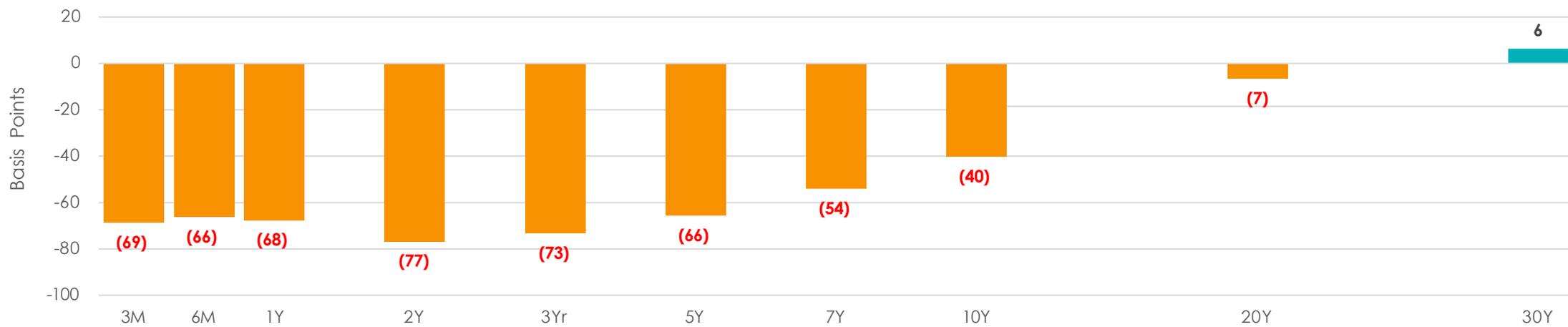
- The Fed Funds futures market is expecting two .25% rate cuts during 2026.
- The Federal Reserve's median Dot Plot shows only one cut for 2026.



### U.S. Treasury Yield Curve Change



### Basis Point Change



# Quarterly Portfolio Summary – All Funds



This quarterly report is prepared in compliance with the Investment Policy and Strategy of the City of Killeen and the Public Funds Investment Act (Chapter 2256, Texas Government Code).

Portfolio as of September 30, 2025		Portfolio as of December 31, 2025	
Beginning Book Value	\$285,761,373	Ending Book Value	\$333,268,156
Beginning Market Value	\$287,119,929	Ending Market Value	\$335,003,094
Unrealized Gain/(Loss)	\$1,358,556	Unrealized Gain/(Loss)	\$1,734,939
		Change in Unrealized Gain/(Loss)	\$133,459
Weighted Average Maturity	500 days	Weighted Average Maturity	439 days
Weighted Average Yield	4.27%	Weighted Average Yield	4.03%

Portfolio Market Value by Fund	9/30/2025	12/31/2025	Change
Pooled Investments	\$286,292,061.65	\$334,549,442.42	\$48,257,380.77
Internal Services Fund	\$189,553.28	\$188,208.53	(\$1,344.75)
Enterprise Funds	\$261.47	\$289.27	\$27.80
General Fund	\$308,081.11	\$265,153.94	(\$42,927.17)
<b>Total</b>	<b>\$286,789,957.51</b>	<b>\$335,003,094.16</b>	<b>\$48,213,136.65</b>

# Portfolio Summary – Investment Pool

As of 12/31/2025

## Your Portfolio

Cash/LGIPs	\$123,947,102
Securities Book Value	\$208,867,402
Total Portfolio Book Value	\$332,814,504

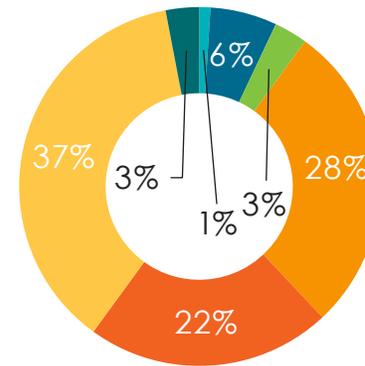
## Your Securities

Weighted Average Maturity	1.21 years
Weighted Average Yield	4.04%

## Interest Earnings:

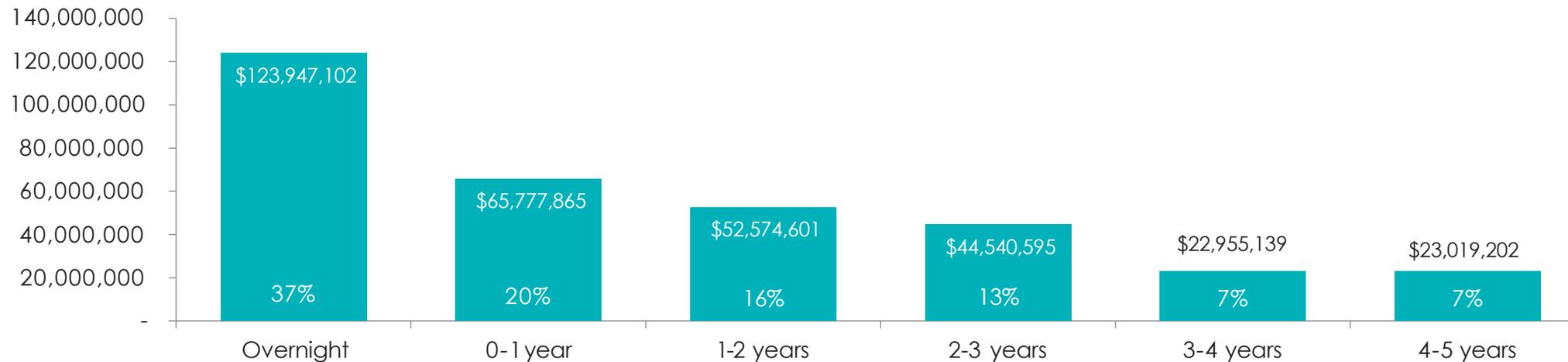
Quarterly Interest Earned	\$3,098,789
Year-to-date Interest Earned	\$3,098,789

## Your Asset Allocation



- Certificates of Deposit
- Cash & Equivalents
- Money market
- Local Government Investment Pools
- US Government Agencies
- US Treasuries
- Commercial Paper

## Your Maturity Distribution



YIELD AND INTEREST INCOME INFORMATION IS ANNUALIZED. ALL YIELD INFORMATION IS SHOWN GROSS OF ANY ADVISORY AND CUSTODY FEES AND IS BASED ON YIELD TO MATURITY AT COST. PAST PERFORMANCE IS NOT A GUARANTEE OF FUTURE RESULTS.



**M E E D E R**

**PUBLIC FUNDS**

MeederPublicFunds.com



# City of Killeen

## Staff Report

File Number: RS-26-039

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Consider a memorandum/resolution approving an Interlocal Agreement with League of Oregon Cities to participate in the National Purchasing Partners Government Cooperative.

**DATE:** March 3, 2026

**TO:** Kent Cagle, City Manager

**FROM:** Judith Tangalin, Executive Director of Finance

**SUBJECT:** National Purchasing Partners Government Cooperative

### **BACKGROUND AND FINDINGS:**

In accordance with Texas Local Government Code, Section 271.102, Subchapter F, a local government may participate in a cooperative purchasing program, which satisfies state law requirements related to competitive bidding for the purchase of goods and services. Participation in a cooperative purchasing program allows the City to procure goods and services through contracts that have been competitively solicited and awarded by another governmental entity in compliance with applicable procurement laws.

National Purchasing Partners Government Cooperative (NPPGov) is a public sector purchasing cooperative administered through National Purchasing Partners (NPP). The League of Oregon Cities serves as a lead public agency for NPPGov and conducts competitive solicitations utilizing industry best practices and procurement procedures that comply with applicable laws. Contracts are awarded based on best value and made available to participating governmental entities nationwide. Participation in the NPPGov cooperative allows the City to leverage the collective purchasing power of multiple public agencies, increasing buying power and potentially reducing costs through volume pricing and pre-negotiated contract terms, with cost savings ranging from approximately 10% to as much as 65% on certain contracts. In addition, the use of cooperative contracts reduces the administrative time and resources associated with issuing separate solicitations while maintaining compliance with competitive procurement requirements.

NPPGov provides access to a wide range of vendors offering goods and services that support municipal operations, including facilities, information technology, fleet, public safety, and other operational needs. Participation in the cooperative does not obligate the City to utilize any specific vendor or contract but provides an additional procurement option when determined to be in the City's best interest.

### **THE ALTERNATIVES CONSIDERED:**

N/A

**Which alternative is recommended? Why?**

N/A

**CONFORMITY TO CITY POLICY:**

Yes, Pursuant to the Interlocal Cooperation Act, Texas Government Code Chapter 791, the City is authorized to enter into an interlocal agreement with another governmental entity to participate in shared governmental functions, including cooperative purchasing.

**FINANCIAL IMPACT:**

**What is the amount of the revenue/expenditure in the current fiscal year? For future years?**

There is no cost to join the NPPgov purchasing cooperative.

**Is this a one-time or recurring revenue/expenditure?**

N/A

**Is this revenue/expenditure budgeted?**

N/A

**If not, where will the money come from?**

N/A

**Is there a sufficient amount in the budgeted line-item for this revenue/expenditure?**

N/A

**RECOMMENDATION:**

City Council approve the interlocal agreement with League of Oregon Cities to participate in the National Purchasing Partners Government Cooperative and authorize the City Manager or designee to execute the interlocal agreement and any supplemental agreement as allowed by state and local law.

**DEPARTMENTAL CLEARANCES:**

Finance  
Legal

**ATTACHED SUPPORTING DOCUMENTS:**

Interlocal Agreement  
Presentation



## **Intergovernmental Cooperative Purchasing Agreement**

This Intergovernmental Agreement (Agreement) is by and between the “Lead Contracting Agency” and participating government entities (“Participating Agencies”), that are members of National Purchasing Partners (“NPPGov”), including members of Public Safety GPO, First Responder GPO, Law Enforcement GPO, Education GPO and EMS GPO that agree to the terms and conditions of this Agreement. The Lead Contracting Agency and all Participating Agencies shall be considered as “parties” to this agreement.

WHEREAS, upon completion of a formal competitive solicitation and selection process, the Lead Contracting Agency has entered into Master Price Agreements with one or more Vendors to provide goods and services, often based on national sales volume projections;

WHEREAS, NPPGov provides group purchasing, marketing and administrative support for governmental entities. NPPGov’s marketing and administrative services are free to its membership, which includes participating public entities and nonprofit institutions throughout North America.

WHEREAS, NPPGov has instituted a cooperative purchasing program under which member Participating Agencies may reciprocally utilize competitively solicited Master Price Agreements awarded by the Lead Contracting Agency;

WHEREAS, the Master Price Agreements provide that all qualified government members of NPPGov may purchase goods and services on the same terms, conditions and pricing as the Lead Contracting Agency, subject to applicable local and state laws of the Participating Agencies;

WHEREAS, the parties agree to comply with the requirements of the Intergovernmental Cooperation Act as may be applicable to the local and state laws of the Participating Agencies;

WHEREAS, the parties desire to conserve and leverage resources, and to improve the efficiency and economy of the procurement process while reducing solicitation and procurement costs;

WHEREAS, the parties are authorized and eligible to contract with governmental bodies and Vendors to perform governmental functions and services, including the purchase of goods and services; and

WHEREAS, the parties desire to contract with Vendors under the terms of the Master Price Agreements;

NOW, THEREFORE, the parties agree as follows:

**ARTICLE 1: LEGAL AUTHORITY**

Each party represents and warrants that it is eligible to participate in this Agreement because it is a local government created and operated to provide one or more governmental functions and possesses adequate legal authority to enter into this Agreement.

**ARTICLE 2: APPLICABLE LAWS**

The procurement of goods and services subject to this Agreement shall be conducted in accordance with and subject to the relevant statutes, ordinances, rules, and regulations that govern each party's procurement policies. Competitive Solicitations are intended to meet the public contracting requirements of the Lead Contracting Agency and may not be appropriate under, or satisfy Participating Agencies' procurement laws. It is the responsibility of each party to ensure it has met all applicable solicitation and procurement requirements. Participating Agencies are urged to seek independent review by their legal counsel to ensure compliance with all local and state solicitation requirements.

**ARTICLE 3: USE OF BID, PROPOSAL OR PRICE AGREEMENT**

- a. A "procuring party" is defined as the Lead Contracting Agency or any Participating Agency that desires to purchase from the Master Price Agreements awarded by the Lead Contracting Agency.
- b. Each procuring party shall be solely responsible for their own purchase of goods and services under this Agreement. A non-procuring party shall not be liable in any fashion for any violation of law or contract by a procuring party, and the procuring party shall hold non-procuring parties and all unrelated procuring parties harmless from any liability that may arise from action or inaction of the procuring party.
- c. The procuring party shall not use this agreement as a method for obtaining additional concessions or reduced prices for similar goods and services outside the scope of the Master Price Agreement.
- d. The exercise of any rights or remedies by the procuring party shall be the exclusive obligation of such procuring party.
- e. The cooperative use of bids, proposals or price agreements obtained by a party to this Agreement shall be in accordance with the terms and conditions of the bid, proposal or price agreement, except as modified where otherwise allowed or required by applicable law, and does not relieve the party of its other solicitation requirements under state law or local policies.

**ARTICLE 4: PAYMENT OBLIGATIONS**

The procuring party will make timely payments to Vendors for goods and services received in accordance with the terms and conditions of the procurement. Payment for goods and services, inspections and acceptance of goods and services ordered by the procuring party shall be the exclusive obligation of such procuring party. Disputes between procuring party and Vendor shall be resolved in accordance with the law and venue rules of the state of the procuring party.

**ARTICLE 5: COMMENCEMENT DATE**

This Agreement shall take effect after execution of the “Lead Contracting Agency Endorsement and Authorization” or “Participating Agency Endorsement and Authorization,” as applicable.

**ARTICLE 6: TERMINATION OF AGREEMENT**

This Agreement shall remain in effect until terminated by a party giving 30 days written notice to “Lead Contracting Agency”

**ARTICLE 7: ENTIRE AGREEMENT**

This Agreement and any attachments, as provided herein, constitute the complete Agreement between the parties hereto, and supersede any and all oral and written agreements between the parties relating to matters herein.

**ARTICLE 8: CHANGES AND AMENDMENTS**

This Agreement may be amended only by a written amendment executed by all parties, except that any alterations, additions, or deletions of this Agreement which are required by changes in Federal and State law or regulations are automatically incorporated into this Agreement without written amendment hereto and shall become effective on the date designated by such law or regulation.

**ARTICLE 9: SEVERABILITY**

All parties agree that should any provision of this Agreement be determined to be invalid or unenforceable, such determination shall not affect any other term of this Agreement, which shall continue in full force and effect.

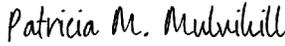
**THIS INSTRUMENT HAS BEEN EXECUTED IN TWO OR MORE ORIGINALS BY EXECUTION AND ATTACHMENT OF “THE LEAD CONTRACTING AGENCY ENDORSEMENT AND AUTHORIZATION” OR “PARTICIPATING AGENCY ENDORSEMENT AND AUTHORIZATION,” AS APPLICABLE. ONCE EXECUTED, IT IS THE RESPONSIBILITY OF EACH PARTY TO FILE THIS AGREEMENT WITH THE PROPER AGENCY IF REQUIRED BY LOCAL OR STATE LAW.**

**LEAGUE OF OREGON CITIES  
ENDORSEMENT AND AUTHORIZATION**

The undersigned acknowledges, on behalf of the League of Oregon Cities (“Lead Contracting Agency”) that he/she has read and agrees to the general terms and conditions set forth in the enclosed Intergovernmental Cooperative Purchasing Agreement regulating use of the Master Price Agreements and purchase of goods and services that from time to time are made available by the League of Oregon Cities to Participating Agencies locally, regionally, and nationally through NPPGov. Copies of Master Price Agreements and any amendments thereto made available by the League of Oregon Cities will be provided to Participating Agencies and NPPGov to facilitate use by Participating Agencies.

The undersigned understands that the purchase of goods and services under the provisions of the Intergovernmental Cooperative Purchasing Agreement is at the absolute discretion of the Participating Agencies.

The undersigned affirms that he/she is an agent of the League of Oregon Cities and is duly authorized to sign this League of Oregon Cities Endorsement and Authorization.

Signed by:  \_\_\_\_\_ Date: January 19, 2026  
0BD4F25C35F54D0...

BY: Patricia M. Mulvihill  
ITS: Executive Director

League of Oregon Cities Contact Information:

Contact Person: Kevin Toon  
Address: 1201 Court St NE #200, Salem, OR 97301  
Telephone No.: 503-588-6550  
Email: [rfp@orcities.org](mailto:rfp@orcities.org)

**PARTICIPATING AGENCY  
ENDORSEMENT AND AUTHORIZATION**

The undersigned acknowledges, on behalf of \_\_\_\_\_ (“Participating Agency”) that he/she has read and agrees to the general terms and conditions set forth in the enclosed Intergovernmental Cooperative Purchasing Agreement regulating use of the Master Price Agreements and purchase of goods and services that from time to time are made available by the Lead Contracting Agency to Participating Agencies locally, regionally, and nationally through NPPGov.

The undersigned further acknowledges that the purchase of goods and services under the provisions of the Intergovernmental Cooperative Purchasing Agreement is at the absolute discretion of the Participating Agency and that neither the Lead Contracting Agency nor NPPGov shall be held liable for any costs or damages incurred by or as a result of the actions of the Vendor or any other Participating Agency. Upon award of contract, the Vendor shall deal directly with the Participating Agency concerning the placement of orders, disputes, invoicing and payment.

The undersigned affirms that he/she is an agent of \_\_\_\_\_ and is duly authorized to sign this Participating Agency Endorsement and Authorization.

\_\_\_\_\_ Date: \_\_\_\_\_  
BY: \_\_\_\_\_  
ITS: \_\_\_\_\_

**Participating Agency Contact Information:**

Contact Person: \_\_\_\_\_  
Address: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Telephone No.: \_\_\_\_\_  
Email: \_\_\_\_\_



**NATIONAL PURCHASING PARTNERS  
GOVERNMENT COOPERATIVE**

**RS-26-039**

**March 3, 2026**

# Background

2

- Texas Local Government Code §271.102 authorizes local governments to participate in cooperative purchasing programs that satisfy competitive bidding requirements
- NPPGov is a public sector purchasing cooperative administered by National Purchasing Partners (NPP)
  - ▣ The League of Oregon Cities serves as the lead public agency and conducts competitive, best-value solicitations

# Background Continued

3

- NPPGov provides access to vendors supporting municipal operations, including:
  - ▣ Facilities
  - ▣ Information Technology
  - ▣ Fleet
  - ▣ Public Safety
  - ▣ Other operational needs
- There is no cost to join NPPGov purchasing cooperative

# Benefits of Cooperative Contracting

4

- Utilizes contracts that have been competitively solicited and awarded by another governmental entity in compliance with procurement laws
- Leverages collective purchasing power to secure pre-negotiated, volume-based pricing
- Provides potential cost savings of approximately 10%–65% on certain contracts
- Reduces administrative time and resources associated with issuing separate solicitations while maintaining full compliance

# Recommendation

5

City Council approve the interlocal agreement with League of Oregon Cities to participate in National Purchasing Partners Government Cooperative and authorize the City Manager or designee to execute the interlocal agreement and any supplemental agreement as allowed by state and local law



# City of Killeen

## Staff Report

File Number: RS-26-040

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Consider a memorandum/resolution consenting to the creation of an emergency services district proposed to be known as Bell County Emergency Services District No. 3, which includes a portion of the extraterritorial jurisdiction of the City of Killeen.

**DATE:** March 3, 2026

**TO:** Kent Cagle, City Manager

**FROM:** James Kubinski, Fire Chief

**SUBJECT:** Request for Consent to the creation of the proposed Bell County Emergency Services District No. 3, which includes a portion of the City's extraterritorial jurisdiction

### **BACKGROUND AND FINDINGS:**

On January 15, 2026, the City received notice of a petition for the creation of the proposed Bell County Emergency Services District No. 3 (the "ESD") filed with Bell County. A group of citizens organized by Brian and Matthew Henry have initiated the process of creating an Emergency Services District that is planned to include the City of Nolanville and surrounding unincorporated areas that include a portion of the City of Killeen's Extraterritorial Jurisdiction (ETJ).

Because the proposed ESD includes a portion of the City's ETJ, the City must provide consent to the creation of the ESD and inclusion of the portion within the City's ETJ. This is required so that it may be included for the proposed ESD's creation election to be called by the Bell County Commissioners Court (upon review and related hearings) pursuant to Section 775.014 of the Texas Health & Safety Code copied below. The petitioners anticipate the creation election will be called for November 3, 2026. A copy of the Petition is included in the attachments.

Sec. 775.014. CREATION OF DISTRICT THAT INCLUDES MUNICIPAL TERRITORY states:

(a) Before a district may be created that contains territory in a municipality's limits or extraterritorial jurisdiction, a written request to be included in the district must be presented to the municipality's governing body after the petition is filed under Section 775.015. Except as provided by Subsection (c), that territory may not be included in the district unless the municipality's governing body gives its written consent on or before the 60th day after the date on which the municipality receives the request.

The proposed area is not currently within corporate city limits and does not affect current fire department response plans as it is currently covered by the Nolanville Fire Department. If any of the proposed area is annexed into the City of Killeen in the future, the City may remove the

territory from the ESD and the Killeen Fire Department would resume responsibility for fire response services to the newly annexed area.

Consent is valid for a period of six months from the date of adoption of this resolution.

**THE ALTERNATIVES CONSIDERED:**

The alternatives are to either consent or not consent to the creation of an emergency services district proposed to be known as Bell County Emergency Services District No. 3, which includes a portion of the extraterritorial jurisdiction of the City of Killeen.

**Which alternative is recommended? Why?**

Consent to the creation of the proposed ESD as presented. The proposed area will be the responsibility of the newly formed ESD and relieve the Killeen Fire Department of primary fire response to the area. If the City does not consent to the creation of the district including the portion of the City's ETJ, then the petitioner can request that the City provide emergency services in the territory.

**CONFORMITY TO CITY POLICY:**

The request conforms to all applicable city policies.

**FINANCIAL IMPACT:**

**What is the amount of the revenue/expenditure in the current fiscal year? For future years?**

There is no financial impact associated with this request.

**Is this a one-time or recurring revenue/expenditure?**

N/A

**Is this revenue/expenditure budgeted?**

N/A

**If not, where will the money come from?**

N/A

**Is there a sufficient amount in the budgeted line-item for this revenue/expenditure?**

N/A

**RECOMMENDATION:**

Staff recommends that the City Council consent to the creation of an emergency services district proposed to be known as Bell County Emergency Services District No. 3, which includes a portion of the extraterritorial jurisdiction of the City of Killeen, and that the City Manager or his designee be authorized to execute any and all documents to permit the newly formed ESD to provide fire emergency response as permitted by state and local law.

**DEPARTMENTAL CLEARANCES:**

Fire Department  
City Attorney Office  
City Manager Office

**ATTACHED SUPPORTING DOCUMENTS:**

Petition Letter & Bell County Filed Petition  
Map of Requested Area  
Presentation

RECEIVED

January 13, 2026

JAN 15 2026

**VIA HAND DELIVERY**

Mayor and City Council  
City of Killeen  
c/o Laura Calcote, City Secretary  
101 North College Street, 2<sup>nd</sup> floor, Killeen, Tx 76541

City of Killeen  
By: Laura J. Calcote  
City Secretary

Re: Bell County Emergency Services District No. 3 (the "Proposed District"); Notice of Submission of Petition for Creation to Bell County Commissioners Court ("Commissioners Court")

Dear Mayor and Councilmembers:

The intent of this letter is to provide the City of Killeen (the "City") with notice that the petitioners filed a Petition for the Creation of the Proposed District to Commissioners Court on December 11, 2025 (the "Petition") for consideration. A portion of the Proposed District includes [the City/a portion of the extraterritorial jurisdiction ("ETJ") of the City], and as such, the City must provide consent to the inclusion of the portion of the Proposed District located within [the City/a portion of the ETJ of the City] so that it may be included for the Proposed District's creation election to be called by Commissioners Court (upon review and related hearings) pursuant to Section 775.014, Texas Health & Safety Code. The petitioners anticipate the creation election will be called for November, 2026. A copy of the Petition is included with this letter for your review.

If you are not familiar with the requirements of Section 775.014 as it relates to the City, the provisions state:

Sec. 775.014. CREATION OF DISTRICT THAT INCLUDES MUNICIPAL TERRITORY. (a) Before a district may be created that contains territory in a municipality's limits or extraterritorial jurisdiction, a written request to be included in the district must be presented to the municipality's governing body after the petition is filed under Section [775.015](#). Except as provided by Subsection (c), that territory may not be included in the district unless the municipality's governing body gives its written consent on or before the 60th day after the date on which the municipality receives the request.

(b) If the municipality's governing body does not consent to inclusion within the 60-day period prescribed by Subsection (a), a majority of the qualified voters and the owners of at least 50 percent of the territory in the municipality's limits or extraterritorial jurisdiction that would have been included in the district may petition the governing body to make fire control and emergency

Mayor & City Council  
City of Killeen  
January 13, 2026

medical and ambulance services available. The petition must be submitted to the governing body not later than the 90th day after the date on which the municipality receives the request under Subsection (a).

(c) If the municipality's governing body refuses or fails to act on the petition requesting fire protection and emergency medical and ambulance services within six months after the date on which the petition submitted under Subsection (b) is received, the governing body's refusal or failure to act constitutes consent for the territory that is the subject of the petition to be included in the proposed district.

(d) If the proposed district will include territory designated by a municipality as an industrial district under Section [42.044](#), Local Government Code, consent to include the industrial district must be obtained from the municipality's governing body in the same manner provided by this section for obtaining consent to include territory within the limits or extraterritorial jurisdiction of a municipality.

(e) If the municipality's governing body consents to inclusion of territory within its limits or extraterritorial jurisdiction, or in an industrial district, the territory may be included in the district in the same manner as other territory is included under this chapter.

(f) A governing body's consent to include territory in the district and to initiate proceedings to create a district as prescribed by this chapter expires six months after the date on which the consent is given.

Therefore, the petitioners request that you place the matter on the next available City Council meeting agenda so you may consider the City's consent to the requisite inclusion into the Proposed District.

For questions regarding additional specifics of the Proposed District and to present any information you may need to make an informed decision regarding consent, please contact [responsible petitioner name] at [phone] or [email].

The petitioners look forward to your decision regarding this matter.

Sincerely,



**Mayor & City Council  
City of Killeen  
January 13, 2026**

**Brian Henry, Matthew Henry refer to  
Exhibit C to the petition.**

**Enclosure**

**Cc: Kent Cagle, City Manager, City of Killeen (w/out enclosure)  
Fire Chief James Kubinski, City of Killeen (w/out enclosure)  
Honorable David Blackburn, Bell County Judge (w/out enclosure)**

**STATE OF TEXAS**

**COUNTY OF BELL**

§  
§  
§

**AMENDED AND RESTATED PETITION FOR CREATION OF AN EMERGENCY SERVICES DISTRICT**

**TO THE HONORABLE DAVID BLACKBURN, COUNTY JUDGE OF BELL COUNTY, TEXAS AND BELL COUNTY, TEXAS COMMISSIONERS COURT:**

This Petition amends and restates the Petition submitted to the Bell County Commissioners Court (the "Court") on \_\_\_\_December 11\_\_\_\_, 2025. The undersigned petitioners, all being registered voters who own property within the proposed emergency services district in Bell County, Texas, as hereinafter described more specifically (the "Petitioners"), hereby respectfully petition and request the Court order an election for the creation and operation of an emergency services district (the "District") in Bell County, Texas, and ask such Court to receive and act upon this petition (the "Petition"), pursuant to Subchapter B, Chapter 775, Texas Health and Safety Code. In support of the Petition, the undersigned would show the following:

**I.**

The District is to be organized in Bell County, Texas, and that the District is to be created and is to operate under Article III, Section 48-e of the Texas Constitution, and Chapter 775, Texas Health and Safety Code, as amended, including having the power to levy and collect taxes.

**II.**

The name of the District shall be BELL COUNTY EMERGENCY SERVICES DISTRICT NO. 3 and shall be located in Bell County, Texas.

**III.**

The boundaries of the District shall generally include the City and extraterritorial jurisdiction ("ETJ") of Nolanville; the Central Bell County area including, a portion of the ETJ of the City of Belton, a portion of the ETJ of the City of Temple, a portion of the ETJ of the City of Killeen, and a portion of the ETJ of the City of Harker Heights; and the Sparta community. The boundaries of the District are more particularly described in Exhibit "A", attached and incorporated by reference, and visually shown in the map attached as Exhibit "B".

**IV.**

The District will be created and operated to provide emergency medical services and rural fire prevention and control services or other emergency services authorized by the Texas Legislature and as so provided in said Constitution and Legislative Acts.

**V.**

The District does not overlap with any existing emergency services district and therefore complies with Section 775.0205, Texas Health and Safety Code.

**VI.**

Consent must be obtained from: 1) the City Council of the City of Nolanville for inclusion of the municipal and ETJ boundaries in the District; 2) the City Council of the City of Belton for inclusion of the relevant ETJ areas in the District; 3) the City Council of the City of Temple for inclusion of the relevant ETJ areas in the District; 4) the City Council of the City of Killeen for inclusion of the relevant ETJ areas in the District; and 5) the City Council of the City of Harker Heights for inclusion of the relevant ETJ areas in the District, pursuant to Section 775.014, Texas Health and Safety Code.

**VII.**

The District will levy ad valorem taxes on all taxable property within the boundaries of the District in an amount not to exceed ten cents (\$0.10) per \$100 valuation.

**VIII.**

The agreement for two (2) Petitioners to obligate themselves to pay not more than \$150 of the costs incident to the formation of the District, including the costs of publishing notices, election costs, and other necessary and incidental expenses, is attached as **Exhibit "C"**.

**IX.**

The name, date of birth, signature, and mailing address of the required number of Petitioners for the creation of the District is attached as **Exhibit "D"**.

**[PETITION SIGNATURES BEGIN AFTER EXHIBITS]**

**EXHIBIT "A"**  
**(Proposed Boundaries of District)**

**Proposed Bell County Emergency Services District No. 3 Boundary Description**

The proposed Emergency Services District being comprised of one distinct area of Central Bell County, as the lines of delineation are drawn as of March 3, 2025, State of Texas.

Beginning at a point of Intersection where Fort Cavazos military instillation meets the city limits of Killeen and Central Bell County at the eastern most point of the Killeen City Limits and the Southernmost point of Fort Cavazos, near Hay Branch Creek, State of Texas.

Thence, easterly following the Property line contours of Fort Cavazos, to the southern shoreline of Lake Belton at the Temple city limit and core of engineer's property.

Thence, easterly along the Southern edge of Temple city limits where Temple city limits and Belton city limits meet at the shoreline, north of E. Lakeshore Drive.

Thence, southerly following the contours of Belton city limit to the North side of FM 439 and the west side of Shady Lane.

Thence, easterly along FM 439 to the middle line between Pine Terrace and North Drive on the north side of FM 439.

Thence, follow the contour of Belton city limit boundaries north to Belton Lake and then go East to where it intersects back onto the South side of Lake Ridge Drive and FM 439.

Thence, Easterly on the North side of FM 439 following the contours of Belton city limit boundaries as it turns back to the west on the south side of FM 439 to an area, just west of Wild Wood Drive on the south side of FM 439.

Thence, follow the contour of Belton city limits boundaries South as it passes to the west and south of Richard King Drive before heading East again to the west side of Sparta Road.

Thence, follow the contour of Belton city limit boundaries on the north side of Sparta Road as it turns south following Nolan Creek between Kinsolving Road and Creekside Drive, crossing W FM 93.

Thence, follow the contour of the Belton city limit boundaries south and then west before turning back north on the east side of the Holstein Drive neighborhood.

Thence, follow the contour of the Belton city limit boundaries north to the north side of the Holstein Drive neighborhood and then back to the south of the West side of the Damascus Drive neighborhood, between Damascus Drive and Boxer Road.

**Thence, follow the contour of the Belton city limits west, before heading south again at the center line between Wolverton Lane and Airdale Road to the boundary line North of W. US Highway 190.**

**Thence, follow the contour of the Belton city limits as it heads back to the west crossing George Wilson Road.**

**Thence, continue west following the contour of the Belton city limits on the North side of W. US Highway 190 to the furthest west point of the Belton city limits.**

**Thence, follow the contour of Belton city limits south to the North side of the Stillhouse Drive housing area before heading East, then south across Long Bow Road and then east again.**

**Thence, follow the contour of Belton city limits as it turns north and then west before the Vista Trail.**

**Thence, follow the contour of the Belton city limits west on the east side of the Sherwood Drive neighborhood and then south before Tallow Drive.**

**Thence, continue to follow the contour of the Belton city limits as it meets the East side of Simmons Road at Sweet Gum Drive.**

**Thence, follow the contour of Belton city limits on the East side of Simmons Road to the North side of Rattlesnake Trail.**

**Thence, follow the north side of Rattlesnake Trail and the contour of Belton City limits as it heads east towards Fort Road.**

**Thence, follow the contour of the Belton city limits north to the north side of Dogridge Road and then east to the edge of Belton city limits, west of FM 1670.**

**Thence, follow the contour of the Belton city limits south on the east side of the Pecan Drive neighborhood and turn east to the center line of Sunflower Lane and head east following the contour of Belton city limits to a point on the west side of Rocking M Lane.**

**Thence, follow the west side of Rocking M Lane with the contour of Belton south to the edge of the city limits where it turns back to the north on the East side of Rocking M Lane and follow it north to Auction Barn Road.**

**Thence, Follow the south side of Auction Barn Road with the contour of the Belton city limits as it moves north and then east to the west edge of Old Golf Course Road, continuing south following the contours of Belton city limits to a point west of Village Hill Road and north following the contours of Belton city limits to a point south of 190 Loop.**

**Thence, follow the contour of Belton city limits east to the West side of Old Golf Course Road and then south, following the contour of Belton city limits to a point on the west side of Shanklin Road.**

**Thence, follow the west edge of Shanklin Road across the street to the east side and follow that contour north and then east, parallel to Mesquite Road to the east, leaving everything on Mesquite Road west, and including the property at 511 Mesquite Road in the County.**

**Thence, follow the contour of Belton city limits to a point south of Resthaven Cemetery and Shanklin Road, then west to the east side of Lampasas Lane.**

**Thence, follow the east side of Lampasas Lane south with the contour of Belton city limit and back north to the north side of Shankin Road at the intersection.**

**Thence, continue to follow the contour of Belton city limits to the west and then to the south where it intersects Bell County ESD #1 and Belton city limits.**

**Thence, follow the contour of Bell County ESD #1 west to the Southern edge of the Stillhouse Hollow Reservoir Spillway/US Army Corps of Engineers property line.**

**Thence, follow the contour of the Stillhouse Reservoir Spillway/US Army Corps of Engineers property line north and then west to a point North of Dana Peak Park that connects to the Eastern most point of Comanche Gap Road and the US Army Corps of Engineers property line.**

**Thence, continue North, to an area near Orian Drive that intersects with the Harker Heights City limits.**

**Thence, follow the contour of Harker Heights city limits in a Northerly direction to the South side of FM 2410.**

**Thence, follow the contour of Harker Heights city limits on the South side of FM 2410 to a point that it connects to the city limits of Nolanville.**

**Thence, follow the city limits of Nolanville south to a point where it turns west and comes to the west side of Warriors Path Way.**

**Thence, follow the contour of Harker Heights city limits north to the center line of Old Nolanville Road.**

**Thence, follow the center line of Old Nolanville Road, and the contours of Harker Heights city limits, west to a point on the south side of Edwards Drive where the city limits of Harker Heights turns North.**

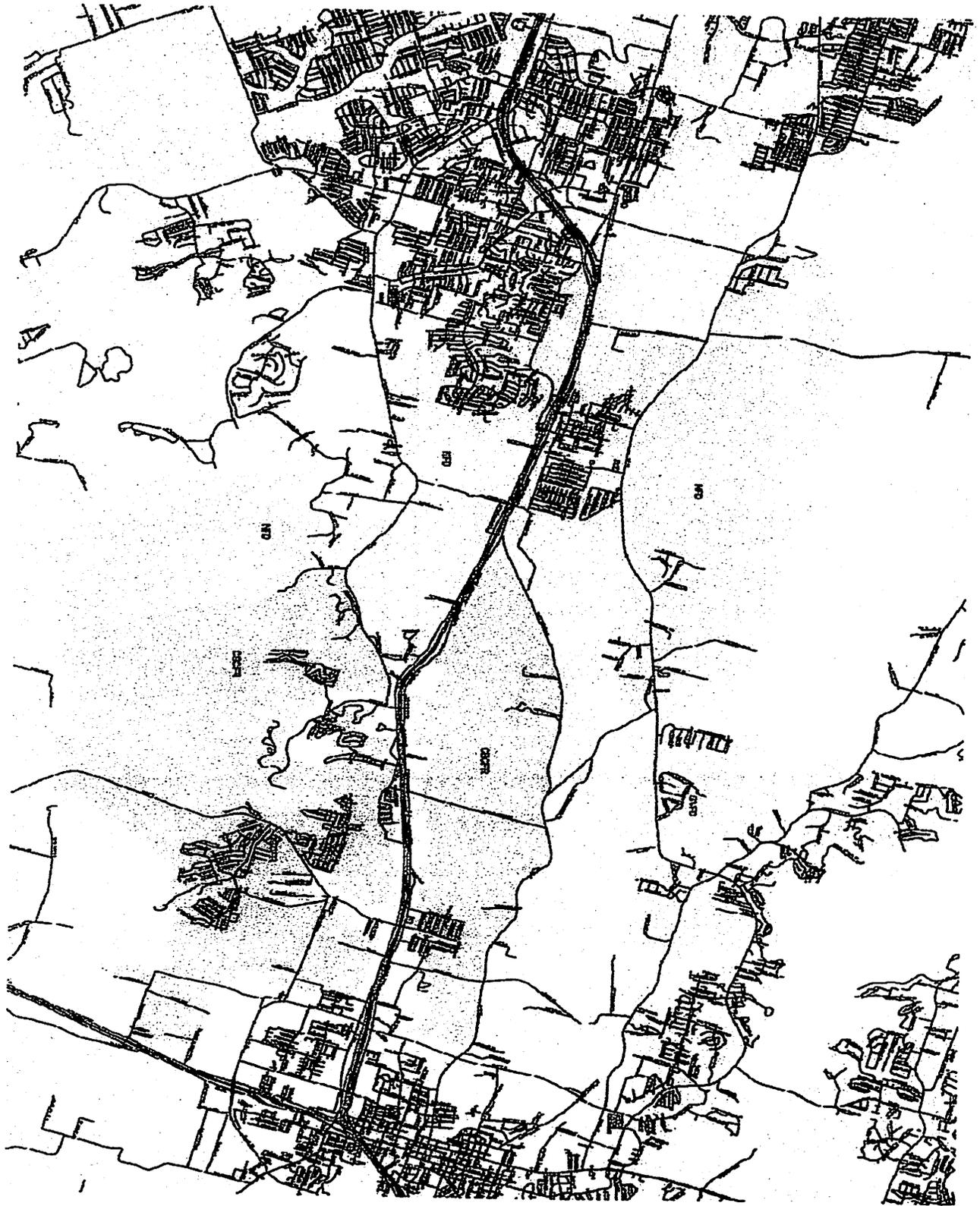
**Thence, Follow the contours of Harker Heights city limits to the South side of the Burlington Northern and Santa Fe Railroad.**

**Thence, follow the South side of the Burlington Northern and Santa Fe Railroad West, with the contour of Harker Heights city limits to the edge of Killeen City limits on the North side of the railroad tracks, East of N. Amy Lane in Harker Heights.**

**Thence, follow the contours of Killeen City limits north to a point north of E. Rancier Avenue/FM 439 where the contour of Killeen City limits turns west before turning North again, crossing Hay Branch creek, and meeting at the intersection of Killeen City limits, Central Bell County and Fort Cavazos Military installation property.**

**The intersection points of Killeen City limits, Central Bell County and Fort Cavazos Military installation property are noted as the beginning and ending point for the Boundary Description.**

**EXHIBIT "B"**  
**(Map of Proposed District)**







## **Bell County**

**The Office of Elections Administration**

*Dr. Desi Roberts, Elections Administrator*

550 E. 2<sup>nd</sup> Ave  
P.O. Box 1629  
Belton, Texas 76513  
254.933.5774

Fax 254.933.6754  
Elections@BellCounty.Texas.gov  
Voter.Registration@BellCounty.Texas.gov

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12/11/2025

To whom it may concern,

The petition submitted to our office on 12/11/2025 by Brian Henry for the creation of an Emergency Services District 3 has met the threshold of 100 signatures of voters in the proposed district boundary.

120 signatures were submitted, with 107 of those signatures meeting the requirements. The petition is good to move forward.

Should you have further questions or need additional information, please contact Bell County Elections at (254) 933.5774.

Respectfully,

A handwritten signature in black ink, appearing to read "Desi Roberts". The signature is stylized with a large, sweeping "D" and "R".

**Dr. Desi Roberts**  
**Elections Administrator**  
Bell County Elections

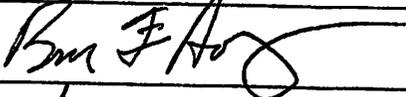
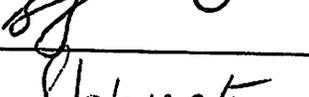
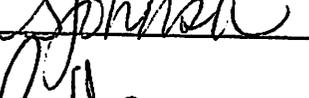
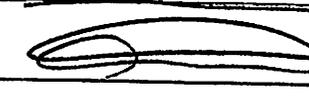
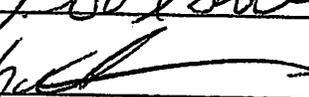
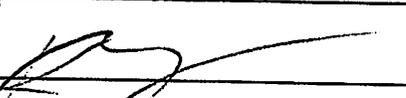
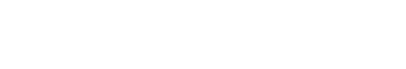
EXHIBIT D

I hereby certify, by my attached name and signature, that I am a registered voter and own taxable property in the area of the proposed emergency services district Bell County, Texas, and that I am petitioning the Commissioner's Court of Bell County, Texas to hold a hearing concerning, and to order an election for the creation of Bell County Emergency Services District No. 3 (the "District") and the levy of annual property taxes for District purposes at a rate not to exceed ten cents (\$.10) on each \$100 valuation of all taxable property in the District.

	NAME (PRINT)	DOB	SIGNATURE	PETITIONER'S MAILING ADDRESS
1	MARION MONTGOMERY	10/05/64		1225 NIGARA HTS BELTON TX 76513
2	<del>MARION MONTGOMERY</del>	<del>10/05/64</del>	<del></del>	<del>1225 NIGARA HTS BELTON TX 76513</del>
3	Yolanda Teichert	2/23/70		1199 Niagara Heights Belton, TX
4	Miguel Rodriguez	5/16/63		2952 Arroyo Dr Belton TX
5	JOHN PAUL	1 Jun 66		988 S Sanderia Dr Belton, TX 76513
6	GRACE BIRT	6 26 48	Grace M. Birt	9851 Sanderia Dr Belton TX 76513
7	Janice Pleasant	5-3-84		9789 Sanderia Dr Belton, TX 76513
8	JOHN TUGGLE	03/15/45		4284 Lago Vista Dr. Belton 76513
9	P. Terry Tuggle	02/03/39	P. Terry Tuggle	4284 Lago Vista Dr Belton TX 76513
10	Terisha Underwood	8/19/70		4220 Lago Vista Dr Belton TX
11	BOB EATSHENBERG	6/28/51		4118 Lago Vista Dr Belton TX 76513
12	Wynji Chapman	11/09/1948	W Chapman	4051 Lago Vista Dr, Belton 76513
13	Wynji Chapman	08/10/1948		4051 Lago Vista Dr. Belton TX 76513

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	NAME( PRINT)	DOB	SIGNATURE	PETITIONER'S MAILING ADDRESS
1	BRIAN FRANCIS HENRY	09/29/56		107 SLIPPERY ELM DR. NOLANVILLE TX 76559
2	Sheri Lynn Henry	10/25/66		107 SLIPPERY ELM DR NOLANVILLE TX 76559
3	Bradley Scott Johnston	3/19/83		109 Slippery Elm Dr Nolanville, TX 76559
4	Shawna Marie Johnston	2/14/85		109 Slippery Elm Dr Nolanville, TX 76559
5	John Dustin Boggs	11/11/75 <del>11/11/76</del>		108 SLIPPERY ELM DR Nolanville tx 76559
6	NIKI BOGGS	03 NOV 80		108 Slippery Elm Dr Nolanville TX 76559
7	Selina Marie Henry	12/16/1992		201 Oak Ridge Dr Nolanville TX 76559
8	MATTHEW REA HENRY	05/08/1989		201 OAK RIDGE DR NOLANVILLE TX 76559
9	John Polis	12/14/1981		102 Slippery Elm Dr Nolanville, TX 76659
10	Veveka Benny	06/01/1978		102 Slippery Elm Dr Nolanville TX 76559
11	BOBBY EDWARDS	08-11-1949		222 Slippery Elm Dr Nolanville 76559
12	Katherine Cherris Papin	09-08-1989		110 Button Bush Ct Nolanville TX 76559
13	Roger Yarborough	02/02/55		206 Black Walnut Ct, Nolanville, TX

**EXHIBIT D**

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	NAME( PRINT)	DOB	SIGNATURE	PETITIONER'S MAILING ADDRESS
1	Jeanne Hall-Moore	11-16-71	Jeanne Hall-Moore	219 Black Walnut Nolanville TX 76559
2	Lloyd Moore	03/19/69	Lloyd Moore	219 Black Walnut Nolanville TX 76559
3	KASHA M HARRIS	11/15/1972		205 Black Walnut St Nolanville, TX 76559
4	JAMES CARTER	7-5-68		205 Slippery Elm, Nolanville TX
5	Edward Campos	4-4-84		213 Slippery elm Dr Nolanville TX
6	Antwain Simmons	5-19-83	Antwain Simmons	230 Slippery elm Dr Nolanville TX
7	James Dickerson	07-22-76		110 Slippery Elm Dr. Nolanville, TX 76559
8	Carly Hass	04-11-86		106 Slippery Elm Dr Nolanville, TX 76559
9				
10				
11				
12				
13				

EXHIBIT D

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	NAME( PRINT)	DOB	SIGNATURE	PETITIONER'S MAILING ADDRESS
1	Wendy Peelgren	2/24/71	Wendy Peel	302 Pointer Str. <sup>Nolanville</sup> TX 76559
2	Roberta Kimble	6/19/1970	Roberta Kimble	216 Pointer St. <sup>Nolanville</sup> TX 76559
3	Ricardo Arizmendi Jr	12-26-1966	[Signature]	206 Pointer St Nolanville tx 76559
4	Eric A. Stov	1/13/1946	[Signature]	8477 Goliath Dr. <sup>Belton</sup> TX 76513
5	Richard J. Nieberds	603/31/1965	[Signature]	8462 Goliath Dr <sup>Belton</sup> TX 76513
6	Black, Joe	<del>1/23/71</del> 5/31/1970	[Signature]	8429 Goliath Dr Belton TX 76513
7	Knowles, Jean	8/18/65	[Signature]	8421 Goliath Dr. Belton
8	Harry Phillips	5/2/60	[Signature]	8409 Goliath Dr. Belton
9	Ken Zubaty	7/12/74	[Signature]	8375 Goliath Dr, Belton
10	Rudy Grimes	10/5/71	[Signature]	573 Rolling Hills Dr Killeen, TX
11	Lestic Holman	04/27/50	[Signature]	271 Meadow Glen Dr. <sup>Killeen</sup> TX 76513
12	Captain, Albert S	11/14/58	[Signature]	185 Meadow Glen Dr. Killeen
13	Perry L. Jones	12/24/62	[Signature]	2866 Beulah Blvd <sup>Belton</sup> TX 76513

22

EXHIBIT D

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	NAME (PRINT)	DOB	SIGNATURE	PETITIONER'S MAILING ADDRESS
85	DAWN CHAPUT	5-28-57		8036 Chimney Hill DR, Nolanville TX 76559
86	Ken Strickland	9-12-58		8006 Bella Charca Nolanville
87	Katosha Williams	3-8-82		9008 Bella Charca Nolanville, TX 76559
88	CARLOS FERNANDEZ	01/31/84		3026 WHITETAIL TRAIL NOLANVILLE TX 76559
89	Britt Cantrell	10 MAR 1982		3022 Whitetail Tr-1 Nolanville TX
90	Julia Cantrell	18 JUL 84		3022 whitetail TR1 Nolanville
91	Delenica White	12/17/68		3023 White Tail Tr1 Nolanville TX
92	Tim White	02/05/72		3023 whitetail Tr 1 Nolanville TX
93	Robert Lindley	06/12/89		3015 whitetail. Tr1 Nolanville TX
94	Reerah Valdez	01/19/83		3011 Whitetail trail Nolanville
95	Ferris Valdez	02/09/85		3011 Whitetail trail Nolanville
96	Sarah Price	5/10/83		3007 Whitetail trail Nolanville TX

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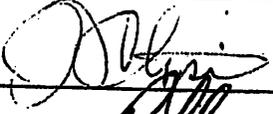
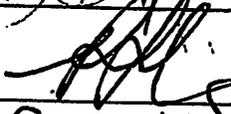
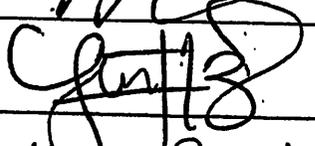
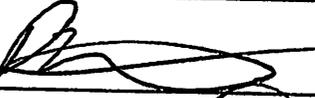
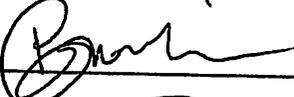
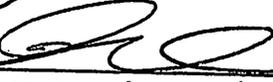
	NAME (PRINT)	DOB	SIGNATURE	PETITIONER'S MAILING ADDRESS
25	Arthur Chaput	8/23/53		4036 Chimney Hill Dr Nolanville
26	Rodolfo Humerez	2/7/62		9004 Bella Charca Pkwy Nolanville TX 76559
27	Floren Humerez	6/21/72		9004 Bella Charca Pkwy Nolanville, TX 76559
28	Mildred Rosster	7/9/52	Mildred Rosster	9012 Bella Charca Pkwy Nolanville, Tx 76559
29	Jeannee Beltran	2/22/78		3030 Whitetail Trail Nolanville TX 76559
30	David Beltran	12/17/75		3030 Whitetail Trl Nolanville, TX 76559
31	Garry Sulzbach	5-6-59		205 Pointer St Nolanville, TX 76559
32	David H Risenhoover	7-19-70	David H. Risenhoover	207 Pointer St. Nolanville TX 76559
33	Brenda Testan	1-24-49	Brenda Testan	209 Pointer St. Nolanville TX 76559
34	Brooke Migura	10/13/90		215 Pointer St. Nolanville Tx 76559
35	Alexander, Earnie	03/08/80		261 Pointer St Nolanville TX 76559
36	Alexis Martinez	11/7/93	Alexis Martinez	304 Pointer St Nolanville, TX 76559

EXHIBIT D

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	NAME (PRINT)	DOB	SIGNATURE	PETITIONER'S MAILING ADDRESS
205	BETTY ADAMSEN	6/3/1954		3036 Whitetail Trl Nolanville, TX 76559
206	GUYSE MARC ADAMSEN	2/1/1951		3036 Whitetail Trl Nolanville, TX 76559
207	ROD WOODS	6-15-52		3041 HERITAGE LOOP Nolanville, TX 76559
208	Teria Woods	3-8-59		3041 Heritage Loop Nolanville, TX 76559
209	Randy Cheniault	3-5-62		3038 Heritage Loop Nolanville TX 76559
210	HYUN JOO Cheniault	"		"
211	Jamie Sosa	03-08-92		2077 Mercer St. Nolanville, TX 76559
212	GREGORY L. WALKER	2-21-70		3042 Heritage Loop Nolanville, TX 76559
213	DELL NADAM-WALKER	2-13-1973		3042 HERITAGE LOOP NOLANVILLE, TX 76559
214	Grant, Michael	11-20-1993		303 Pointar Street Nolanville, Tx. 76559
215	Ellis, Larry	11-28-1964		8342 Tericho Bluff Belton, TX 76513
216	GLENN Brizeman	07-03-1958		8428 Tericho Bluff Belton TX 76513

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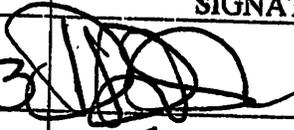
	NAME (PRINT)	DOB	SIGNATURE	PETITIONER'S MAILING ADDRESS
25	Derek Price	7/3/83		3007 Whitetail Trail Nolanville TX
26	<del>Robert Casarez</del>		<del>Robert Casarez</del>	
27	Adam Albasi	09.15.1960	Adam Albasi	2005 HARVEST DR Nolanville, TX
28	Monica Silcott	51	Monica Silcott	2004 Harvest Dr Nolanville TX 76551
29	James Silcott	54	James Silcott	2008 Harvest Dr Nolanville
30	<del>Sylvester</del>		<del>Sylvester</del>	
31	Ariana Minahan	9/10/60	Ariana Minahan	2016 Harvest Dr. Nolanville TX
32	Nick Miller	1/2/78	Nick Miller	2016 Harvest Dr. Nolanville TX
33	Suzanne Miller	6/26/71	Suzanne Miller	2020 Harvest Dr.
34	White, Cassandra	02/19/1969	Cassandra White	2020 Harvest Dr
35	Debbie Schmidt	4/1/54	Debbie Schmidt	3001 Harvest Dr.
36	Christina Carlson	1/20/63	Christina Carlson	3000 Harvest Drive
				3009 Harvest Dr

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	NAME( PRINT)	DOB	SIGNATURE	PETITIONER'S MAILING ADDRESS
1	Chris Atkins	11-16-77		205 W Lorraine, Nolanville
2	Desiree Cuellar	01/07/97		1934 Mercer ST Nolanville TX 76559
3	Francisco Cuellar	09/21/95		1934 Mercer ST Nolanville TX
4	Teresa Chandler	8/9/65		808 N 4th St Nolanville TX 76559
5	marlene Fey	10/12/61		304 Oak Ridge Dr. Nolanville, TX 76559
6	Suzanne Jordan			408 Bluff Ln. Belton TX 76513
7	Michael Hattm	9/20/72		1926 Horatio St NOLANVILLE TX 76559
8	LORI Garcia	12/17/75		6920 WINDY OAK DR BELTON TX 76513
9	Willie STEPHENSON	07-25-68		308 W. ST JOHN AVE Nolanville
10	LORI GARCIA	12 17 75		6920 WINDY OAK B. TX 76513
11	JULIO Torresales	8-20-84		525 Freedom Circle, Nolanville, TX 76559
12	Dennis Robley	1/31/85		789 freedom Cir. Nolanville TX
13	Deborah Berndt	2/1/66		781 Freedom Cir Nolanville TX

76559

EXHIBIT D

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	NAME( PRINT)	DOB	SIGNATURE	PETITIONER'S MAILING ADDRESS
1	John-Michael Johnston	11/24/1993		117 East Danelson Dr. Belton TX 76511
2	Kaylen Johnston	05/28/1996		117 East Danelson Dr. Belton TX 76511
3	Shelbi Cloud	09/24/1994		773 Freedom Cir, Nolanville TX 76558
4	Clarissa Dominguez	11/11/97		765 Freedom Cir, Nolanville TX 76559
5	Michelle Smith	7/28/91		758 Freedom Cir, Nolanville TX 76559
6	Drew Wiles	03/08/95		713 Freedom Cir Nolanville Tx 76559
7	Cleat Roberts	04/06/59		14600 FM 939 Nolanville TX 76558
8	Delan Turner	02/25/81		14500 FM 939 Nolanville TX 76558
9	Anthony Fragale	09/14/100		2843 Buelah Blvd, Belton TX 76513
10	Margaret Henderson	7/11/1947		982 Arroyo Dr. Belton, TX 76513
11	Shanna L Brock	6/18/64	Shanna L Brock	9783 Arroyo Dr. Belton TX 76513
12	Susana M Jones	04-19-1959		9782 Arroyo Dr. Belton TX 76513
13	Cynthia D Beck	8-21-1961		9802 Arroyo Dr Belton TX 76513

12/10/25

EXHIBIT D

I hereby certify, by my attached name and signature, that I am a registered voter and own taxable property in the area of the proposed emergency services district in Bell County, Texas, and that I am petitioning the Commissioner's Court of Bell County, Texas to hold a hearing concerning, and to order an election for the creation of Bell County Emergency Services District No. 3 (the "District") and the levy of annual property taxes for District purposes at a rate not to exceed ten cents (\$.10) on each \$100 valuation of all taxable property in the District.

	NAME (PRINT)	DOB	SIGNATURE	PETITIONER'S MAILING ADDRESS
229	Cole Dement	7/06/1993	<i>Cole Dement</i>	5342 Lancaster Drive, Belton 76513
230	Annalose Dement	7/12/1994	<i>Annalose Dement</i>	5342 Lancaster Drive, Belton TX 76513
231	STEPHEN PEARSON	1/3/83	<i>[Signature]</i>	5809 FENTON LN, BELTON TX 76513
232	Niki Pearson	11-9-82	<i>[Signature]</i>	5809 Fenton Ln Belton TX 76513
233	Natalie Colice	7-19-84	<i>Natalie</i>	5722 Fenton Ln Belton, TX 76513
234	Justin Colice	<del>7-19-84</del> 10-25-1978	<i>[Signature]</i>	5722 Fenton Ln Belton, TX 76513
235	Jessikan Shirley	3/1/97	<i>Jessikan Shirley</i>	1901 Wyman St Nolanville TX 76559
236	Brandon Shirley	2/21/96	<i>[Signature]</i>	1901 Wyman St Nolanville, TX 76559
237	Hannah Landwersiek	11-15-1992	<i>Hendwersiek</i>	4301 FM 1670, Belton TX, 76513
238	Austin Tolliver	07/08/1993	<i>Austin Tolliver</i>	4301 Fm 1670 Belton, TX 76513
239				
240				

# PROPOSED BELL COUNTY EMERGENCY DISTRICT NO. 3

**Legend**

-  Killen Citylimit
-  Killen ETJ
-  District Boundary
-  Citylimit

 CITY OF KILLEEN GIS TEAM

 0 0.25 0.5 1 1.5 Miles

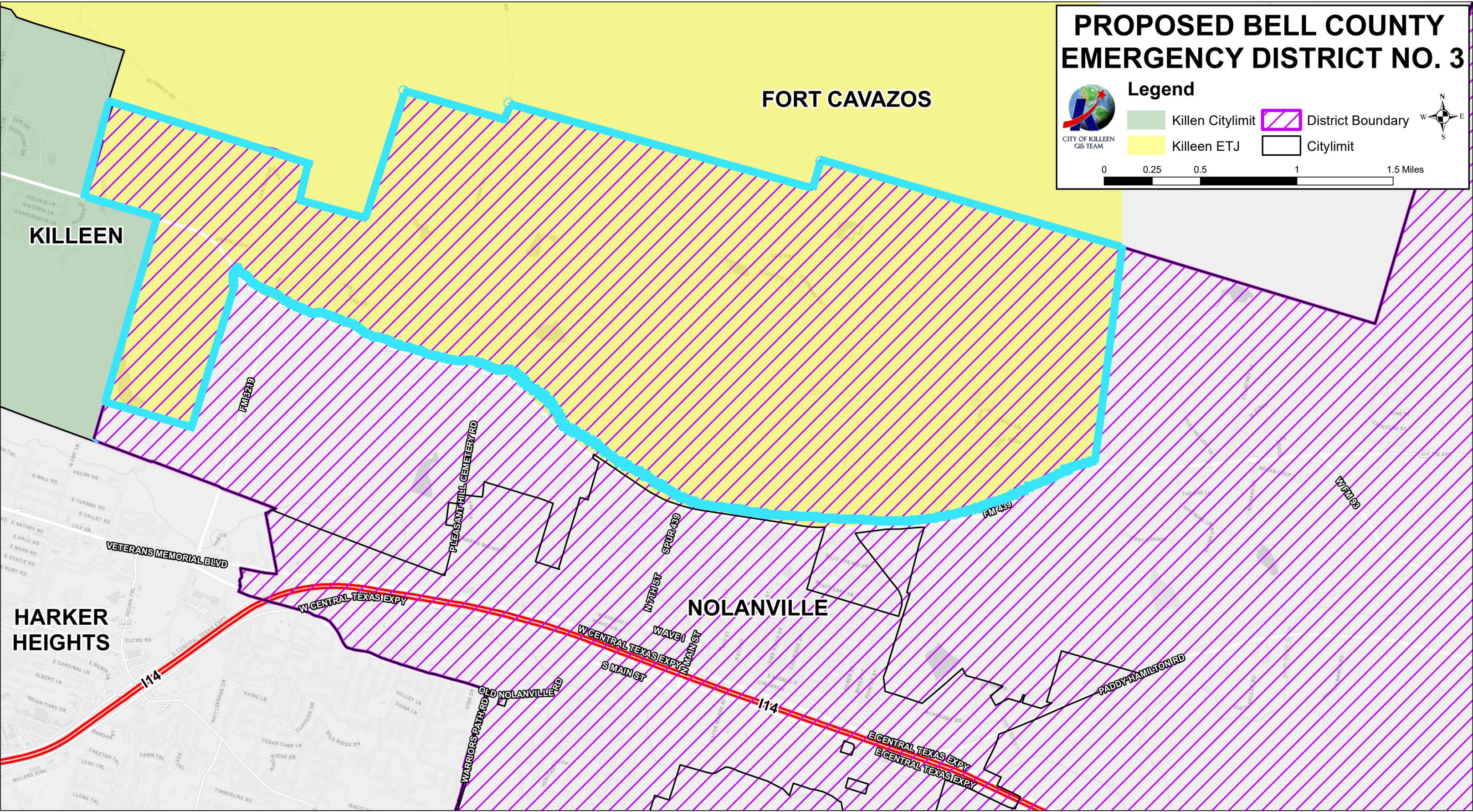


**FORT CAVAZOS**

**KILLEEN**

**HARKER HEIGHTS**

**NOLANVILLE**





BELL COUNTY EMERGENCY  
SERVICES DISTRICT #3 (ESD  
#3) RESPONSE AND  
COVERAGE AREA

RS-26-040

March 3, 2026

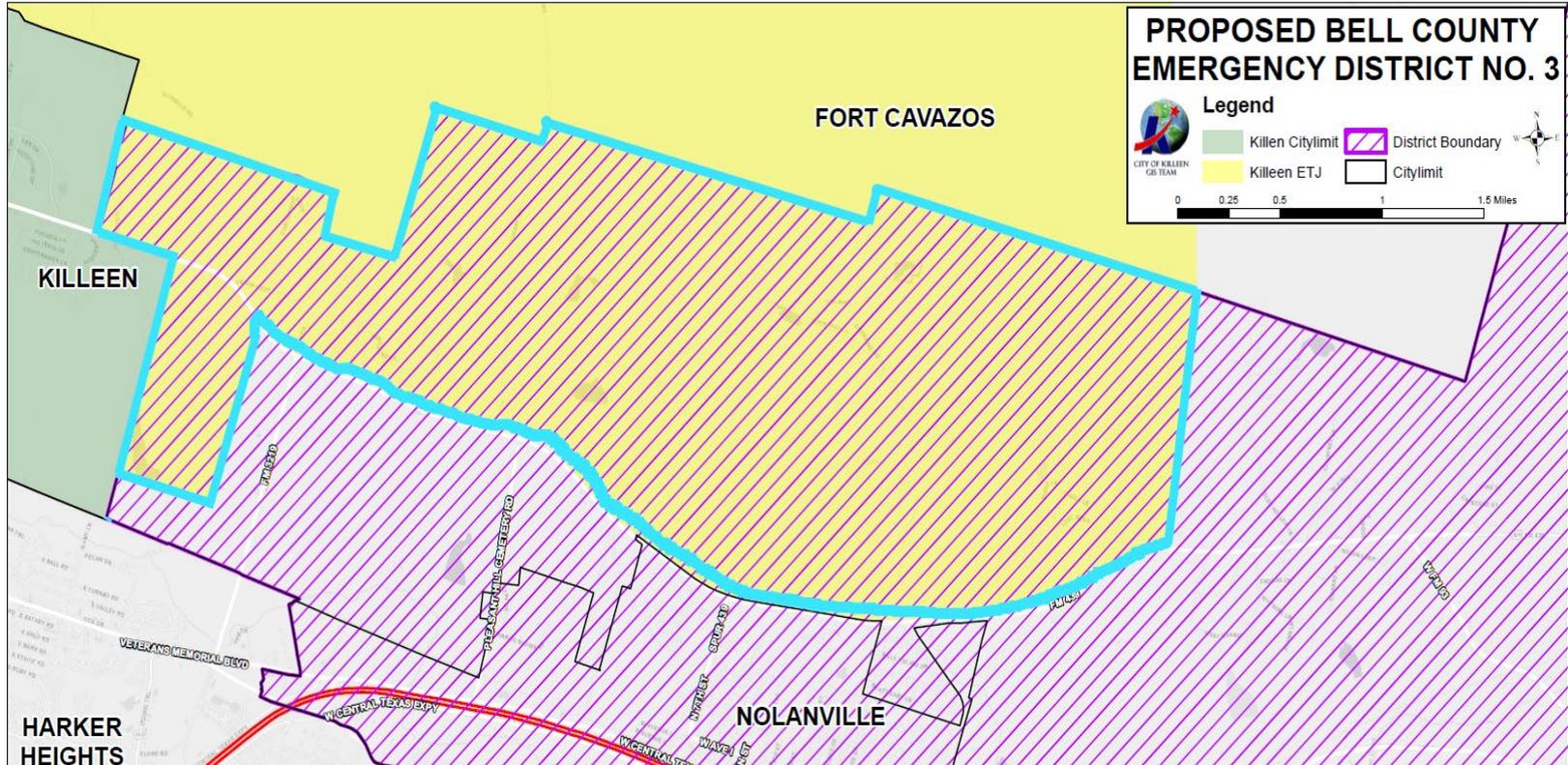
# Petition for Creation of Bell County ESD #3 Background

- A group of citizens organized by Brian and Matthew Henry have initiated the process of creating an Emergency Services District that is planned to include the City of Nolanville and surrounding unincorporated areas that include a portion of the City of Killeen's Extraterritorial Jurisdiction (ETJ).
- Because the proposed ESD includes a portion of the City's ETJ, the City must provide consent to the creation of the ESD and inclusion of the portion within the City's ETJ.

# Petition for Creation of Bell County ESD #3 Background

- This is required so that it may be included for the proposed ESD's creation election to be called by the Bell County Commissioners Court (upon review and related hearings) pursuant to Section 775.014 of the Texas Health & Safety Code copied below.
- The petitioners anticipate the creation election will be called for November 3, 2026. A copy of the Petition is included in the attachments.

# Petition for Creation of Bell County ESD #3 Background



# Petition for Creation of Bell County ESD #3 Background

□ Sec. 775.014. CREATION OF DISTRICT THAT INCLUDES MUNICIPAL TERRITORY states: (a) Before a district may be created that contains territory in a municipality's limits or extraterritorial jurisdiction, a written request to be included in the district must be presented to the municipality's governing body after the petition is filed under Section 775.015. Except as provided by Subsection (c), that territory may not be included in the district unless the municipality's governing body gives its written consent on or before the 60th day after the date on which the municipality receives the request.

# Petition for Creation of Bell County ESD #3 Background

6

- The proposed area:
  - Not currently within corporate city limits
  - Does not affect current fire department response plans as it is currently covered by the Nolanville Fire Department.
  - If any of the proposed area is annexed into the City of Killeen in the future, the City may remove the territory from the ESD and the Killeen Fire Department would resume responsibility for fire response services to the newly annexed area.

# Alternatives

7

- The alternatives are to either consent or not consent to the creation of an emergency services district proposed to be known as Bell County Emergency Services District No. 3, which includes a portion of the extraterritorial jurisdiction of the City of Killeen.
- ▣ If consent is not given the city would assume responsibility for all fire response to the proposed area upon creation of the new ESD.

# Recommendation

- Approve the petition as presented. The proposed area will be the responsibility of the newly formed ESD and relieve the Killeen Fire Department of primary fire response to the area.



# City of Killeen

## Staff Report

File Number: RS-26-041

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Consider a memorandum/resolution approving a Design-Build Agreement with Synergy Commercial Construction for the construction of two box hangars at Skylark Field Airport, in the amount of \$206,528.40.

**DATE:** March 3, 2026

**TO:** Kent Cagle, City Manager

**FROM:** Jarrod Provost, Assistant Director of Aviation

**SUBJECT:** Design-Build Agreement for the construction of box hangars with Synergy Commercial Construction

### **BACKGROUND AND FINDINGS:**

In August 2017, City Council approved a resolution accepting federal and state grant funding from the Texas Department of Transportation (TxDOT) - Aviation Division for the design and construction of a 10-unit box hangar facility at Skylark Field Airport.

While the original project contemplated construction of all 10 hangar units, bid results indicated that available funding was insufficient to complete the full build-out. In coordination with TxDOT, the City proceeded with pouring the concrete slab for all 10 units while constructing only eight hangars. This approach preserved the project's long-term intent by allowing for the future completion of the remaining two units, which were left unfinished with an interior wall exposed to the exterior.

In November 2025, the Aviation Department issued Request for Qualifications (RFQ) No. 26-15 seeking design-build services for the construction of the two remaining box hangars and a restroom at Skylark Field Airport. Four proposals were received on January 6, 2026, and were evaluated by a selection committee comprised of Aviation Department Staff. Following this review, Synergy Commercial Construction was selected as the most qualified firm for RFQ 26-15.

Funding for the project will be provided through the Bipartisan Infrastructure Law (BIL) Airport Infrastructure Grant (AIG) and Aviation Capital Improvement Program (CIP) funds. The restroom component will be delivered under a separate contract and funded through TxDOT Routine Airport Maintenance Program (RAMP) grant revenue and Aviation CIP funds.

Aviation staff, project consultants, and Synergy Commercial Construction met to establish design requirements for the additional hangars and associated site improvements. After reviewing several conceptual plans, Synergy Commercial Construction developed and submitted a proposed Design-Build Agreement in an amount of \$206,528.40 for completion of the two box hangars.

**THE ALTERNATIVES CONSIDERED:**

N/A

**Which alternative is recommended? Why?**

N/A

**CONFORMITY TO CITY POLICY:**

This item conforms to local and state policies.

**FINANCIAL IMPACT:**

**What is the amount of the revenue/expenditure in the current fiscal year? For future years?**

The expenditure for fiscal year 2026 will be \$206,528.40.

**Is this a one-time or recurring revenue/expenditure?**

One-Time

**Is this revenue/expenditure budgeted?**

No

**If not, where will the money come from?**

The grant revenue and expense will be appropriated upon approval of the mid-year budget amendment.

**Is there a sufficient amount in the budgeted line-item for this revenue/expenditure?**

Upon approval of the mid-year budget amendment, \$178,750 will be appropriated in the Aviation AIP Grant Fund revenue in account 341-43100-900-600-926042 and expenditures in account 341-56201-900-605-926042, to reflect the BIL AIG grant revenue and associated project expenses. The remaining City share of \$27,778.40 will be funded through the Aviation CIP account 340-56201-900-600-926042.

**RECOMMENDATION:**

Staff recommends the City Council approve a design-build agreement with Synergy Commercial Construction in the amount of \$206,528.40 for the design and construction of two box hangars at Skylark Field Airport, and authorize the City Manager, or designee, to execute all contract documents and any change orders or actions within the amounts allowed by state and local law.

**DEPARTMENTAL CLEARANCES:**

Purchasing

Finance

Legal

**ATTACHED SUPPORTING DOCUMENTS:**

Agreement

Certificate of Interested Parties

Presentation

## ConsensusDocs® 415

### STANDARD DESIGN-BUILD AGREEMENT AND GENERAL CONDITIONS BETWEEN OWNER AND DESIGN-BUILDER (Lump Sum Price)

#### TABLE OF ARTICLES

1. AGREEMENT
2. GENERAL PROVISIONS
3. DESIGN-BUILDER'S RESPONSIBILITIES
4. OWNER'S RESPONSIBILITIES
5. SUBCONTRACTS
6. CONTRACT TIME
7. CONTRACT PRICE
8. CHANGES IN THE WORK
9. PAYMENT
10. INDEMNITY, INSURANCE, AND BONDS
11. SUSPENSION, NOTICE TO CURE, AND TERMINATION
12. DISPUTE MITIGATION OR RESOLUTION
13. MISCELLANEOUS
14. CONTRACT DOCUMENTS

#### ARTICLE 1 AGREEMENT

This Agreement is made this [ ] Day of [ ] in the year [ ], by and between the

OWNER: City of Killeen  
101 N. College Street  
Killeen, Texas 76541

and the

DESIGN-BUILDER: Synergy Commercial Construction, LLC  
114 Halmar Cove  
Georgetown, Texas 78628

PROJECT: Skylark Field Airport – Box Hangar Only  
Address: 1523 Stonetree Drive, Killeen, Texas

#### ARTICLE 2 GENERAL PROVISIONS

2.1 TEAM RELATIONSHIP Each Party agrees to act on the basis of trust, good faith, and fair dealing, and shall take all actions reasonably necessary to perform this Agreement in an economical and timely manner. The Parties shall each endeavor to promote harmony and cooperation among all Project participants.

2.1.1 Neither Design-Builder nor any of its agents or employees shall act on behalf of or in the name of Owner unless authorized in writing by Owner's Representative.



2.2 ETHICS Each Party shall perform with integrity. Each shall: (a) avoid conflicts of interest; (b) promptly disclose to the other Party any conflicts of interest which may arise. Each Party warrants it has not and shall not pay or receive any contingent fees or gratuities to or from the other Party, including its agents, officers and employees, Design Professional, Subcontractors, Subsubcontractors, Suppliers or Others, to secure preferential treatment.

2.3 DESIGN PROFESSIONAL Architectural and engineering services shall be procured from licensed, independent design professionals retained by Design-Builder or furnished by licensed employees of Design-Builder, as permitted by the Law. The person or entity providing architectural and engineering services shall be referred to as Design Professional. If Design Professional is an independent design professional, the architectural and engineering services shall be procured pursuant to a separate agreement between Design-Builder and Design Professional.

2.3.1 STANDARD OF CARE Design Professional shall furnish and provide the architectural and engineering services necessary to design the Project in accordance with Owner's requirements, as outlined in Owner's Program and other relevant data defining the Project. The architectural and engineering services shall be performed in accordance with the standard of professional skill and care required for a Project of similar size, scope, and complexity, during the time in which the Services are provided.

#### 2.4 DEFINITIONS

2.4.1 "Agreement" means this ConsensusDocs 415 Standard Design-Build Agreement and General Conditions Between Owner and Design-Builder (Lump Sum Price), as modified, amendments, exhibits, addenda, and attachments made part of this Agreement upon its execution.

2.4.2 "Business Day" means all Days, except weekends and official federal or state holidays where the Project is located.

2.4.3 A "Change Order" is a written order signed by Owner and Design-Builder after execution of this Agreement, indicating changes in the scope of the Work or Contract Time, including substitutions proposed by Design-Builder and accepted by Owner.

2.4.4 "Construction Schedule" is the document prepared by Design-Builder that specifies the dates on which Design-Builder plans to begin and complete various parts of the construction phase services Work, and the Project, including dates on which information and approvals are required from Owner.

2.4.5 The "Contract Documents" consist of those documents identified in §14.1.

2.4.6 The "Contract Time" is the period between the Date of Commencement and total time authorized to achieve Final Completion.

2.4.7 "Day" means calendar day.

2.4.8 "Date of Commencement" is as provided for in §6.1.

2.4.9 "Defective Work" is any portion of the Work not in conformance to the requirements of the Contract Documents.

2.4.10 "Final Completion" occurs on the date when Design-Builder's obligations under this Agreement are complete and accepted by Owner and final payment becomes due and payable.



2.4.11 A Hazardous Material is any substance or material identified now or in the future as hazardous under any Laws or any other substance or material which may be considered hazardous or otherwise subject to statutory or regulatory requirements governing handling, disposal or clean-up.

2.4.12 "Interim Directive" is any written order containing Work instructions that is signed by Owner after execution this Agreement and before Substantial Completion to the Work directed by Owner.

2.4.13 "Law" means a federal, state or local law, ordinance, code, rule, or regulation applicable to the Work with which Design-Builder must comply that are enacted as of the Agreement date.

2.4.14 "Others" means Owner's other: (a) contractors/constructors, (b) suppliers, (c) subcontractors, subsubcontractors, or suppliers of (a) and (b); and others employed directly or indirectly by (a), (b), or (c) or any by any of them or for whose acts any of them may be liable.

2.4.15 "Overhead" shall mean (a) payroll costs and other compensation of Design-Builder's employees in Design-Builder's principal and branch offices; (b) general and administrative expenses of Design-Builder's principal and branch offices including charges against Design-Builder for delinquent payments; and (c) Design-Builder's capital expenses, including interest on capital used for the Work.

2.4.16 The "Owner" is the person or entity identified in ARTICLE 1, and includes Owner's representative.

2.4.17 The "Owner's Program" is a description of Owner's objectives, budgetary and time criteria, space requirements and relationships, flexibility and expandability requirements, special equipment and systems, and site requirements, together with Schematic Design Documents which shall include drawings, outline specifications, and other conceptual documents illustrating the Project's basic elements, scale, and their relationship to the Worksite.

2.4.18 The "Parties" are collectively Owner and Design-Builder.

2.4.19 The "Project," as identified in ARTICLE 1, is the building, facility, or other improvements for which Design-Builder is to perform the Work under this Agreement. It may also include improvements to be undertaken by Owner or Others.

2.4.20 "Project schedule" A schedule that shows the timing and sequencing of the design and construction required to meet the time criteria set forth in Owner's Program. The Project includes the Construction Schedule and is coordinated with design phase service activities.

2.4.21 A "Subcontractor" is a person or entity retained by Design-Builder as an independent contractor to provide the labor, materials, equipment, or services necessary to complete a specific portion of the Work. The term Subcontractor does not include Design Professional or any separate contractor employed by Owner or any separate contractor's subcontractors.

2.4.22 "Substantial Completion" of the Work, or of a designated portion, occurs on the date when construction is sufficiently complete in accordance with the Contract Documents so that Owner can occupy or utilize the Project, or a designated portion, for the use for which it is intended, without unscheduled disruption. The issuance of a certificate of occupancy is not a prerequisite for Substantial Completion if the certificate of occupancy cannot be obtained due to factors beyond Design-Builder's control. This date shall be confirmed by a certificate of Substantial Completion signed by The Parties.

2.4.23 A "Subsubcontractor" is a party or entity who has an agreement with a Subcontractor or other Subsubcontractor, or Supplier to perform any portion of the Work or to supply material or equipment.



2.4.24 A "Supplier" is a person or entity retained by Design-Builder to provide material and equipment for the Work.

2.4.25 "Terrorism" means a violent act, or an act that is dangerous to human life, property, or infrastructure, that is committed by an individual or individuals and that appears to be part of an effort to coerce a civilian population or to influence the policy or affect the conduct of any government by coercion. Terrorism includes, but is not limited to, any act certified by the United States Secretary of Treasury as an act of terrorism pursuant to the Terrorism Risk Insurance Act, as amended.

2.4.26 The "Work" is the design services procured in accordance with §3.1, the construction services provided in accordance with §3.2, additional services in accordance with §3.11, and other services which are necessary to complete the Project in accordance with and reasonably inferable from the Contract Documents. The Work may refer to the whole Project or only a part of the Project if work is also being performed by Owner or Others.

2.4.27 "Worksite" means the geographical area of the Project location mentioned in ARTICLE 1 where the Work is to be performed

### ARTICLE 3 DESIGN-BUILDER'S RESPONSIBILITIES

3.1 DESIGN SERVICES Pursuant to a mutually agreeable schedule, Design-Builder shall submit for Owner's written approval, as applicable, Design Development Documents or Construction Documents, based on the Contract Documents in existence at the time of the execution of this Agreement or any further development of Contract Documents that have been approved in writing by Owner.

3.1.1 If required, the Design Development Documents shall further define the Project, including drawings and outline specifications fixing and describing the Project size and character as to site utilization, and other appropriate elements incorporating the structural, architectural, mechanical, and electrical systems. When Design-Builder submits the Design Development Documents, Design-Builder shall identify in writing all material changes and deviations that have taken place from the Contract Documents in existence at the time of the execution of this Agreement. Any changes in the Work contained in the Design Development Documents approved by Owner shall result in a Change Order pursuant to ARTICLE 8 adjusting the Contract Price or the Date of Substantial Completion or the Date of Final Completion.

3.1.2 The Construction Documents shall set forth in detail the requirements for construction of the Work, and shall be based upon codes, laws, or regulations enacted at the time of their preparation. When Design-Builder submits the Construction Documents, Design-Builder shall identify in writing all material changes and deviations that have taken place from the Design Development Documents or the Contract Documents in existence at the time of the execution of this Agreement. Any changes in the Work contained in the Construction Documents approved by Owner shall result in a Change Order pursuant to ARTICLE 8 adjusting the Contract Price or the Date of Substantial Completion or the Date of Final Completion. Construction shall be in accordance with the approved Construction Documents. One set of these documents shall be furnished to Owner before commencing construction.

#### 3.1.3 OWNERSHIP OF DOCUMENTS

3.1.3.1 OWNERSHIP OF TANGIBLE DOCUMENTS Owner shall receive ownership of the property rights, except for copyrights, of all documents, drawings, specifications, electronic data, and information (hereinafter "Documents") prepared, provided or procured by Design-Builder, its Design Professional, Subcontractors, or consultants and distributed to Owner for this Project, upon the making of final payment to Design-Builder or in the event of termination under



ARTICLE 11, upon payment for all sums due to Design-Builder pursuant to ARTICLE 11. Owner's acquisition of the copyright shall be subject to Owner's making of all payments required by this Agreement.

3.1.3.2 COPYRIGHT The Parties agree that Owner shall obtain ownership of the copyright of all Documents. Owner's acquisition of the copyright for all Documents shall be subject to the making of payments as required by §3.1.3.1 and the payment of the fee reflecting the agreed value of the copyright set forth below:

If the Parties have not made a selection to transfer copyright interests in the Documents, the copyright shall remain with Design-Builder.

3.1.3.3 USE OF DOCUMENTS IN EVENT OF TERMINATION In the event of a termination of this Agreement pursuant to ARTICLE 11, Owner shall have the right to use, to reproduce, and to make derivative works of the Documents to complete the Project, regardless of whether there has been a transfer of copyright under §3.1.3.1, provided payment has been made pursuant to §3.1.3.1

3.1.3.4 OWNER'S USE OF DOCUMENTS AFTER COMPLETION OF PROJECT After completion of the Project, Owner may reuse, reproduce, or make derivative works from the Documents solely for the purposes of maintaining, renovating, remodeling, or expanding the Project at the Worksite. Owner's use of the Documents without Design-Builder's involvement or on other projects is at Owner's sole risk, except for Design-Builder's indemnification obligations, and Owner shall indemnify and hold harmless Design-Builder, its Design Professional, Subcontractors, and consultants, and the agents, officers, directors, and employees of each of them, from and against any and all claims, damages, losses, costs, and expenses, including reasonable attorneys' fees and costs, arising out of or resulting from any such prohibited use.

3.1.3.5 DESIGN-BUILDER'S USE OF DOCUMENTS Where Design-Builder has transferred its copyright interest in the Documents under §3.1.3.1, Design-Builder may reuse Documents prepared by it pursuant to this Agreement in its practice, but only in their separate constituent parts and not as a whole.

3.1.3.6 Design-Builder shall obtain from its Design Professional, Subcontractors, and consultants rights and rights of use that correspond to the rights given by Design-Builder to Owner in this Agreement, and Design-Builder shall provide evidence that such rights have been secured.

## 3.2 CONSTRUCTION SERVICES

3.2.1 Construction will commence upon the issuance by Owner of a written notice to proceed which shall not be issued until and unless all permits and permission are issued by any governmental unit having control over same.

3.2.2 In order to complete the Work, Design-Builder shall provide all necessary construction supervision, inspection, construction equipment, construction labor, materials, tools, and subcontracted items.

3.2.3 COMPLIANCE WITH LAW Design-Builder shall give all notices and comply with all Laws at its own costs. Design-Builder shall be liable to Owner for all loss, cost, and expense attributable to any acts or omissions by Design-Builder, its employees, subcontractors, and agents resulting from the failure to comply with Laws, including fines, penalties, or corrective measures. However, liability



under this subsection shall not apply if notice to Owner was given, and advance approval by appropriate authorities, including Owner, is received.

3.2.3.1 CHANGES IN LAW The Contract Price or Contract Time, or both shall be equitably adjusted by Change Order for additional costs or time needed resulting from any change in Law, including increased taxes, enacted after the date of this Agreement

3.2.4 Design-Builder shall maintain the Schedule of Work. This schedule shall indicate the dates for the start and completion of the various stages of the construction, including the dates when information and approvals are required from Owner. It shall be revised as required by the conditions of the Work.

3.2.5 Design-Builder shall obtain and Owner shall pay, in addition to the Contract Price, for the building permits necessary for the construction of the Project.

3.2.6 Design-Builder shall provide periodic written reports to Owner on the progress of the Work in such detail as is required by Owner and as agreed to by The Parties.

3.2.7 Design-Builder shall regularly remove debris and waste materials at the Worksite resulting from the Work. Before discontinuing Work in an area, Design-Builder shall clean the area and remove all rubbish and its construction equipment, tools, machinery, waste, and surplus materials. Design-Builder shall minimize and confine dust and debris resulting from construction activities. At the completion of the Work, Design-Builder shall remove from the Worksite all construction equipment, tools, surplus materials, waste materials, and debris.

Design-Builder shall prepare and submit to Owner either final marked up as-builts drawings that generally document how the various elements of the Work including changes were actually constructed or installed, or as defined by the Parties by attachment to this Agreement.

3.3 CONSTRUCTION SCHEDULE Design-Builder shall prepare and submit a Schedule of Work for Owner's acceptance and written approval. This schedule shall indicate the commencement and completion dates of the various stages of the Work, including the dates when information and approvals are required from Owner. The Schedule shall be revised on a monthly basis or as mutually agreed by the Parties.

#### 3.4 SAFETY OF PERSONS AND PROPERTY

3.4.1 SAFETY PRECAUTIONS AND PROGRAMS Design-Builder shall have overall responsibility for safety precautions and programs in the performance of the Work. However, such obligation does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with the provisions of Laws.

3.4.2 Design-Builder shall prevent against injury, loss, or damage to persons or property by taking reasonable steps to protect:

3.4.2.1 its employees and other persons at the Worksite;

3.4.2.2 materials, supplies, and equipment stored at the Worksite for use in performance of the Work; and

3.4.2.3 the Project and all property located at the Worksite and adjacent to work areas, whether or not said property or structures are part of the Project or involved in the Work.



3.4.3 DESIGN-BUILDER'S SAFETY REPRESENTATIVE Design-Builder shall designate an individual at the Worksite in the employ of Design-Builder who shall act as Design-Builder's designated safety representative with a duty to prevent accidents. Unless otherwise identified by Design-Builder in writing to Owner, the designated safety representative shall be Design-Builder's project superintendent. Design-Builder will report immediately in writing all accidents and injuries occurring at the Worksite to Owner. When Design-Builder is required to file an accident report with a public authority, Design-Builder shall furnish a copy of the report to Owner.

3.4.4 Design-Builder shall provide Owner with copies of all notices required of Design-Builder by Law. Design-Builder's safety program shall comply with the requirements of governmental and quasi-governmental authorities having jurisdiction over the Work.

3.4.5 Damage or loss not insured under property insurance which may arise from the performance of the Work, to the extent of the negligence attributed to such acts or omissions of Design-Builder, or anyone for whose acts Design-Builder may be liable, shall be promptly remedied by Design-Builder. Damage or loss attributable to the acts or omissions of Owner or Others and not to Design-Builder shall be promptly remedied by Owner.

3.4.6 If Owner deems any part of the Work or Worksite unsafe, Owner, without assuming responsibility for Design-Builder's safety program, may require Design-Builder to stop performance of the Work or take corrective measures satisfactory to Owner, or both. If Design-Builder does not adopt corrective measures, Owner may perform them and reduce the amount of the Contract Price by the costs of the corrective measures. Design-Builder agrees to make no claim for damages, for an adjustment in the Contract Price or the Date of Substantial Completion or the Date of Final Completion based on Design-Builder's compliance with Owner's reasonable request.

3.5 EMERGENCIES In any emergency affecting the safety of persons or property, Design-Builder shall act in a reasonable manner to prevent threatened damage, injury, or loss. Any change in the Contract Price, the Date of Substantial Completion, or the Date of Final Completion, on account of emergency work shall be determined as a Change Order.

### 3.6 HAZARDOUS MATERIAL

3.6.1 Design-Builder shall not be obligated to commence or continue Work until all Hazardous Material discovered at the Worksite has been removed, rendered, or determined to be harmless by Owner as certified by an independent testing laboratory and approved by the appropriate government agency.

3.6.2 If after commencing the Work, Hazardous Material is discovered at the Project, Design-Builder shall be entitled to immediately stop Work in the affected area. Design-Builder shall report the condition to Owner and, if required, the government agency with jurisdiction.

3.6.3 Design-Builder shall not resume nor be required to continue any Work affected by any Hazardous Material without written mutual agreement between the Parties after the Hazardous Material has been removed or rendered harmless and only after approval, if necessary, of the governmental agency with jurisdiction. Owner shall be responsible for retaining an independent testing laboratory to determine the nature of the material encountered and whether it is a Hazardous Material requiring corrective measures or remedial action. Such measures shall be the sole responsibility of Owner, and shall be performed in a manner minimizing any adverse effect upon the Work.

3.6.4 If Design-Builder incurs additional costs or is delayed due to the presence or remediation of Hazardous Material, Design-Builder shall be entitled to an equitable adjustment in the Contract Price or the date of Substantial Completion.



3.6.5 To the extent not caused by the negligent or intentionally wrongful acts or omissions of Design-Builder, its Subcontractors and Subsubcontractors, and the agents, officers, directors, and employees of each of them, Owner shall indemnify and hold harmless Design-Builder, its Subcontractors and Subsubcontractors, and the agents, officers, directors, and employees of each of them, from and against all claims, damages, losses, costs, and expenses, including but not limited to reasonable attorneys' fees, costs, and expenses incurred in connection with any dispute resolution process, to the extent permitted pursuant to §6.5, arising out of or relating to the performance of the Work in any area affected by Hazardous Material.

3.7 Safety Data Sheets (SDS) as required by law and pertaining to materials or substances used or consumed in the performance of the Work, whether obtained by Design-Builder, Subcontractors, Owner or Others, shall be maintained at the Project by Design-Builder and made available to Owner and Subcontractors.

3.7.1 During Design-Builder's performance of the Work, Design-Builder shall be responsible for the proper handling, application, storage, removal, and disposal of all materials brought to the Worksite by Design-Builder. Upon the issuance of the Certificate of Substantial Completion, Owner shall be responsible for materials and substances brought to the Worksite by Design-Builder if such materials or substances are required by the Contract Documents.

3.7.2 §3.6 shall survive the completion of the Work under this Agreement or any termination of this Agreement.

### 3.8 WARRANTY

3.8.1 Design-Builder warrants that all materials and equipment furnished under this Agreement will be new unless otherwise specified, of good quality, in conformance with the Contract Documents, and free from defective workmanship and materials. Warranties shall commence on the date of Substantial Completion of the Work or of a designated portion.

3.8.2 To the extent products, equipment, systems, or materials incorporated in the Work are specified and purchased by Owner, they shall be covered exclusively by the warranty of the manufacturer. There are no warranties which extend beyond the description on the face thereof. To the extent products, equipment, systems, or materials incorporated in the Work are specified by Owner but purchased by Design-Builder and are inconsistent with selection criteria that otherwise would have been followed by Design-Builder, Design-Builder shall assist Owner in pursuing warranty claims. ALL OTHER WARRANTIES EXPRESSED OR IMPLIED INCLUDING THE WARRANTY OF MERCHANTABILITY AND THE WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE ARE EXPRESSLY DISCLAIMED.

3.8.3 Design-Builder shall secure required certificates of inspection, testing, or approval and deliver them to Owner.

3.8.4 Design-Builder shall collect all written warranties and equipment manuals and deliver them to Owner in a format directed by Owner.

3.8.5 With the assistance of Owner's maintenance personnel, Design-Builder shall direct the checkout of utilities and start-up operations, and adjusting and balancing of systems and equipment for readiness.

### 3.9 CORRECTION OF WORK WITHIN ONE YEAR



3.9.1 Before Substantial Completion and within one year after the date of Substantial Completion of the Work or for such longer periods of time as may be set forth with respect to specific warranties required by the Contract Documents, if any Defective Work is found, Owner shall promptly notify Design-Builder in writing. Unless Owner provides written acceptance of the condition, Design-Builder shall promptly correct the Defective Work at its own cost and time and bear the expense of additional services required for correction of any Defective Work for which it is responsible. If within the one-year correction period Owner discovers and does not promptly notify Design-Builder or give Design-Builder an opportunity to test or correct Defective Work as reasonably requested by Design-Builder, Owner waives Design-Builder's obligation to correct that Defective Work as well as Owner's right to claim a breach of the warranty with respect to that Defective Work.

3.9.2 With respect to any portion of Work first performed after Substantial Completion, the one-year correction period shall commence when that portion of Work is complete. Correction periods shall not be extended by corrective work performed by Design-Builder.

3.9.3 If Design-Builder fails to correct Defective Work within a reasonable time after receipt of written notice from Owner before final payment, Owner may correct it in accordance with Owner's right to carry out the Work. In such case, an appropriate Change Order shall be issued deducting the cost of correcting such deficiencies from payments then or thereafter due Design-Builder. If payments then or thereafter due Design-Builder are not sufficient to cover such amounts, Design-Builder shall pay the difference to Owner.

3.9.4 Design-Builder's obligations and liability, if any, with respect to any Defective Work discovered after the one-year correction period shall be determined by the Law. If, after the one-year correction period but before the applicable limitation period has expired, Owner discovers any Work which Owner considers Defective Work, Owner shall, unless the Defective Work requires emergency correction, promptly notify Design-Builder and allow Design-Builder an opportunity to correct the Work if Design-Builder elects to do so. If Design-Builder elects to correct the Work, it shall provide written notice of such intent within fourteen (14) Days of its receipt of notice from Owner and shall complete the correction of Work within a mutually agreed timeframe. If Design-Builder does not elect to correct the Work, Owner may have the Work corrected by itself or Others, and, if Owner intends to seek recovery of those costs from Design-Builder, Owner shall promptly provide Design-Builder with an accounting of the correction costs it incurs.

3.9.5 If Design-Builder's correction or removal of Defective Work causes damage to or destroys other completed or partially completed Work or existing buildings, Design-Builder shall be responsible for the cost of correcting the destroyed or damaged property.

3.9.6 The one-year period for correction of Defective Work does not constitute a limitation period with respect to the enforcement of Design-Builder's other obligations under the Contract Documents.

3.9.7 Before final payment, at Owner's option and with Design-Builder's agreement, Owner may elect to accept Defective Work rather than require its removal and correction. In such case the Contract Price shall be equitably adjusted for any diminution in the value of the Project caused by such Defective Work.

3.10 CONFIDENTIALITY Design-Builder shall treat as confidential and not disclose to third-persons, except Subcontractors, Subsubcontractors, and Design Professional as is necessary for the performance of the Work, or use for its own benefit any of Owner's developments, confidential information, know-how, discoveries, production methods, and the like that may be disclosed to Design-Builder or which Design-Builder may acquire in connection with the Work. Owner shall treat as confidential information all of Design-Builder's estimating systems and historical and parameter cost data that may be disclosed to Owner in connection with the performance of this Agreement. The Parties shall each specify those items



to be treated as confidential and shall mark them as "Confidential." Confidentiality obligations do not supersede compulsion by Law, a governmental agency or authority, an order of a court of competent jurisdiction, or a validly issued subpoena. In such event, a Party shall promptly notify the other Party to permit that Party's legal objection.

3.11 ADDITIONAL SERVICES Design-Builder shall provide or procure the following Additional services upon the request of Owner. A written agreement between The Parties shall define the extent of such Additional services. Such Additional services shall be considered a Change in the Work, unless they are specifically included in §3.1 or §3.2.

3.11.1 Assisting in the developing Owner's Program, establishing the Project budget, investigating sources of financing, general business planning, and other information and documentation as may be required to establish the feasibility of the Project;

3.11.2 Consultations, negotiations, and documentation supporting the procurement of Project financing;

3.11.3 Surveys, site evaluations, legal descriptions, and aerial photographs;

3.11.4 Appraisals of existing equipment, existing properties, new equipment, and developed properties;

3.11.5 Soils, subsurface, and environmental studies, reports, and investigations required for submission to governmental authorities or others having jurisdiction over the Project;

3.11.6 Consultations and representations before governmental authorities or others having jurisdiction over the Project other than normal assistance in securing building permits;

3.11.7 Investigation or making measured drawings of existing conditions or the verification of Owner-provided drawings and information;

3.11.8 Artistic renderings, models, and mockups of the Project or any part of the Project or the Work;

3.11.9 Inventories of existing furniture, fixtures, furnishings, and equipment which might be under consideration for incorporation into the Project;

3.11.10 Interior design and related services including procurement and placement of furniture, furnishings, artwork, and decorations;

3.11.11 Making revisions to design documents after they have been approved by Owner when revisions are due to causes beyond the control of Design-Builder. Causes beyond the control of Design-Builder do not include acts or omissions on the part of Subcontractors, Subsubcontractors, or Design Professional;

3.11.12 Design, coordination, management, expediting, and other services supporting the procurement of materials to be obtained, or work to be performed, by Owner, including but not limited to telephone systems, computer wiring networks, sound systems, alarms, security systems, and other specialty systems which are not a part of this Agreement;

3.11.13 Estimates, proposals, appraisals, consultations, negotiations, and services in connection with the repair or replacement of an insured loss, provided such repair or replacement did not result from the negligence of Design-Builder;



- 3.11.14 The premium portion of overtime work ordered by Owner including productivity impact costs, other than that required by Design-Builder to maintain the Schedule of Work;
  - 3.11.15 Out-of-town travel by Design Professional in connection with the Work, except between Design Professional's office, Design-Builder's office, Owner's office, and the Project site;
  - 3.11.16 Obtaining service contractors and training maintenance personnel; assisting and consulting in the use of systems and equipment after the initial startup;
  - 3.11.17 Services for tenant or rental spaces not required by this Agreement;
  - 3.11.18 services requested by Owner or required by the Work which are not specified in the Contract Documents and which are not normally part of generally accepted design and construction practice;
  - 3.11.19 Except when Design Professional is a party to the proceeding, serving or preparing to serve as an expert witness in connection with any proceeding, legal or otherwise, regarding the Project;
  - 3.11.20 document reproduction exceeding the limits provided for in this Agreement;
  - 3.11.21 providing services relating to Hazardous Material discovered at the Worksite;
  - 3.11.22 acting as a Green Building Facilitator as identified in the ConsensusDocs 310 Green Building Addendum or separate addenda, which, at a minimum, shall include: (a) coordinating and facilitating the achievement of elected green measures and green status, such as achieving Leadership in Energy and Environmental Design "LEED" certification; (b) identifying, preparing, and submitting necessary documentation for elected green status; and (c) identifying project participants responsible to complete physical and procedural green measures;
  - 3.11.23 performing formal commissioning services; and
  - 3.11.24 other services as agreed to by the Parties and identified in an attached exhibit.
- 3.12 DESIGN-BUILDER'S REPRESENTATIVE Design-Builder shall designate a person who shall be Design-Builder's authorized representative. Design-Builder's Representative is Dan Bradley

#### **ARTICLE 4 OWNER'S RESPONSIBILITIES**

- 4.1 INFORMATION AND SERVICES PROVIDED BY OWNER Owner's responsibilities under this article shall be provided with reasonable detail and in a timely manner.
- 4.2 WORKSITE INFORMATION To the extent Owner has obtained, or is required elsewhere in the Contract Documents to obtain, the following Worksite information, Owner shall provide at Owner's expense and with reasonable promptness:
- 4.2.1 information describing the physical characteristics of the site, including surveys, site evaluations, legal descriptions, data, or drawings depicting existing conditions, subsurface conditions, and environmental studies, reports, and investigations;
  - 4.2.2 tests, inspections, and other reports dealing with environmental matters, Hazardous Material, and other existing conditions, including structural, mechanical, and chemical tests, required by the Contract Documents or by Law;
  - 4.2.3 the limits of Pollution Liability Insurance covering the Worksite held by Owner; and



4.2.4 any other information or services requested in writing by Design-BUILDER which are required for Design-BUILDER's performance of the Work and under Owner's control.

#### 4.3 RESPONSIBILITIES DURING DESIGN

4.3.1 Owner shall review and approve further development of the drawings and specifications as set forth in ARTICLE 3.

#### 4.4 RESPONSIBILITIES DURING CONSTRUCTION

4.4.1 Owner shall review the Construction Schedule, timely approve milestone dates set forth, and timely respond to its obligations.

4.4.2 If Owner becomes aware of any error, omission, or failure to meet the requirements of the Contract Documents or any fault or defect in the Work, Owner shall give prompt written notice to Design-BUILDER. The failure of Owner to give such notice shall not relieve Design-BUILDER of its obligations to fulfill the requirements of the Contract Documents.

4.4.3 Owner shall have no contractual obligations to Subcontractors, suppliers, or Design Professional.

4.4.4 Owner shall provide insurance for the Project as provided in ARTICLE 10.

4.5 ELECTRONIC DOCUMENTS If Owner requires that The Parties exchange documents and data in electronic or digital form, before any such exchange, The Parties shall agree on a written protocol governing all exchanges in ConsensusDocs 200.2 or a separate agreement, which, at a minimum, shall specify: (a) the definition of documents and data to be accepted in electronic or digital form or to be transmitted electronically or digitally; (b) management and coordination responsibilities; (c) necessary equipment, software, and services; (d) acceptable formats, transmission methods, and verification procedures; (e) methods for maintaining version control; (f) privacy and security requirements; and (g) storage and retrieval requirements. The Parties shall each bear their own costs for the requirements identified in the protocol. In the absence of a written protocol, use of documents and data in electronic or digital form shall be at the sole risk of the recipient.

4.6 Owner's Representative is \_\_\_\_\_ . Owner's representative shall: (a) be fully acquainted with the Project; (b) agree to furnish the information and services required of Owner in a timely manner; and (c) have the authority to bind Owner in all matters requiring Owner's approval, authorization or written notice. If Owner changes its representative or the representative's authority as listed above, Owner shall notify Design-BUILDER in writing in advance.

### ARTICLE 5 SUBCONTRACTS

5.1. RETAINING SUBCONTRACTORS Design-BUILDER shall not retain any Subcontractor or Supplier to whom Owner has a reasonable and timely objection, provided that Owner agrees to increase the Contract Price for any additional costs incurred by Design-BUILDER as a result of such objection. Owner may propose subcontractors to be considered by Design-BUILDER. Design-BUILDER shall not be required to retain any subcontractor to whom Design-BUILDER has a reasonable objection.

5.2. MANAGEMENT OF SUBCONTRACTORS Design-BUILDER shall be responsible for the management of Subcontractors in the performance of their work.

5.3. CONTINGENT ASSIGNMENT OF SUBCONTRACT AGREEMENTS



5.3.1. If this Agreement is terminated, each subcontract agreement shall be assigned by Design-Builder to Owner, subject to the prior rights of any surety, provided that:

5.3.1.1. this Agreement is terminated by Owner pursuant to §11.2 or §11.3; and

5.3.1.2. Owner accepts such assignment, after termination by notifying the Subcontractor and Design-Builder in writing, and assumes all rights and obligations of Design-Builder pursuant to each subcontract or supply agreement.

5.3.2. If Owner accepts such an assignment, and the Work has been suspended for more than thirty (30) consecutive Days, following termination, if appropriate, Subcontractor's or Supplier's compensation shall be equitably adjusted as a result of the suspension.

5.4. BINDING OF SUBCONTRACTORS AND SUPPLIERS Design-Builder agrees to bind every Subcontractor and Supplier (and require every Subcontractor to so bind its Subsubcontractors and significant Suppliers) to all the provisions of this Agreement and the Contract Documents' applicable provisions to that portion of the Work.

## ARTICLE 6 CONTRACT TIME

6.1. DATE OF COMMENCEMENT The Date of Commencement is the Agreement date in ARTICLE 1 unless otherwise set forth below TBD. The Work shall proceed in general accordance with the Project Schedule which may be amended in accordance with this Agreement.

### 6.2. SUBSTANTIAL COMPLETION/FINAL COMPLETION

6.2.1. Substantial Completion of the Work shall be achieved in forty-nine(49) Days from the Date of Commencement. Unless otherwise specified, the Work shall be finally complete within thirty(30) Days after the date of Substantial Completion, subject to adjustments as provided for in the Contract Documents.

6.2.2. Time is of the essence with regards to the obligations of the Contract Documents.

6.2.3. Unless otherwise instructed by an Interim Directive, Design-Builder shall not knowingly commence the Work before the effective date of insurance required to be provided by Design-Builder.

### 6.3. DELAYS AND EXTENSIONS OF TIME

6.3.1. If Design-Builder is delayed at any time in the commencement or progress of the Work by any cause beyond the control of Design-Builder, Design-Builder shall be entitled to an equitable extension of the Date of Substantial Completion or the Date of Final Completion. Examples of causes beyond the control of Design-Builder include, but are not limited to, the following: (a) acts or omissions of Owner or Others; (b) changes in the Work or the sequencing of the Work ordered by Owner, or arising from decisions of Owner that impact the time of performance of the Work; (c) encountering Hazardous Materials, or concealed or unknown conditions; (d) delay authorized by Owner pending dispute resolution or suspension by Owner under §12.1; (e) transportation delays not reasonably foreseeable; (f) labor disputes not involving Design-Builder; (g) general labor disputes impacting the Project but not specifically related to the Worksite; (h) fire; (i) Terrorism; (j) epidemics; (k) adverse governmental actions, (l) unavoidable accidents or circumstances; (m) adverse weather conditions (n) government imposition of tariffs which result in unprofitability, economic hardship, market fluctuations, or delay in availability to Design-Builder . Design-Builder shall process any requests for equitable extensions of the Date of Substantial Completion or the Date of Final Completion in accordance with the provisions of ARTICLE 8.



6.3.2. In addition, if Design-Builder incurs additional costs as a result of a delay that is caused by acts or omissions of Owner or Others, changes in the Work or the sequencing of the Work ordered by Owner, or arising from decisions of Owner that impact the time of performance of the Work, encountering Hazardous Materials unanticipated by Design-Builder or concealed or unknown conditions, government imposition of tariffs which result in unprofitability, economic hardship, market fluctuations, or delay in availability to Design-Builder, delay authorized by Owner pending dispute resolution, or suspension by Owner under §ARTICLE 11, Design-Builder shall be entitled to an equitable adjustment in the Contract Price subject to §6.5.

6.3.3. In the event delays to the project are encountered for any reason, the Parties agree to undertake reasonable steps to mitigate the effect of such delays.

#### 6.4. SUBSTANTIAL COMPLETION

6.4.1. SUBSTANTIAL COMPLETION The Parties agree that this Agreement shall not provide for the imposition of liquidated damages based on the Date of Substantial Completion.

6.4.2. FINAL COMPLETION Owner and Design-Builder agree that this Agreement shall provide for the imposition of liquidated damages based on the Date of Final Completion.

6.4.2.1. Design Builder understands that the Date of Final Completion is not attained, Owner will suffer damages which are difficult to determine and accurately specify. Constructor agrees that the Date of Substantial Completion is not attained, Design Builder shall pay Owner FIVE HUNDRED AND NO/100 DOLLARS (\$500.00) as liquidated damages for each Day that Final Completion extends beyond the Date of Final Completion. The liquidated damages provided herein shall be in lieu of all liability for any and all extra costs, losses, expenses, claims, penalties, and any other damages of whatsoever nature incurred by Owner which are occasioned by any delay in achieving the Date of Final Completion.

~~6.4.2.2.~~

6.5. LIMITED MUTUAL WAIVER OF CONSEQUENTIAL DAMAGES Except for losses covered by insurance required by the Contract Documents, Owner and Design-Builder agree to waive all claims against each other for any consequential damages that may arise out of or relate to this Agreement, except for those specific items of damages excluded from this waiver as mutually agreed upon by the Parties and identified below. Owner agrees to waive damages including but not limited to Owner's loss of use of the Project, any rental expenses incurred, loss of income, profit, or financing related to the Project, as well as the loss of business, loss of financing, principal office overhead and expenses, loss of profits not related to this Project, loss of reputation, or insolvency. Design-Builder agrees to waive damages including but not limited to loss of business, loss of financing, loss of profits not related to this Project, loss of bonding capacity, loss of reputation, or insolvency.

6.5.1. The following items of damages are excluded from this mutual waiver:

6.5.2. The provisions of this section shall also apply to the termination of this Agreement and shall survive such termination. Owner and Design-Builder shall require similar waivers in contracts with Subcontractors and Others retained for the Project.

### ARTICLE 7 CONTRACT PRICE

The Contract Price is Two Hundred Six Thousand Five Hundred Twenty Eight and 40/100 dollars (\$206,528.40) subject to adjustment as provided in ARTICLE 8.



## ARTICLE 8 CHANGES IN THE WORK

Changes in the Work which are within the general scope of this Agreement may be accomplished without invalidating this Agreement by Change Order, Interim Directive, or a minor change in the Work, subject to the limitations stated in the Contract Documents.

### 8.1. CHANGE ORDERS

8.1.1. Design-Builder may request or Owner, without invalidating this Agreement, may order changes in the Work within the general scope of the Contract Documents consisting of adjustment to the Contract Price or the Date of Substantial Completion or the Date of Final Completion. All such changes in the Work shall be authorized by applicable Change Order, and processed in accordance with this article. Each adjustment in the Contract Price resulting from a Change Order shall clearly separate the amount attributable to Design services.

8.1.2. The Parties shall negotiate an appropriate adjustment to Contract Price or the Date of Substantial Completion or the Date of Final Completion in good faith and conclude negotiations as expeditiously as possible. Said Change Orders shall be at Design-Builder's cost plus 8.0% general conditions and 5.0% profit. Acceptance of the Change Order and any adjustment in the Contract Price or the Date of Substantial Completion or the Date of Final Completion shall not be unreasonably withheld.

8.1.3. NO OBLIGATION TO PERFORM Design-Builder shall not be obligated to perform changes in the Work until a Change Order has been executed or a written Interim Directive has been issued.

### 8.2. INTERIM DIRECTIVE

8.2.1. Owner may issue an Interim Directive directing a change in the Work before agreeing on an adjustment, if any, in the Contract Price or the Date of Substantial Completion or the Date of Final Completion, and if appropriate, the compensation for Design services or directing Design-Builder to perform Work that Owner believes is not a change. If the Parties disagree that the Interim Directed work is within the scope of the Work, Design-Builder shall perform the disputed Work and furnish Owner with an estimate of the costs to perform the disputed work in accordance with Owner's interpretations.

8.2.2. The Parties shall negotiate expeditiously and in good faith for appropriate adjustments, as applicable, to the Contract Price or the Date of Substantial Completion or the Date of Final Completion, and if appropriate the compensation for Design services, arising out of Interim Directive. As the changed work is completed, the Design Builder shall submit its costs for such work with its Application for Payment beginning with the next Application for Payment within thirty (30) Days of the issuance of the Interim Directive. Owner's payment does not prejudice its right to be reimbursed should it be determined that the disputed work was within the scope of the Work.

8.2.3. If the Parties agree upon the adjustments in the Contract Price or the Date of Substantial Completion or the Date of Final Completion, and if appropriate, the compensation for Design services, for a change in the Work directed by an Interim Directive, such agreement shall be the subject of an appropriate Change Order. The Change Order shall include all outstanding Interim Directives issued since the last Change Order.

### 8.3. MINOR CHANGES IN THE WORK

8.3.1. Design-Builder may make minor changes in the design and construction of the Project consistent with the intent of the Contract Documents which do not involve an adjustment in the



Contract Price or the Date of Substantial Completion or the Date of Final Completion; and do not materially and adversely affect the design of the Project, the quality of any of the materials or equipment specified in the Contract Documents, the performance of any materials, equipment, or systems specified in the Contract Documents, or the quality of workmanship required by the Contract Documents.

8.3.2. Design-Builder shall promptly inform Owner in writing of any such changes and shall record such changes on the Design-Build Documents maintained by Design-Builder.

8.4. CONCEALED OR UNKNOWN SITE CONDITIONS If a condition encountered at the Worksite are (a) subsurface or other physical conditions materially different from those indicated in the Contract Documents, or (b) unusual and unknown physical conditions materially different from conditions ordinarily encountered and generally recognized as inherent in Work provided for in the Contract Documents, Design-Builder shall stop affected Work after the concealed or unknown condition is first observed and give prompt written notice of the condition to Owner. Owner shall investigate and then issue an Interim Directive specifying the extent to which Owner agrees that a concealed or unknown condition exists and directing how Design-Builder is to proceed. Design-Builder shall not be required to perform any Work relating to the unknown condition without the written mutual agreement of the Parties. Any change in the Contract Price or Contract Time as a result of the condition, including any dispute about its existence or nature, shall be determined as provided in this ARTICLE 8.

#### 8.5. DETERMINATION OF COST

8.5.1. An increase or decrease in the Contract Price resulting from a change in the Work shall be determined by one or more of the following methods:

8.5.1.1. unit prices set forth in this Agreement or as subsequently agreed;

8.5.1.2. a mutually accepted, itemized lump sum; or

8.5.1.3. COST OF THE WORK Cost of the Work as defined by this §8.5.1.3 plus eight percent(8%) for Overhead and five percent 5% for profit. "Cost of the Work" shall include the following costs reasonably incurred to perform a change in the Work:

8.5.1.3.1. Labor wages directly employed by Design-Builder performing the Work;

8.5.1.3.2. Salaries of Design-Builder's employees when stationed at the field office to the extent necessary to complete the applicable Work, employees engaged on the road expediting the production or transportation of material and equipment, and supervisory employees from the principal or branch office as mutually agreed by the Parties in writing;

8.5.1.3.3. Cost of applicable employee benefits and taxes, including but not limited to, workers' compensation, unemployment compensation, social security, health, welfare, retirement and other fringe benefits as required by law, labor agreements, or paid under Design-Builder's standard personnel policy, insofar as such costs are paid to employees of Design-Builder who are included in the Cost of the Work in §8.5.1.3.1 and §8.5.1.3.2;

8.5.1.3.4. Reasonable transportation, travel, and hotel expenses of Design-Builder's personnel incurred in connection with the Work;



8.5.1.3.5. Cost of all materials, supplies, and equipment incorporated in the Work, including costs of inspection and testing if not provided by Owner, transportation, storage, and handling;

8.5.1.3.6. Payments made by Design-Builder to Subcontractors for performed Work;

8.5.1.3.7. Fees and expenses for design services procured or furnished by Design-Builder

8.5.1.3.8. Cost, including transportation and maintenance of all materials, supplies, equipment, temporary facilities, and hand tools not owned by the workers that are used or consumed in the performance of the Work, less salvage value or residual value; and cost less salvage value of such items used, but not consumed that remain the property of Design-Builder;

8.5.1.3.9. Rental charges of all necessary machinery and equipment, exclusive of hand tools owned by workers, used at the Worksite, whether rented from Design-Builder or others, including installation, repair and replacement, dismantling, removal, maintenance, transportation, and delivery costs. Rental from unrelated third parties shall be reimbursed at actual cost. Rentals from Design-Builder or its affiliates, subsidiaries, or related parties shall be reimbursed at the prevailing rates in the locality of the Worksite up to eighty-five percent (85%) of the value of the piece of equipment;

8.5.1.3.10. Cost of the premiums for all insurance and surety bonds which Design-Builder is required to procure or deems necessary, and approved by Owner including any additional premium incurred as a result of any increase in the cost of the Work;

8.5.1.3.11. Sales, use, gross receipts or other taxes, tariffs, or duties related to the Work for which Design-Builder is liable;

8.5.1.3.12. Permits, fees, licenses, tests, and royalties;

8.5.1.3.13. Losses, expenses or damages to the extent not compensated by insurance or otherwise, and the cost of corrective work, provided that such did not arise from Design-Builder's negligence.

8.5.1.3.14. Water, power, and fuel costs necessary for the changed Work;

8.5.1.3.15. Cost of removal of all nonhazardous substances, debris, and waste materials;

8.5.1.3.16. Costs directly incurred to perform a change in the Work which are reasonably inferable from the Contract Documents for the changed Work

8.5.1.3.17. DISCOUNTS All discounts for prompt payment shall accrue to Owner to the extent such payments are made directly by Owner. To the extent payments are made with funds of Design-Builder, all cash discounts shall accrue to Design-Builder. All trade discounts, rebates and refunds, and all returns from sale of surplus materials and equipment, shall be credited to the Cost of the Work;

8.5.1.3.18. COST AND SCHEDULE ESTIMATES Design-Builder shall use reasonable skill and judgment in the preparation of a cost estimate or schedule for a change to the Work, but does not warrant or guarantee their accuracy.



8.5.1.3.19. Cost of the Work pursuant to §8.5.1.3 is determined net of savings from the change. Design-Builder's Overhead and profit shall be added to any net increase in Cost of the Work. No Overhead and profit shall be applied to any net decrease in the Cost of the Work that is less than ten (10) percent of the Contract Price. Overhead and profit shall be applied to any net decrease ten (10) percent or more. Design-Builder shall maintain a documented, itemized accounting evidencing expenses and savings.

8.5.2. If unit prices are indicated in the Contract Documents or are subsequently agreed to by the Parties, but the character or quantity of such unit items as originally contemplated is so different in a proposed Change Order that the original unit prices will cause substantial inequity to Owner or Design-Builder, such unit prices shall be equitably adjusted.

8.5.3. If Owner and Design-Builder disagree as to whether work required by Owner is within the scope of the Work, Design-Builder shall furnish Owner with an estimate of the costs to perform the disputed work in accordance with Owner's interpretations. If Owner issues a written order for Design-Builder to proceed, Design-Builder shall perform the disputed work and Owner shall pay Design-Builder fifty percent (50%) of its estimated cost to perform the work. In such event, both Parties reserve their rights as to whether the work was within the scope of the Work. Owner's payment does not prejudice its right to be reimbursed should it be determined that the disputed work was within the scope of Work. Design-Builder's receipt of payment for the disputed work does not prejudice its right to receive full payment for the disputed work should it be determined that the disputed work is not within the scope of the Work.

8.6. CHANGES NOTICE For any claim for an increase in the Contract Price or an extension in the Date of Substantial Completion or the Date of Final Completion, Design-Builder shall give Owner written notice of the claim within twenty-one (21) Days after the occurrence giving rise to the claim or within twenty-one (21) Days after Design-Builder first recognizes the condition giving rise to the claim, whichever is later. Except in an emergency, notice shall be given before proceeding with the Work. Claims for design and estimating costs incurred in connection with possible changes requested by Owner, but which do not proceed, shall be made within twenty-one (21) Days after the decision is made not to proceed. Thereafter, Design-Builder shall submit written documentation of its claim, including appropriate supporting documentation, within twenty-one (21) Days after giving notice, unless the Parties mutually agree upon a longer period of time. Owner shall respond in writing denying or approving Design-Builder's claim no later than fourteen (14) Days after receipt of Design-Builder's documentation of claim. Owner's failure to so respond shall be deemed a denial of Design-Builder's claim. Any change in Contract Price or the Date of Substantial Completion or the Date of Final Completion resulting from such claim shall be authorized by Change Order.

8.7. INCIDENTAL CHANGES Owner may direct Design-Builder to perform incidental changes in the Work upon concurrence with Design-Builder that such changes do not involve adjustments in the Cost of the Work or Contract Time. Incidental changes shall be consistent with the scope and intent of the Contract Documents. Owner shall initiate an incidental change in the Work by issuing a written order to Design-Builder. Such written notice shall be carried out promptly and is binding on the Parties.

## ARTICLE 9 PAYMENT

### 9.1. PROGRESS PAYMENT

9.1.1. Before submitting the first application for payment, Design-Builder shall provide a Schedule of Values satisfactory to Owner, consisting of a breakdown of the Contract Price, with a separate line item for Design services.



9.1.2. On or before the last Day of each month after the Work has commenced, Design-Builder shall submit to Owner an application for payment in accordance with the Schedule of Values based upon the Work completed and materials suitably stored on the Worksite or at other locations approved by Owner. Approval of payment applications for such stored materials shall be conditioned upon submission by Design-Builder of bills of sale and applicable insurance or such other procedures satisfactory to Owner to establish Owner's title to such materials, or otherwise to protect Owner's interest including transportation to the site.

9.1.3. Within seven (7) Days after receipt of each monthly application for payment, Owner shall give written notice to Design-Builder of Owner's acceptance or rejection, in whole or in part, of such application for payment. Owner shall pay directly to Design-Builder the appropriate amount for which application for payment is made, less amounts previously paid by Owner in accordance with Tex. Govt. Code Sec. 2251.001 *et seq.* If such application is rejected in whole or in part, Owner shall indicate the reasons for its rejection. If Owner and Design-Builder cannot agree on a revised amount, then, within fifteen (15) Days after its initial rejection in part of such application, Owner shall pay directly to Design-Builder the appropriate amount for those items not rejected by Owner for which application for payment is made, less amounts previously paid by Owner. Those items rejected by Owner shall be due and payable when the reasons for the rejection have been removed.

9.1.4. If Owner fails to pay Design-Builder at the time payment of any amount becomes due, then Design-Builder may, at any time thereafter, upon serving written notice that the Work will be stopped within seven (7) Days after receipt of the notice by Owner, and after such seven (7) Day period, stop the Work until payment of the amount owing has been received.

9.1.5. Payments due but unpaid pursuant to §9.1.3, less any amount retained pursuant to §9.2 or §9.3, may bear interest from the date payment is due pursuant to Tex. Govt. Code Sec. 2251.025.

9.1.6. Design-Builder warrants and guarantees that title to all Work, materials, and equipment covered by an application for payment, whether incorporated in the Project or not, will pass to Owner upon receipt of such payment by Design-Builder free and clear of all liens, claims, security interests, or encumbrances, hereinafter referred to as "liens."

9.1.7. Owner's progress payment, occupancy, or use of the Project, whether in whole or in part, shall not be deemed an acceptance of any Work not conforming to the requirements of the Contract Documents.

9.1.8. Upon Substantial Completion of the Work, Owner shall pay Design-Builder the unpaid balance of the Contract Price, less a sum equal to one hundred fifty percent (150%) of Design-Builder's estimated cost of completing any unfinished items as agreed to between The Parties as to extent and time for completion. Owner thereafter shall pay Design-Builder monthly the amount retained for unfinished items as each item is completed.

9.1.9. **STORED MATERIALS AND EQUIPMENT** Unless otherwise provided in the contract documents, applications for payment may include materials and equipment not yet incorporated into the Work but delivered to and suitably stored onsite or offsite, including applicable insurance, storage and costs incurred transporting the materials to an offsite storage facility. Approval of payment applications for stored materials and equipment stored offsite shall be conditioned on submission by Design-Builder of bills of sale and proof of required insurance, or such other procedures satisfactory to Owner to establish the proper valuation of the stored materials and equipment, Owner's title to such materials and equipment, and to otherwise protect Owner's interests therein, including transportation to the site.



9.2. RETAINAGE Notwithstanding any contradicting terms in the Contract Documents, withholding and payment of retainage shall be pursuant to Tex. Govt. Code Ch. 2252. From each progress payment made before the time of Substantial Completion, Owner may retain five percent (5%) of the amount otherwise due after deduction of any amounts as provided in §9.3, provided such percentage doesn't exceed the Law. If Owner chooses to use this retainage provision:

9.3. ADJUSTMENT OF AN APPLICATION FOR PAYMENT Owner may adjust or reject an application for payment or nullify a previously approved application for payment, in whole or in part, as may reasonably be necessary to protect Owner from loss or damage based upon the following, to the extent that Design-Builder is responsible under this Agreement:

9.3.1. Design-Builder's repeated failure to perform the Work as required by the Contract Documents;

9.3.2. except as accepted by the insurer providing Builders Risk or other property insurance covering the project, loss or damage arising out of or relating to this Agreement and caused by Design-Builder to Owner, or others to whom Owner may be liable;

9.3.3. Design-Builder's failure to pay either Design Professional, Subcontractor or Supplier following receipt of payment from Owner for that portion of the Work or for supplies, provided that Owner is making payments to Constructor in accordance with the terms of this Agreement;

9.3.4. Defective Work not corrected in a timely fashion;

9.3.5. reasonable evidence of delay in performance of the Work such that the Work will not be completed by the Date of Substantial Completion or the Date of Final Completion, and that the unpaid balance of the Contract Price is not sufficient to offset any direct damages that may be sustained by Owner as a result of the anticipated delay caused by Design-Builder;

9.3.6. reasonable evidence demonstrating that the unpaid balance of the Contract Price is insufficient to fund the cost to complete the Work;

9.3.7. uninsured third-party claims involving the Contractor or reasonable evidence demonstrating that third-party claims are likely to be filed unless and until the Contractor furnishes Owner with adequate security in the form of a surety bond, letter of credit, or other collateral or commitment which are sufficient to discharge such claims if established; and

9.3.8. uninsured third-party claims involving Design-Builder or reasonable evidence demonstrating that third-party claims are likely to be filed unless and until Design-Builder furnishes Owner with adequate security in the form of a surety bond, letter of credit, or other collateral or commitment sufficient to discharge such claims if established.

No later than seven (7) Days after receipt of an application for payment, Owner shall give written notice to Design-Builder, at the time of disapproving or nullifying all or part of an application for payment, stating its specific reasons for such disapproval or nullification, and the remedial actions to be taken by Design-Builder in order to receive payment. When the above reasons for disapproving or nullifying an application for payment are removed, payment will be promptly made for the amount previously withheld.

9.4. OWNER OCCUPANCY OR USE OF COMPLETED OR PARTIALLY COMPLETED WORK  
Portions of the Work that are completed or partially completed may be used or occupied by Owner when (a) the portion of the Work is designated in a Certificate of Substantial Completion, (b) appropriate insurer(s) or sureties consent to the occupancy or use, and (c) appropriate public authorities authorize the occupancy or use. Such partial occupancy or use shall constitute Substantial Completion of that portion of the Work. Design-Builder shall not unreasonably withhold consent to partial occupancy or use. Owner



shall not unreasonably refuse to accept partial occupancy or use, provided such partial occupancy or use is of value to Owner.

## 9.5. FINAL PAYMENT

9.5.1. Final payment, consisting of the unpaid balance of the Contract Price, shall be due and payable when the Work is fully completed. Before issuance of final payment, Owner may request satisfactory evidence that all payrolls, materials bills, and other indebtedness connected with the Work have been paid or otherwise satisfied.

9.5.2. In making final payment Owner waives all claims except for:

9.5.2.1. improper workmanship or defective materials appearing within one year after the date of Substantial Completion;

9.5.2.2. Work not in conformance with the Contract Documents; and

9.5.2.3. terms of any special warranties required by the Contract Documents.

9.5.3. In accepting final payment, Design-Builder waives all claims except those previously made in writing and which remain unsettled.

## ARTICLE 10 INDEMNITY, INSURANCE, AND BONDS

### 10.1. INDEMNITY

10.1.1. TO THE FULLEST EXTENT PERMITTED BY LAW, DESIGN-BUILDER SHALL INDEMNIFY AND HOLD HARMLESS OWNER, OWNER'S OFFICERS, DIRECTORS, MEMBERS, CONSULTANTS, AGENTS, AND EMPLOYEES (THE INDEMNITEES) FROM ALL CLAIMS FOR BODILY INJURY AND PROPERTY DAMAGE, OTHER THAN TO THE WORK ITSELF AND OTHER PROPERTY REQUIRED TO BE INSURED UNDER §10.3, INCLUDING REASONABLE ATTORNEYS' FEES, COSTS, AND EXPENSES THAT MAY ARISE FROM THE PERFORMANCE OF THE WORK, BUT ONLY TO THE EXTENT CAUSED BY THE NEGLIGENT OR INTENTIONALLY WRONGFUL ACTS OR OMISSIONS OF DESIGN-BUILDER, SUBCONTRACTORS, OR ANYONE EMPLOYED DIRECTLY OR INDIRECTLY BY ANY OF THEM OR BY ANYONE FOR WHOSE ACTS ANY OF THEM MAY BE LIABLE. DESIGN-BUILDER SHALL NOT BE REQUIRED TO INDEMNIFY OR HOLD HARMLESS THE INDEMNITEES FOR ANY NEGLIGENT OR INTENTIONALLY WRONGFUL ACTS OR OMISSIONS OF THE INDEMNITEES. DESIGN-BUILDER SHALL BE ENTITLED TO REIMBURSEMENT OF ANY DEFENSE COSTS PAID ABOVE DESIGN-BUILDER'S PERCENTAGE OF LIABILITY FOR THE UNDERLYING CLAIM TO THE EXTENT PROVIDED FOR BY THE SUBSECTION BELOW.

10.1.2. TO THE FULLEST EXTENT PERMITTED BY LAW, OWNER SHALL INDEMNIFY AND HOLD HARMLESS DESIGN-BUILDER, ITS OFFICERS, DIRECTORS, OR MEMBERS, SUBCONTRACTORS, OR ANYONE EMPLOYED DIRECTLY OR INDIRECTLY BY ANY OF THEM OR ANYONE FOR WHOSE ACTS ANY OF THEM MAY BE LIABLE FROM ALL CLAIMS FOR BODILY INJURY AND PROPERTY DAMAGE, OTHER THAN PROPERTY INSURED UNDER §10.3, INCLUDING REASONABLE ATTORNEYS' FEES, COSTS, AND EXPENSES, THAT MAY ARISE FROM THE PERFORMANCE OF WORK BY OTHERS, BUT ONLY TO THE EXTENT CAUSED BY THE NEGLIGENT OR INTENTIONALLY WRONGFUL ACTS OR OMISSIONS OF OTHERS. OWNER SHALL BE ENTITLED TO REIMBURSEMENT OF ANY DEFENSE COSTS PAID ABOVE



OWNER'S PERCENTAGE OF LIABILITY FOR THE UNDERLYING CLAIM TO THE EXTENT PROVIDED FOR BY THE SUBSECTION ABOVE.

10.1.3. NO LIMITATION ON LIABILITY In any and all claims against the Indemnitees by any employee of Design-Builder, anyone directly or indirectly employed by Design-Builder or anyone for whose acts Design-Builder may be liable, the indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Design-Builder under Workers' Compensation acts, disability benefit acts, or other employee benefit acts.

## 10.2. DESIGN-BUILDER'S LIABILITY INSURANCE

10.2.1. Before commencing the Work and as a condition for payment, Design-Builder shall procure and maintain in force Workers' Compensation Insurance, Employers' Liability Insurance, Business Automobile Liability Insurance, and Commercial General Liability Insurance (CGL). The CGL policy shall include coverage for liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, contractual liability, and broad form property damage. Design-Builder shall maintain completed operations liability insurance for one year after Substantial Completion, or as required by the Contract Documents, whichever is longer. Design-Builder's Employers' Liability, Business Automobile Liability, and CGL policies shall be written with at least the following limits of liability:

### 10.2.1.1. Employers' Liability Insurance

- (a) \$1,000,000 bodily injury by accident per accident
- (b) \$1,000,000 bodily injury by disease policy limit
- (c) \$1,000,000 bodily injury by disease per employee

### 10.2.1.2. Business Automobile Liability Insurance per accident \$1,000,000.

### 10.2.1.3. Commercial General Liability Insurance

- (a) Per occurrence \$1,000,000 [REDACTED]
- (b) General aggregate \$2,000,000
- (c) Products/completed operations aggregate \$2,000,000
- (d) Personal and advertising injury limit \$1,000,000

10.2.2. Employers' Liability, Business Automobile Liability, and Commercial General Liability coverage required under §10.2.1 may be arranged under a single policy for the full limits required or by a combination of underlying policies with the balance provided by Excess or Umbrella Liability policies.

10.2.3. Design-Builder shall maintain in effect all insurance coverage required under §10.2.1 with insurance companies lawfully authorized to do business in the jurisdiction in which the Project is located. If Design-Builder fails to obtain or maintain any insurance coverage required under this Agreement, Owner may purchase such coverage and charge the expense to Design-Builder, or terminate this Agreement.

10.2.4. To the extent commercially available to Design-Builder and its current insurance company, insurance policies required under §10.2.1 shall contain a provision that the insurance company or its designee must give Owner written notice transmitted in paper or electronic format: (a) 30 Days before coverage is nonrenewed by the insurance company and (b) within 10 Business Days after



cancelation of coverage by the insurance company. Before commencing the Work and upon renewal or replacement of the insurance policies, Design-Builder shall furnish Owner with certificates of insurance until one year after Substantial Completion or longer if required by the Contract Documents. In addition, if any insurance policy required under §10.2.1 is not to be immediately replaced without lapse in coverage when it expires, exhausts its limits, or is to be cancelled, Design-Builder shall give Owner prompt written notice upon actual or constructive knowledge of such condition.

### 10.3. PROPERTY INSURANCE

10.3.1. Owner, before the Work is started,, shall obtain and maintain a Builder's Risk Policy upon the entire Project for the full cost of replacement at the time of loss, including existing structures. This insurance shall also: (a) name Design-Builder, Subcontractors, Subsubcontractors, Suppliers, and Design Professional as insureds; (b) be written in such form as to cover all risks of physical loss except those specifically excluded by the policy; and (c) insure at least against and not exclude:

10.3.1.1. the perils of fire, lightning, explosion, windstorm, hail, smoke, aircraft (except aircraft, including helicopter, operated by or on behalf of the Contractor) and vehicles, riot and civil commotion, theft, vandalism, malicious mischief, debris removal, flood, earthquake, earth movement, water damage, wind damage, testing if applicable, collapse however caused;

10.3.1.2. damage resulting from defective design, workmanship, or material;

10.3.1.3. coverage extension for damage to existing buildings, plant, or other structures at the Worksite, when the Project is contained within or attached to such existing buildings, plant, or structures. Coverage shall be to the extent loss or damage arises out of Constructor's activities or operations at the Project;

10.3.1.4. equipment breakdown, including mechanical breakdown, electrical injury to electrical devices, explosion of steam equipment, and damage to steam equipment caused by a condition within the equipment;

10.3.1.5. testing coverage for running newly installed machinery and equipment at or beyond the specified limits of their capacity to determine whether they are fit for their intended use; and

10.3.1.6. physical loss resulting from Terrorism.

10.3.2. The Party that is the primary cause of a Builder's Risk Policy claim shall be responsible for any deductible amounts or coinsurance payments. If no Party is the primary cause of a claim, then the Party obtaining and maintaining the Builder's Risk Policy pursuant to §10.3.1 shall be responsible for the deductible amounts or coinsurance payments. This policy shall provide for a waiver of subrogation. This insurance shall remain in effect until final payment has been made or until no person or entity other than Owner has an insurable interest in the property to be covered by this insurance, whichever is sooner. Partial occupancy or use of the Work shall not commence until Design-Builder has secured the consent of the insurance company or companies providing the coverage required in this subsection. Before commencing the Work, Design-Builder shall provide a copy of the property policy or policies obtained in compliance with §10.3.1.

10.3.3. If Owner elects to purchase the property insurance required by this Agreement, including all of the same coverages and deductibles for the same duration specified in §10.3.1, then Owner shall give written notice to Design-Builder and the Design Professional before the Work is commenced and provide a copy of the property policy or policies obtained in compliance with §10.3.1. Owner may then provide insurance to protect its interests and the interests of the Design-Builder, Subcontractors,



Suppliers, and Subsubcontractors. The cost of this insurance shall be paid by Owner in a Change Order. If Owner gives written notice of its intent to purchase property insurance required by this Agreement and fails to purchase or maintain such insurance, Owner shall be responsible for costs reasonably attributed to such failure.

10.3.4. The Parties waive all rights against each other and their respective employees, agents, contractors, subcontractors and subsubcontractors, and design professionals for damages caused by risks covered by the property insurance except such rights as they may have to the proceeds of the insurance.

10.3.5. To the extent of the limits of Design-Builder's CGL specified in §10.2.1 or One Million dollars [REDACTED] Builder shall indemnify and hold harmless Owner against any and all liability, claims, demands, damages, losses, and expenses, including attorneys' fees, in connection with or arising out of any damage or alleged damage to any of Owner's existing adjacent property that may arise from the performance of the Work, to the extent of the negligent acts or omissions of Design-Builder, Subcontractor, or anyone employed directly or indirectly by any of them or by anyone for whose acts any of them may be liable.

10.3.6. RISK OF LOSS Except to the extent a loss is covered by applicable insurance, risk of loss or damage to the Work shall be upon the Party obtaining and maintaining the Builder's Risk Policy pursuant to §10.3.1 until the Date of Final Completion.

#### 10.4. ADDITIONAL GENERAL LIABILITY COVERAGE

10.4.1. Owner shall not require Design-Builder to purchase and maintain additional liability coverage.

10.4.2. If required by the above subsection, the additional liability coverage required of Design-Builder shall be:

Additional Insured. Owner shall be named as an additional insured on Design-Builder's Commercial General Liability Insurance specified, for on-going operations and completed operations, excess/umbrella liability, commercial automobile liability, and any required pollution liability, but only with respect to liability for bodily injury, property damage, or personal and advertising injury to the extent caused by the negligent or intentionally wrongful acts or omissions of Design-Builder, or those acting on Design-Builder's behalf, in the performance of Design-Builder's Work for Owner at the Worksite. The insurance of the Subcontractor shall be primary and non-contributory to any insurance available to the Additional Insureds.

OCP. Design-Builder shall provide an Owners' and Contractors' Protective Liability Insurance ("OCP") policy with limits equal to the limits on Commercial General Liability Insurance specified, or limits as otherwise required by Owner.

Any documented additional cost in the form of a surcharge associated with procuring the additional liability coverage in accordance with this subsection shall be paid by Owner directly or the costs may be reimbursed by Owner to Design-Builder by increasing the contract price to correspond to the actual cost required to purchase and maintain the additional liability coverage.

Before commencing the Work, Design-Builder shall provide either a copy of the OCP policy, or a certificate and endorsement evidencing that Owner has been named as an additional insured, as applicable.



**10.5. ROYALTIES, PATENTS, AND COPYRIGHTS** Design-Builder shall pay all royalties and license fees which may be due on the inclusion of any patented or copyrighted materials, methods, or systems selected by Design-Builder and incorporated in the Work. Design-Builder shall indemnify and hold Owner harmless from all suits or claims for infringement of any patent rights or copyrights arising out of such selection. Owner agrees to indemnify and hold Design-Builder harmless from any suits or claims of infringement of any patent rights or copyrights arising out of any patented or copyrighted materials, methods, or systems specified by Owner.

**10.6. PROFESSIONAL LIABILITY INSURANCE** Design-Builder shall obtain, either itself or through Design Professional, professional liability insurance for claims arising from the negligent performance of professional services under this Agreement, which shall be: Project Specific Coverage

written for not less than \$1,000,000.00 per claim and in the aggregate with a deductible not to exceed \$25,000.00. The Professional Liability Insurance shall include prior acts coverage sufficient to cover all services rendered by Design Professional. This coverage shall be continued in effect for two year(s) after the Date of Substantial Completion.

#### **10.7. BONDING**

**10.7.1.** Performance and Payment Bonds are required of Design-Builder. Such bonds shall be issued by a surety licensed in the state in which the Project is located and must be acceptable to Owner. Owner's acceptance shall not be withheld without reasonable cause.

**10.7.2.** Such Performance Bond shall be issued in accordance with Tex. Govt. Code Sec. 2252.064.

Such Performance Bond shall cover the cost to complete the Work, but shall not cover any damages of the type specified to be covered by the insurance pursuant to §10.2 and §10.3, whether or not such insurance is provided or in an amount sufficient to cover such damages.

**10.7.3.** The penal sum of the Payment Bond shall equal the penal sum of the Performance Bond. Design-Builder's payment bond for the Project, if any, shall be made available by Owner or Design-Builder upon Subcontractor's written request.

**10.7.4.** Design-Builder shall endeavor to keep its surety advised of changes within the scope of the initial Agreement potentially impacting the Contract Price or the Dates of Substantial Completion or Final Completion, though Design-Builder shall require that its surety waives any requirement to be notified of any alteration or extension of time.

### **ARTICLE 11 SUSPENSION, NOTICE TO CURE, AND TERMINATION**

#### **11.1. SUSPENSION BY OWNER FOR CONVENIENCE**

**11.1.1.** Owner may order Design-Builder in writing to suspend, delay, or interrupt all or any part of the Work without cause for such period of time as Owner may determine to be appropriate for its convenience.

**11.1.2.** Adjustments caused by suspension, delay, or interruption shall be made for increases in the Contract Price or the Date of Substantial Completion or the Date of Final Completion. No adjustment shall be made if Design-Builder is or otherwise would have been responsible for the suspension, delay, or interruption of the Work, or if another provision of this Agreement is applied to render an equitable adjustment.



## 11.2. NOTICE TO CURE A DEFAULT

11.2.1. If Design-Builder persistently fails to supply enough qualified workers, proper materials, or equipment to maintain the approved Construction Schedule, or fails to make prompt payment to its workers, Subcontractors, or Suppliers, disregards Laws or orders of any public authority having jurisdiction, or is otherwise guilty of a material breach of a provision of this Agreement, Design-Builder may be deemed in default.

If Design-Builder fails within seven (7) Days after receipt of written notice to commence and continue satisfactory correction of such default, then Owner shall give Design-Builder a second notice to correct the default within a three (3) Day period.

11.2.2. After receiving Owner's written notice, if Design-Builder fails to promptly commence and continue satisfactory correction of the default, then Owner without prejudice to any other rights or remedies may: (a) take possession of the Worksite; (b) complete the Work utilizing any reasonable means; (c) withhold payment due to Design-Builder; and (d) as Owner deems necessary, supply workers and materials, equipment, and other facilities for the satisfactory correction of the default, and charge Design-Builder the costs and expenses, including reasonable Overhead, profit, and attorneys' fees.

11.2.3. In the event of an emergency affecting the safety of persons or property, Owner may immediately commence and continue satisfactory correction of a default without first giving written notice to Design-Builder, but shall give Design-Builder prompt notice.

## 11.3. OWNER'S RIGHT TO TERMINATE FOR DEFAULT

11.3.1. **TERMINATION BY OWNER FOR DEFAULT** Upon expiration of the second notice for default period pursuant to §12.21.2.1 and absent appropriate corrective action, Owner may terminate this Agreement by written notice. Termination for default is in addition to any other remedies available to Owner under §12.2. If Owner's costs arising out of Design-Builder's failure to cure, including the costs to complete the Work and reasonable attorneys' fees, exceed the GMP, Design-Builder shall be liable to Owner for such excess costs. If Owner's costs are less than the GMP, Owner shall pay the difference to Design-Builder. If Owner exercises its rights under this section, upon the request of Design-Builder, Owner shall furnish to Design-Builder a detailed accounting of the costs incurred by Owner.

11.3.2. If Design-Builder files a petition under the bankruptcy code, this Agreement shall terminate if Design-Builder or Design-Builder's trustee rejects the Agreement or, if a default occurs and Design-Builder is unable to give adequate assurance of required performance; or (c) Design-Builder is otherwise unable to comply with the requirements for assuming this Agreement under the applicable provisions of the Bankruptcy Code.

11.3.3. Owner shall make reasonable efforts to mitigate damages arising from Design-Builder's default, and shall promptly invoice Design-Builder for all amounts due.

11.4. **TERMINATION BY OWNER FOR CONVENIENCE** If Owner terminates this Agreement other than as set forth in §11.1.2, Owner shall pay Design-Builder for all Work executed and for all proven loss, cost, or expense in connection with the Work, plus all demobilization costs. In addition, Design-Builder shall be paid an amount calculated as set forth below: If Owner terminates this Agreement before commencing construction, Design-Builder shall be paid the unpaid balance of Design-Builder's design costs as set forth in the Schedule of Values. If Owner terminates this Agreement after commencing construction, Design-Builder shall be paid the unpaid balance of Design-Builder's design costs as set



forth in the Schedule of Values, the Construction services provided to date, reasonable attorneys' fees and costs related to termination,

11.4.3. Owner shall also pay to Design-Builder fair compensation, either by purchase or rental at the election of Owner, for all equipment retained. Owner shall assume and become liable for obligations, commitments, and unsettled claims that Design-Builder has previously undertaken or incurred in good faith in connection with the Work or as a result of the termination of this Agreement. As a condition of receiving the payments provided under this article, Design-Builder shall cooperate with Owner by taking all steps necessary to accomplish the legal assignment of Design-Builder's rights and benefits to Owner, including the execution and delivery of required papers.

#### 11.5. TERMINATION BY DESIGN-BUILDER

11.5.1. Seven (7) Days' after Owner's receipt of written notice from Design-Builder, Design-Builder may terminate this Agreement for any of the following reasons: if the Work has been stopped for a thirty (30) Day period through no fault of the Design-Builder: (a) under court order or order of other governmental authorities having jurisdiction, or (b) as a result of the declaration of a national emergency or other governmental act emergency during which, through no act or fault of Design-Builder, materials are not available; (c) Work is suspended by Owner for Convenience;

11.5.2. In addition, upon seven (7) Days written notice to Owner and an opportunity to cure within three (3) Days, Design Builder may terminate this Agreement if Owner: (a) fails to furnish reasonable evidence that sufficient funds are available and committed for the entire cost of the Project ;(b) assigns this Agreement over Design-Builder's reasonable objection; (c) fails to pay Design-Builder in accordance with this Agreement and Design-Builder stopped Work accordingly; or (d) otherwise materially breaches this Agreement.

11.5.3. Upon termination by Design-Builder in accordance with §11.5.1, Design-Builder shall be entitled to recover from Owner payment for all Work executed and for all proven loss, cost, or expense in connection with the Work, plus all demobilization costs and reasonable damages.

### ARTICLE 12 DISPUTE MITIGATION OR RESOLUTION

12.1. WORK CONTINUANCE AND PAYMENT Unless otherwise agreed in writing, Design-Builder shall continue the Work and maintain the approved schedules during any dispute mitigation or resolution proceedings. If Design-Builder continues to perform, Owner shall continue to make payments in accordance with the Agreement.

12.2. DIRECT DISCUSSIONS If the Parties cannot reach resolution on a matter relating to or arising out of this Agreement, the Parties shall endeavor to reach resolution through good faith direct discussions between the Parties' representatives, who shall possess the necessary authority to resolve such matter and who will record the date of first discussions. If the Parties' representatives are not able to resolve such matter within five (5) Business Days of the date of first discussion, the Parties' representatives shall immediately inform senior executives of the Parties in writing that a resolution could not be reached. Upon receipt of such notice, the senior executives of the Parties shall meet within five (5) Business Days to endeavor to reach resolution. If the dispute remains unresolved after fifteen (15) Days from the date of first discussion, the Parties shall submit such matter to the dispute mitigation and dispute resolution procedures selected below.

12.3. MEDIATION If direct discussions pursuant to §12.12 do not result in resolution of the matter and no dispute mitigation procedure is selected, upon mutual election by the Parties, the Parties shall endeavor to resolve the matter by mediation through the current Construction Industry Mediation Rules of the American Arbitration Association (AAA), or the Parties may mutually agree to select another set of



mediation rules. The administration of the mediation shall be as mutually agreed by the Parties. The mediation shall be convened within thirty (30) Business Days of the matter first being discussed and shall conclude within forty-five (45) Business Days of the matter first being discussed. Either Party may terminate the mediation at any time after the first session by written notice to the non-terminating Party and mediator. The costs of the mediation shall be shared equally by the Parties.

**12.4. BINDING DISPUTE RESOLUTION** If the matter is unresolved after submission of the matter to a mitigation procedure or to mediation, the Parties shall submit the matter to litigation in either the state or federal court having jurisdiction of the matter in the location of the Project.

**12.4.1. COSTS** The costs of any binding dispute resolution procedures and reasonable attorneys' fees shall be borne by the non-prevailing Party, as determined by the adjudicator of the dispute.

**12.4.2. VENUE** The Project location shall serve as the venue.

**12.5. MULTIPARTY PROCEEDING** The Parties agree that all Parties necessary to resolve a matter shall be Parties to the same dispute resolution procedure, if possible. Appropriate provisions shall be included in all other contracts relating to the Work to provide for the joinder or consolidation of such dispute resolution proceedings.

**12.6. RIGHTS** Nothing in this article shall limit any rights or remedies that Design-Builder may have under law.

## **ARTICLE 13 MISCELLANEOUS PROVISIONS**

**13.1. EXTENT OF AGREEMENT** Except as expressly provided, this Agreement is solely for the benefit of the Parties, represents the entire and integrated agreement between the Parties, and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement and each and every provision is for the exclusive benefit of The Parties and not for the benefit of any third party.

**13.2. ASSIGNMENT** Neither Owner nor Design-Builder shall assign its interest in this Agreement without the written consent of the other except as to the assignment of proceeds. The terms and conditions of this Agreement shall be binding upon both Parties, their partners, successors, assigns, and legal representatives. Neither Party to this Agreement shall assign the Agreement as a whole without written consent of the other except that Owner may assign the Agreement to a wholly owned subsidiary of Owner when Owner has fully indemnified Design-Builder or to an institutional lender providing construction financing for the Project as long as the assignment is no less favorable to Design-Builder than this Agreement. In the event of such assignment, Design-Builder shall execute all consents reasonably required. In such event, the wholly-owned subsidiary or lender shall assume Owner's rights and obligations under the Contract Documents. If either Party attempts to make such an assignment, that Party shall nevertheless remain legally responsible for all obligations under the Agreement, unless otherwise agreed by the other Party.

**13.3. GOVERNING LAW** The Law in effect at the location of the Project shall govern this Agreement.

**13.4. SEVERABILITY** The partial or complete invalidity of any one or more provisions of this Agreement shall not affect the validity or continuing force and effect of any other provision.



13.5. NOTICE Unless changed in writing, a Party's address indicated in ARTICLE 1 shall be used when delivering notice to a physical address. Except for Agreement termination and as otherwise specified in the Contract Documents, notice is effective upon transmission by any effective means, including U.S. postal service and overnight delivery service

13.6. NO WAIVER OF PERFORMANCE The failure of either Party to insist, in any one or more instances, on the performance of any of the terms, covenants, or conditions of this Agreement, or to exercise any of its rights, shall not be construed as a waiver or relinquishment of such term, covenant, condition, or right with respect to further performance.

13.7. TITLES AND GROUPINGS The title given to the articles and sections are for ease of reference only and shall not be relied upon or cited for any other purpose.

13.8. JOINT DRAFTING The Parties expressly agree that this Agreement was jointly drafted, and that both had opportunity to negotiate its terms and to obtain the assistance of counsel in reviewing its terms before execution. Therefore, this Agreement shall be construed neither against nor in favor of either Party, but shall be construed in a neutral manner.

#### ARTICLE 14 CONTRACT DOCUMENTS

14.1. CONTRACT DOCUMENTS The Contract Documents are as follows:

- (a) This Agreement;
- (b) Basis of Design/Owner's Program;
- (c) Owner-provided information pursuant to §3.6.3 and other Owner information identified as intended to be a contract document;
- (d) Synergy January 30, 2026 bid sheet with descriptions, limitations, and exclusions attached thereto

14.2. ORDER OF PRECEDENCE In case of any inconsistency, conflict, or ambiguity among the Contract Documents, the documents shall govern in the following order: (a) Change Orders and written amendments to this Agreement; (b) this Agreement; (c) design documents approved by Owner in order of the most recently approved; (d) information furnished by Owner pursuant to §4.1 or designated as a Contract Document in §ARTICLE 14; (e) other documents listed in this Agreement. Except as otherwise provided, among categories of documents having the same order of precedence, the term or provision that includes the latest date shall control. Where figures are given, they shall be preferred to scaled dimensions. Unless otherwise specifically defined in this Agreement, any terms that have well-known technical or trade meanings shall be interpreted in accordance with their well-known meanings.

OWNER: City of Killeen, Texas

BY: \_\_\_\_\_ NAME: Kent Cagle TITLE: City Manager.

DESIGN-BUILDER:  
Synergy Commercial Construction, LLC

BY: \_\_\_\_\_ NAME: Morgan McLaughlin TITLE: Manager



END OF DOCUMENT.





**SYNERGY COMMERCIAL  
CONSTRUCTION**  
CULTIVATING RELATIONSHIPS ONE BUILDING AT A TIME

<b>Project:</b> Skylark Field Airport - Box Hangar Only	<b>Contractor:</b> Synergy Commercial Construction
<b>Address:</b> 1523 Stonetree Drive Killeen	<b>Address:</b> 114 Halmar Cove., Georgetown, TX 78628
<b>Date:</b> 01/20/26	<b>Contact:</b> Dbradley
	<b>Email:</b> dbradley@synergycctx.com
	<b>Phone:</b> 512-689-3172

Division	Description	Qty.	Units	Cost Per Unit		Comments
<b>General Conditions</b>						
<b>Division 1</b>	<b>General Conditions</b>				<b>\$49,785.80</b>	
	Project Management	7	WK	1,600.00	\$11,200.00	6 Weeks of construction proposed
	Project Coordinator	7	WK	250.00	\$1,750.00	Project Coordinator at 20% of time
	Superintendent	7	WK	2,800.00	\$19,600.00	Full time Superintendent for duration of project
	Vehicle Expense	7	WK	400.00	\$2,800.00	Included for mileage
	Safety Inspections	3.5	EA	350.00	\$1,225.00	Core Safety Group - Bi-weekly inspections at \$350
	Safety Box	1	EA	650.00	\$650.00	Safety box includes OSHA required posters
	Project Wi-fi / Tablets	7	WK	28.00	\$196.00	Included for Superintendent site cellular /wifi service
	Temporary Water	7	WK	45.00	\$315.00	Temporary water needed for construction
	Temporary Toilets	7	WK	95.00	\$665.00	Temporary toilets needed for construction
	SWPPP: Storm Water Prevention Plan	0	LS	0.00	\$0.00	Excluded
	Site Video & Surveillance	7	WK	175.00	\$1,225.00	Truelook site camera
	Interim Clean-up	7	WK	235.00	\$1,645.00	Included for weekly site cleanup
	Project Signs	1	EA	750.00	\$750.00	OSHA Required Safety Signage
	Dumpster	1	EA	0.00	\$0.00	N/A
	Project permits	1	EA	1,000.00	\$1,000.00	Budget for project permits
	Fees	1	EA	5,000.00	\$5,000.00	Professional Design service fees for building and sewer line
	Small Tools	1	EA	500.00	\$500.00	Misc PPE needed for construction
	Final Clean up	2,808	EA	0.10	\$280.80	Final cleaning
	Plans & Specifications	1	EA	400.00	\$400.00	(2) Sets of plans printed
	Postage & Shipping	7	WK	12.00	\$84.00	Misc shipping fees
	Warranty	1	LS	500.00	\$500.00	Included for 1 year
	<b>Fees &amp; Soft Costs</b>				<b>\$17,002.60</b>	
<b>Division 1</b>	Technology	1	LS	222.98	\$222.98	
	Insurance (General Liability)	1	LS	1,705.73	\$1,705.73	Excluded Builders Risk
	State Remodel Tax	1	LS	0.00	\$0.00	
	Payment & Performance Bond	1	LS	3,600.00	\$3,600.00	
	Contractor's OH&P	1	LS	11,473.89	\$11,473.89	6.00%
<b>TOTAL GENERAL CONDITIONS COST:</b>					<b>\$66,788.40</b>	
<b>BUILDING</b>						
<b>Division 9</b>	<b>Finishes</b>				<b>\$5,500.00</b>	
	Exterior Studs, Light Gauge Framing, drywall, sheathing insulation etc	1	LS	5,500.00	\$5,500.00	Labor and materials to frame out a demising wall in the new hanger space
<b>Division 10</b>	<b>Specialties</b>				<b>\$0.00</b>	
<b>Division 13</b>	<b>Special Construction</b>				<b>\$124,740.00</b>	
	Pre-engineered Metal Buildings	1	LS	124,740.00	\$124,740.00	Labor and materials to supply/install a 2772 s/f PEMB with airplane doors similar to what's installed on the current building
<b>Division 21</b>	<b>Fire Suppression</b>				<b>\$0.00</b>	
<b>Division 22</b>	<b>Plumbing</b>				<b>\$0.00</b>	
<b>Division 23</b>	<b>HVAC</b>				<b>\$0.00</b>	
<b>Division 26</b>	<b>Building Electric</b>				<b>\$9,500.00</b>	
	Sub Labor/Materials	1	LS	9,500.00	\$9,500.00	Labor and materials to install lighting with general outlets in hanger space
<b>Division 27</b>	<b>Communications</b>				<b>\$0.00</b>	
<b>Division 28</b>	<b>Electronic Safety &amp; Security</b>				<b>\$0.00</b>	
<b>TOTAL BUILDING COST:</b>					<b>\$139,740.00</b>	
<b>TOTAL SITE COST:</b>					<b>\$0.00</b>	
<b>GC'S/OH&amp;P</b>	<b>GENERAL CONDITIONS:</b>				<b>\$66,788.40</b>	
<b>BUILDING COST</b>	<b>TOTAL BUILDING COST:</b>				<b>\$139,740.00</b>	
<b>SITE COST</b>	<b>TOTAL SITE WORK:</b>				<b>\$0.00</b>	
<b>GRAND TOTAL</b>	<b>GRAND TOTAL:</b>				<b>\$206,528.40</b>	
<b>ALTERNATE BID ITEMS - (OPTIONAL) Price does NOT include OH&amp;P, Insurance and/or taxes</b>						
<b>Total Alternates</b>					<b>\$0.00</b>	

**CLARIFICATIONS**

Overhead doors to match existing building  
Vinyl backed insulation has been accounted for in the base bid for the hanger space (as the restroom area should already be insulated)  
No HVAC has been figured for hanger and/or restroom space  
No fire sprinkler and/or fire alarm has been accounted for

**EXCLUSIONS NOT LISTED ABOVE:**

Permits/tap fees/3rd party inspections, impact/meter fees, etc.  
Haul off of hazardous materials and/or Rock Excavation  
Relocation of unknown existing utilities uncovered during construction  
A/V, POS, Low Voltage, locksmith, elevator access key pads, intercom system & CCTV  
Pricing due to market fluctuations, tariffs or other supply chain issues  
Painting of demising walls in hanger  
Motorized overhead doors

# CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.  
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

## OFFICE USE ONLY CERTIFICATION OF FILING

**1 Name of business entity filing form, and the city, state and country of the business entity's place of business.**

Synergy Commercial Construction, LLC  
Georgetown, TX United States

Certificate Number:  
2026-1415420

Date Filed:  
02/02/2026

**2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.**

City of Killeen

Date Acknowledged:

**3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.**

26-15 Box Hanger

Design and construction of Two box hangars , as well as all required site work, including connections to existing water and sanitary sewer lines and electrical work

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Mclaughlin, Morgan	Georgetown, TX United States	X	

5 Check only if there is NO Interested Party.

**6 UNSWORN DECLARATION**

My name is Kellie Jones, and my date of birth is 1/2/1974.

My address is 114 Halmar Cove, Georgetown, Tx, 78628, us.  
(city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Williamson County, State of Texas, on the 2 day of February, 2026.  
(month) (year)

Kellie Jones  
Signature of authorized agent of contracting business entity  
(Declarant)



DESIGN-BUILD AGREEMENT-  
BOX HANGARS FINISH OUT-  
SYNERGY COMMERCIAL  
CONSTRUCTION

RS-26-041

March 3, 2026

# Background

- In August 2017, City Council approved a resolution accepting federal and state grant funding from the TxDOT–Aviation Division for the design and construction of a 10-unit box hangar facility at Skylark Field Airport.
- Although the original project included all 10 hangar units, bid results showed that available funding was insufficient for the full build-out. In coordination with TxDOT, the City poured the slab for all 10 units but constructed only eight, leaving two bays unfinished for future completion.

# Discussion

- In November 2025, the Aviation Department issued RFQ 26-15 for design-build services for two additional box hangars and a restroom at Skylark Field Airport. Four proposals were received on January 6, 2026, and evaluated by a selection committee comprised of Aviation staff.
- Synergy Commercial Construction was selected as the most qualified contractor for the project.

# Discussion

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- Aviation staff, project consultants, and Synergy Commercial Construction conducted meetings to determine the design requirements for the additional hangars, and associated site improvements.

# Discussion

- Funding for the Box Hangars Finish-Out will be provided through the Bipartisan Infrastructure Law (BIL) Airport Infrastructure Grant (AIG) and Aviation Capital Improvement Program (CIP) funds. The restroom component will be delivered under a separate contract and funded through TxDOT Routine Airport Maintenance Program (RAMP) grant revenue and Aviation CIP funds.

# Discussion

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- After reviewing conceptual plans, Synergy developed and submitted a proposed Design-Build Agreement in the amount of \$206,528.40 for the completion of the two box hangars.
  - ▣ FAA BIL AIG Grant: \$178,750.00
  - ▣ City Share (Aviation CIP):\$ 27,778.40

# Discussion

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- ❑ Skylark Field is a General Aviation airport under the FAA State Block Grant Program.
- ❑ TxDOT-Aviation Division will administer the grant on behalf of the FAA.

# Recommendation

- Staff recommends the City Council approve a design-build agreement with Synergy Commercial Construction, in the amount of \$206,528.40, for the design and construction of two box hangars at Skylark Field Airport and authorize the City Manager or designee to execute all contract documents and any change orders or actions within the amounts allowed by state and local law.



# City of Killeen

## Staff Report

File Number: RS-26-042

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Consider a memorandum/resolution approving a Design-Build Agreement with Synergy Commercial Construction for the finish out of the restroom in an existing box hangar at Skylark Field Airport, in the amount of \$143,373.05.

**DATE:** March 3, 2026

**TO:** Kent Cagle, City Manager

**FROM:** Jarrod Provost, Assistant Director of Aviation

**SUBJECT:** Design-Build Agreement for the restroom finish out at Skylark Field Airport with Synergy Commercial Construction

### **BACKGROUND AND FINDINGS:**

In August 2017, City Council approved a resolution accepting federal and state grant funding from the Texas Department of Transportation (TxDOT) - Aviation Division for the design and construction of a 10-unit box hangar facility at Skylark Field Airport.

While the original project contemplated construction of all 10 hangar units, bid results indicated that available funding was insufficient to complete the full build-out. In coordination with TxDOT, the City proceeded with pouring the concrete slab for all 10 units while constructing only eight hangars at that time. This approach preserved the project's long-term intent by allowing for the future completion of the remaining two units, which were left unfinished with an interior wall exposed to the exterior. The concrete slab also included the necessary plumbing to add a restroom at a later date.

In November 2025, the Aviation Department issued Request for Qualifications (RFQ) No. 26-15 seeking design-build services for the construction of two additional box hangars and a restroom at Skylark Field Airport. Four proposals were received on January 6, 2026, and were evaluated by a selection committee comprised of Aviation Department Staff. Following this review, Synergy Commercial Construction was selected as the most qualified firm for RFQ 26-15.

Funding for the Box Hangars Finish Out will be provided through the Bipartisan Infrastructure Law (BIL) Airport Infrastructure Grant (AIG) and Aviation Capital Improvement Program (CIP) funds. The restroom component will be funded through the TxDOT Routine Airport Maintenance Program (RAMP) grant revenue and Aviation CIP funds.

Aviation staff, project consultants, and Synergy Commercial Construction met to establish design requirements for the restroom and associated site improvements. After reviewing several conceptual plans, Synergy Commercial Construction developed and submitted a proposed

Design-Build Agreement in an amount of \$143,373.05 for the completion of the restroom.

**THE ALTERNATIVES CONSIDERED:**

N/A

**Which alternative is recommended? Why?**

N/A

**CONFORMITY TO CITY POLICY:**

This item conforms to local and state policies.

**FINANCIAL IMPACT:**

**What is the amount of the revenue/expenditure in the current fiscal year? For future years?**

The expenditure for fiscal year 2026 will be \$143,373.05.

**Is this a one-time or recurring revenue/expenditure?**

One-Time

**Is this revenue/expenditure budgeted?**

Yes

**If not, where will the money come from?**

N/A

**Is there a sufficient amount in the budgeted line-item for this revenue/expenditure?**

Revenue related to the TxDOT grant funding will be posted to Aviation CIP Fund account 340-43200-900-600-299997. Sufficient expenditure budget is available in Aviation CIP Fund account 340-56201-900-600-926042 to cover both the grant portion of \$100,000 and the city share of \$43,374.

**RECOMMENDATION:**

Staff recommends the City Council approve a design-build agreement with Synergy Commercial Construction in the amount of \$143,373.05 for the design and construction of a restroom at Skylark Field Airport, and authorize the City Manager, or designee, to execute all contract documents and any change orders or actions within the amounts allowed by state and local law.

**DEPARTMENTAL CLEARANCES:**

Purchasing  
Finance  
Legal

**ATTACHED SUPPORTING DOCUMENTS:**

Agreement  
Certificate of Interested Parties  
Presentation

**ConsensusDocs® 415**

**STANDARD DESIGN-BUILD AGREEMENT AND GENERAL CONDITIONS  
BETWEEN OWNER AND DESIGN-BUILDER (Lump Sum Price)**

**TABLE OF ARTICLES**

1. AGREEMENT
2. GENERAL PROVISIONS
3. DESIGN-BUILDER'S RESPONSIBILITIES
4. OWNER'S RESPONSIBILITIES
5. SUBCONTRACTS
6. CONTRACT TIME
7. CONTRACT PRICE
8. CHANGES IN THE WORK
9. PAYMENT
10. INDEMNITY, INSURANCE, AND BONDS
11. SUSPENSION, NOTICE TO CURE, AND TERMINATION
12. DISPUTE MITIGATION OR RESOLUTION
13. MISCELLANEOUS
14. CONTRACT DOCUMENTS

**ARTICLE 1 AGREEMENT**

This Agreement is made this [ ] Day of [ ] in the year [ ], by and between the

OWNER: City of Killeen  
101 N. College Street  
Killeen, Texas 76541

and the

DESIGN-BUILDER: Synergy Commercial Construction, LLC  
114 Halmar Cove  
Georgetown, Texas 78628

PROJECT: Skylark Field Airport – Restroom Only  
Address: 1523 Stonetree Drive, Killeen, Texas

**ARTICLE 2 GENERAL PROVISIONS**

2.1 TEAM RELATIONSHIP Each Party agrees to act on the basis of trust, good faith, and fair dealing, and shall take all actions reasonably necessary to perform this Agreement in an economical and timely manner. The Parties shall each endeavor to promote harmony and cooperation among all Project participants.

2.1.1 Neither Design-Builder nor any of its agents or employees shall act on behalf of or in the name of Owner unless authorized in writing by Owner's Representative.



2.2 ETHICS Each Party shall perform with integrity. Each shall: (a) avoid conflicts of interest; (b) promptly disclose to the other Party any conflicts of interest which may arise. Each Party warrants it has not and shall not pay or receive any contingent fees or gratuities to or from the other Party, including its agents, officers and employees, Design Professional, Subcontractors, Subsubcontractors, Suppliers or Others, to secure preferential treatment.

2.3 DESIGN PROFESSIONAL Architectural and engineering services shall be procured from licensed, independent design professionals retained by Design-Builder or furnished by licensed employees of Design-Builder, as permitted by the Law. The person or entity providing architectural and engineering services shall be referred to as Design Professional. If Design Professional is an independent design professional, the architectural and engineering services shall be procured pursuant to a separate agreement between Design-Builder and Design Professional.

2.3.1 STANDARD OF CARE Design Professional shall furnish and provide the architectural and engineering services necessary to design the Project in accordance with Owner's requirements, as outlined in Owner's Program and other relevant data defining the Project. The architectural and engineering services shall be performed in accordance with the standard of professional skill and care required for a Project of similar size, scope, and complexity, during the time in which the Services are provided.

## 2.4 DEFINITIONS

2.4.1 "Agreement" means this ConsensusDocs 415 Standard Design-Build Agreement and General Conditions Between Owner and Design-Builder (Lump Sum Price), as modified, amendments, exhibits, addenda, and attachments made part of this Agreement upon its execution.

2.4.2 "Business Day" means all Days, except weekends and official federal or state holidays where the Project is located.

2.4.3 A "Change Order" is a written order signed by Owner and Design-Builder after execution of this Agreement, indicating changes in the scope of the Work or Contract Time, including substitutions proposed by Design-Builder and accepted by Owner.

2.4.4 "Construction Schedule" is the document prepared by Design-Builder that specifies the dates on which Design-Builder plans to begin and complete various parts of the construction phase services Work, and the Project, including dates on which information and approvals are required from Owner.

2.4.5 The "Contract Documents" consist of those documents identified in §14.1.

2.4.6 The "Contract Time" is the period between the Date of Commencement and total time authorized to achieve Final Completion.

2.4.7 "Day" means calendar day.

2.4.8 "Date of Commencement" is as provided for in §6.1.

2.4.9 "Defective Work" is any portion of the Work not in conformance to the requirements of the Contract Documents.

2.4.10 "Final Completion" occurs on the date when Design-Builder's obligations under this Agreement are complete and accepted by Owner and final payment becomes due and payable.



2.4.11 A Hazardous Material is any substance or material identified now or in the future as hazardous under any Laws or any other substance or material which may be considered hazardous or otherwise subject to statutory or regulatory requirements governing handling, disposal or clean-up.

2.4.12 "Interim Directive" is any written order containing Work instructions that is signed by Owner after execution this Agreement and before Substantial Completion to the Work directed by Owner.

2.4.13 "Law" means a federal, state or local law, ordinance, code, rule, or regulation applicable to the Work with which Design-Builder must comply that are enacted as of the Agreement date.

2.4.14 "Others" means Owner's other: (a) contractors/constructors, (b) suppliers, (c) subcontractors, subcontractors, or suppliers of (a) and (b); and others employed directly or indirectly by (a), (b), or (c) or any by any of them or for whose acts any of them may be liable.

2.4.15 "Overhead" shall mean (a) payroll costs and other compensation of Design-Builder's employees in Design-Builder's principal and branch offices; (b) general and administrative expenses of Design-Builder's principal and branch offices including charges against Design-Builder for delinquent payments; and (c) Design-Builder's capital expenses, including interest on capital used for the Work.

2.4.16 The "Owner" is the person or entity identified in ARTICLE 1, and includes Owner's representative.

2.4.17 The "Owner's Program" is a description of Owner's objectives, budgetary and time criteria, space requirements and relationships, flexibility and expandability requirements, special equipment and systems, and site requirements, together with Schematic Design Documents which shall include drawings, outline specifications, and other conceptual documents illustrating the Project's basic elements, scale, and their relationship to the Worksite.

2.4.18 The "Parties" are collectively Owner and Design-Builder.

2.4.19 The "Project," as identified in ARTICLE 1, is the building, facility, or other improvements for which Design-Builder is to perform the Work under this Agreement. It may also include improvements to be undertaken by Owner or Others.

2.4.20 "Project schedule" A schedule that shows the timing and sequencing of the design and construction required to meet the time criteria set forth in Owner's Program. The Project includes the Construction Schedule and is coordinated with design phase service activities.

2.4.21 A "Subcontractor" is a person or entity retained by Design-Builder as an independent contractor to provide the labor, materials, equipment, or services necessary to complete a specific portion of the Work. The term Subcontractor does not include Design Professional or any separate contractor employed by Owner or any separate contractor's subcontractors.

2.4.22 "Substantial Completion" of the Work, or of a designated portion, occurs on the date when construction is sufficiently complete in accordance with the Contract Documents so that Owner can occupy or utilize the Project, or a designated portion, for the use for which it is intended, without unscheduled disruption. The issuance of a certificate of occupancy is not a prerequisite for Substantial Completion if the certificate of occupancy cannot be obtained due to factors beyond Design-Builder's control. This date shall be confirmed by a certificate of Substantial Completion signed by The Parties.

2.4.23 A "Subsubcontractor" is a party or entity who has an agreement with a Subcontractor or other Subsubcontractor, or Supplier to perform any portion of the Work or to supply material or equipment.



2.4.24 A "Supplier" is a person or entity retained by Design-Builder to provide material and equipment for the Work.

2.4.25 "Terrorism" means a violent act, or an act that is dangerous to human life, property, or infrastructure, that is committed by an individual or individuals and that appears to be part of an effort to coerce a civilian population or to influence the policy or affect the conduct of any government by coercion. Terrorism includes, but is not limited to, any act certified by the United States Secretary of Treasury as an act of terrorism pursuant to the Terrorism Risk Insurance Act, as amended.

2.4.26 The "Work" is the design services procured in accordance with §3.1, the construction services provided in accordance with §3.2, additional services in accordance with §3.11, and other services which are necessary to complete the Project in accordance with and reasonably inferable from the Contract Documents. The Work may refer to the whole Project or only a part of the Project if work is also being performed by Owner or Others.

2.4.27 "Worksite" means the geographical area of the Project location mentioned in ARTICLE 1 where the Work is to be performed

### ARTICLE 3 DESIGN-BUILDER'S RESPONSIBILITIES

3.1 DESIGN SERVICES Pursuant to a mutually agreeable schedule, Design-Builder shall submit for Owner's written approval, as applicable, Design Development Documents or Construction Documents, based on the Contract Documents in existence at the time of the execution of this Agreement or any further development of Contract Documents that have been approved in writing by Owner.

3.1.1 If required, the Design Development Documents shall further define the Project, including drawings and outline specifications fixing and describing the Project size and character as to site utilization, and other appropriate elements incorporating the structural, architectural, mechanical, and electrical systems. When Design-Builder submits the Design Development Documents, Design-Builder shall identify in writing all material changes and deviations that have taken place from the Contract Documents in existence at the time of the execution of this Agreement. Any changes in the Work contained in the Design Development Documents approved by Owner shall result in a Change Order pursuant to ARTICLE 8 adjusting the Contract Price or the Date of Substantial Completion or the Date of Final Completion.

3.1.2 The Construction Documents shall set forth in detail the requirements for construction of the Work, and shall be based upon codes, laws, or regulations enacted at the time of their preparation. When Design-Builder submits the Construction Documents, Design-Builder shall identify in writing all material changes and deviations that have taken place from the Design Development Documents or the Contract Documents in existence at the time of the execution of this Agreement. Any changes in the Work contained in the Construction Documents approved by Owner shall result in a Change Order pursuant to ARTICLE 8 adjusting the Contract Price or the Date of Substantial Completion or the Date of Final Completion. Construction shall be in accordance with the approved Construction Documents. One set of these documents shall be furnished to Owner before commencing construction.

#### 3.1.3 OWNERSHIP OF DOCUMENTS

3.1.3.1 OWNERSHIP OF TANGIBLE DOCUMENTS Owner shall receive ownership of the property rights, except for copyrights, of all documents, drawings, specifications, electronic data, and information (hereinafter "Documents") prepared, provided or procured by Design-Builder, its Design Professional, Subcontractors, or consultants and distributed to Owner for this Project, upon the making of final payment to Design-Builder or in the event of termination under ARTICLE 11, upon payment for all sums due to Design-Builder pursuant to ARTICLE 11.



Owner's acquisition of the copyright shall be subject to Owner's making of all payments required by this Agreement.

3.1.3.2 COPYRIGHT The Parties agree that Owner shall obtain ownership of the copyright of all Documents. Owner's acquisition of the copyright for all Documents shall be subject to the making of payments as required by §3.1.3.1 and the payment of the fee reflecting the agreed value of the copyright set forth below:

If the Parties have not made a selection to transfer copyright interests in the Documents, the copyright shall remain with Design-Builder.

3.1.3.3 USE OF DOCUMENTS IN EVENT OF TERMINATION In the event of a termination of this Agreement pursuant to ARTICLE 11, Owner shall have the right to use, to reproduce, and to make derivative works of the Documents to complete the Project, regardless of whether there has been a transfer of copyright under §3.1.3.1, provided payment has been made pursuant to §3.1.3.1

3.1.3.4 OWNER'S USE OF DOCUMENTS AFTER COMPLETION OF PROJECT After completion of the Project, Owner may reuse, reproduce, or make derivative works from the Documents solely for the purposes of maintaining, renovating, remodeling, or expanding the Project at the Worksite. Owner's use of the Documents without Design-Builder's involvement or on other projects is at Owner's sole risk, except for Design-Builder's indemnification obligations, and Owner shall indemnify and hold harmless Design-Builder, its Design Professional, Subcontractors, and consultants, and the agents, officers, directors, and employees of each of them, from and against any and all claims, damages, losses, costs, and expenses, including reasonable attorneys' fees and costs, arising out of or resulting from any such prohibited use.

3.1.3.5 DESIGN-BUILDER'S USE OF DOCUMENTS Where Design-Builder has transferred its copyright interest in the Documents under §3.1.3.1, Design-Builder may reuse Documents prepared by it pursuant to this Agreement in its practice, but only in their separate constituent parts and not as a whole.

3.1.3.6 Design-Builder shall obtain from its Design Professional, Subcontractors, and consultants rights and rights of use that correspond to the rights given by Design-Builder to Owner in this Agreement, and Design-Builder shall provide evidence that such rights have been secured.

## 3.2 CONSTRUCTION SERVICES

3.2.1 Construction will commence upon the issuance by Owner of a written notice to proceed which shall not be issued until and unless all permits and permission are issued by any governmental unit having control over same.

3.2.2 In order to complete the Work, Design-Builder shall provide all necessary construction supervision, inspection, construction equipment, construction labor, materials, tools, and subcontracted items.

3.2.3 COMPLIANCE WITH LAW Design-Builder shall give all notices and comply with all Laws at its own costs. Design-Builder shall be liable to Owner for all loss, cost, and expense attributable to any acts or omissions by Design-Builder, its employees, subcontractors, and agents resulting from the failure to comply with Laws, including fines, penalties, or corrective measures. However, liability under this subsection shall not apply if notice to Owner was given, and advance approval by appropriate authorities, including Owner, is received.



3.2.3.1 CHANGES IN LAW The Contract Price or Contract Time, or both shall be equitably adjusted by Change Order for additional costs or time needed resulting from any change in Law, including increased taxes, enacted after the date of this Agreement

3.2.4 Design-Builder shall maintain the Schedule of Work. This schedule shall indicate the dates for the start and completion of the various stages of the construction, including the dates when information and approvals are required from Owner. It shall be revised as required by the conditions of the Work.

3.2.5 Design-Builder shall obtain and Owner shall pay, in addition to the Contract Price, for the building permits necessary for the construction of the Project.

3.2.6 Design-Builder shall provide periodic written reports to Owner on the progress of the Work in such detail as is required by Owner and as agreed to by The Parties.

3.2.7 Design-Builder shall regularly remove debris and waste materials at the Worksite resulting from the Work. Before discontinuing Work in an area, Design-Builder shall clean the area and remove all rubbish and its construction equipment, tools, machinery, waste, and surplus materials. Design-Builder shall minimize and confine dust and debris resulting from construction activities. At the completion of the Work, Design-Builder shall remove from the Worksite all construction equipment, tools, surplus materials, waste materials, and debris.

Design-Builder shall prepare and submit to Owner either final marked up as-builts drawings that generally document how the various elements of the Work including changes were actually constructed or installed, or as defined by the Parties by attachment to this Agreement.

3.3 CONSTRUCTION SCHEDULE Design-Builder shall prepare and submit a Schedule of Work for Owner's acceptance and written approval. This schedule shall indicate the commencement and completion dates of the various stages of the Work, including the dates when information and approvals are required from Owner. The Schedule shall be revised on a monthly basis or as mutually agreed by the Parties.

#### 3.4 SAFETY OF PERSONS AND PROPERTY

3.4.1 SAFETY PRECAUTIONS AND PROGRAMS Design-Builder shall have overall responsibility for safety precautions and programs in the performance of the Work. However, such obligation does not relieve Subcontractors of their responsibility for the safety of persons or property in the performance of their work, nor for compliance with the provisions of Laws.

3.4.2 Design-Builder shall prevent against injury, loss, or damage to persons or property by taking reasonable steps to protect:

3.4.2.1 its employees and other persons at the Worksite;

3.4.2.2 materials, supplies, and equipment stored at the Worksite for use in performance of the Work; and

3.4.2.3 the Project and all property located at the Worksite and adjacent to work areas, whether or not said property or structures are part of the Project or involved in the Work.

3.4.3 DESIGN-BUILDER'S SAFETY REPRESENTATIVE Design-Builder shall designate an individual at the Worksite in the employ of Design-Builder who shall act as Design-Builder's designated safety representative with a duty to prevent accidents. Unless otherwise identified by Design-Builder in



writing to Owner, the designated safety representative shall be Design-Builder's project superintendent. Design-Builder will report immediately in writing all accidents and injuries occurring at the Worksite to Owner. When Design-Builder is required to file an accident report with a public authority, Design-Builder shall furnish a copy of the report to Owner.

3.4.4 Design-Builder shall provide Owner with copies of all notices required of Design-Builder by Law. Design-Builder's safety program shall comply with the requirements of governmental and quasi-governmental authorities having jurisdiction over the Work.

3.4.5 Damage or loss not insured under property insurance which may arise from the performance of the Work, to the extent of the negligence attributed to such acts or omissions of Design-Builder, or anyone for whose acts Design-Builder may be liable, shall be promptly remedied by Design-Builder. Damage or loss attributable to the acts or omissions of Owner or Others and not to Design-Builder shall be promptly remedied by Owner.

3.4.6 If Owner deems any part of the Work or Worksite unsafe, Owner, without assuming responsibility for Design-Builder's safety program, may require Design-Builder to stop performance of the Work or take corrective measures satisfactory to Owner, or both. If Design-Builder does not adopt corrective measures, Owner may perform them and reduce the amount of the Contract Price by the costs of the corrective measures. Design-Builder agrees to make no claim for damages, for an adjustment in the Contract Price or the Date of Substantial Completion or the Date of Final Completion based on Design-Builder's compliance with Owner's reasonable request.

3.5 EMERGENCIES In any emergency affecting the safety of persons or property, Design-Builder shall act in a reasonable manner to prevent threatened damage, injury, or loss. Any change in the Contract Price, the Date of Substantial Completion, or the Date of Final Completion, on account of emergency work shall be determined as a Change Order.

### 3.6 HAZARDOUS MATERIAL

3.6.1 Design-Builder shall not be obligated to commence or continue Work until all Hazardous Material discovered at the Worksite has been removed, rendered, or determined to be harmless by Owner as certified by an independent testing laboratory and approved by the appropriate government agency.

3.6.2 If after commencing the Work, Hazardous Material is discovered at the Project, Design-Builder shall be entitled to immediately stop Work in the affected area. Design-Builder shall report the condition to Owner and, if required, the government agency with jurisdiction.

3.6.3 Design-Builder shall not resume nor be required to continue any Work affected by any Hazardous Material without written mutual agreement between the Parties after the Hazardous Material has been removed or rendered harmless and only after approval, if necessary, of the governmental agency with jurisdiction. Owner shall be responsible for retaining an independent testing laboratory to determine the nature of the material encountered and whether it is a Hazardous Material requiring corrective measures or remedial action. Such measures shall be the sole responsibility of Owner, and shall be performed in a manner minimizing any adverse effect upon the Work.

3.6.4 If Design-Builder incurs additional costs or is delayed due to the presence or remediation of Hazardous Material, Design-Builder shall be entitled to an equitable adjustment in the Contract Price or the date of Substantial Completion.

3.6.5 To the extent not caused by the negligent or intentionally wrongful acts or omissions of Design-Builder, its Subcontractors and Subsubcontractors, and the agents, officers, directors, and employees of each of them, Owner shall indemnify and hold harmless Design-Builder, its Subcontractors and



Subsubcontractors, and the agents, officers, directors, and employees of each of them, from and against all claims, damages, losses, costs, and expenses, including but not limited to reasonable attorneys' fees, costs, and expenses incurred in connection with any dispute resolution process, to the extent permitted pursuant to §6.5, arising out of or relating to the performance of the Work in any area affected by Hazardous Material.

3.7 Safety Data Sheets (SDS) as required by law and pertaining to materials or substances used or consumed in the performance of the Work, whether obtained by Design-Builder, Subcontractors, Owner or Others, shall be maintained at the Project by Design-Builder and made available to Owner and Subcontractors.

3.7.1 During Design-Builder's performance of the Work, Design-Builder shall be responsible for the proper handling, application, storage, removal, and disposal of all materials brought to the Worksite by Design-Builder. Upon the issuance of the Certificate of Substantial Completion, Owner shall be responsible for materials and substances brought to the Worksite by Design-Builder if such materials or substances are required by the Contract Documents.

3.7.2 §3.6 shall survive the completion of the Work under this Agreement or any termination of this Agreement.

### 3.8 WARRANTY

3.8.1 Design-Builder warrants that all materials and equipment furnished under this Agreement will be new unless otherwise specified, of good quality, in conformance with the Contract Documents, and free from defective workmanship and materials. Warranties shall commence on the date of Substantial Completion of the Work or of a designated portion.

3.8.2 To the extent products, equipment, systems, or materials incorporated in the Work are specified and purchased by Owner, they shall be covered exclusively by the warranty of the manufacturer. There are no warranties which extend beyond the description on the face thereof. To the extent products, equipment, systems, or materials incorporated in the Work are specified by Owner but purchased by Design-Builder and are inconsistent with selection criteria that otherwise would have been followed by Design-Builder, Design-Builder shall assist Owner in pursuing warranty claims. ALL OTHER WARRANTIES EXPRESSED OR IMPLIED INCLUDING THE WARRANTY OF MERCHANTABILITY AND THE WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE ARE EXPRESSLY DISCLAIMED.

3.8.3 Design-Builder shall secure required certificates of inspection, testing, or approval and deliver them to Owner.

3.8.4 Design-Builder shall collect all written warranties and equipment manuals and deliver them to Owner in a format directed by Owner.

3.8.5 With the assistance of Owner's maintenance personnel, Design-Builder shall direct the checkout of utilities and start-up operations, and adjusting and balancing of systems and equipment for readiness.

### 3.9 CORRECTION OF WORK WITHIN ONE YEAR

3.9.1 Before Substantial Completion and within one year after the date of Substantial Completion of the Work or for such longer periods of time as may be set forth with respect to specific warranties required by the Contract Documents, if any Defective Work is found, Owner shall promptly notify Design-Builder in writing. Unless Owner provides written acceptance of the condition, Design-Builder shall promptly correct the Defective Work at its own cost and time and bear the expense of additional



services required for correction of any Defective Work for which it is responsible. If within the one-year correction period Owner discovers and does not promptly notify Design-Builder or give Design-Builder an opportunity to test or correct Defective Work as reasonably requested by Design-Builder, Owner waives Design-Builder's obligation to correct that Defective Work as well as Owner's right to claim a breach of the warranty with respect to that Defective Work.

3.9.2 With respect to any portion of Work first performed after Substantial Completion, the one-year correction period shall commence when that portion of Work is complete. Correction periods shall not be extended by corrective work performed by Design-Builder.

3.9.3 If Design-Builder fails to correct Defective Work within a reasonable time after receipt of written notice from Owner before final payment, Owner may correct it in accordance with Owner's right to carry out the Work. In such case, an appropriate Change Order shall be issued deducting the cost of correcting such deficiencies from payments then or thereafter due Design-Builder. If payments then or thereafter due Design-Builder are not sufficient to cover such amounts, Design-Builder shall pay the difference to Owner.

3.9.4 Design-Builder's obligations and liability, if any, with respect to any Defective Work discovered after the one-year correction period shall be determined by the Law. If, after the one-year correction period but before the applicable limitation period has expired, Owner discovers any Work which Owner considers Defective Work, Owner shall, unless the Defective Work requires emergency correction, promptly notify Design-Builder and allow Design-Builder an opportunity to correct the Work if Design-Builder elects to do so. If Design-Builder elects to correct the Work, it shall provide written notice of such intent within fourteen (14) Days of its receipt of notice from Owner and shall complete the correction of Work within a mutually agreed timeframe. If Design-Builder does not elect to correct the Work, Owner may have the Work corrected by itself or Others, and, if Owner intends to seek recovery of those costs from Design-Builder, Owner shall promptly provide Design-Builder with an accounting of the correction costs it incurs.

3.9.5 If Design-Builder's correction or removal of Defective Work causes damage to or destroys other completed or partially completed Work or existing buildings, Design-Builder shall be responsible for the cost of correcting the destroyed or damaged property.

3.9.6 The one-year period for correction of Defective Work does not constitute a limitation period with respect to the enforcement of Design-Builder's other obligations under the Contract Documents.

3.9.7 Before final payment, at Owner's option and with Design-Builder's agreement, Owner may elect to accept Defective Work rather than require its removal and correction. In such case the Contract Price shall be equitably adjusted for any diminution in the value of the Project caused by such Defective Work.

3.10 CONFIDENTIALITY Design-Builder shall treat as confidential and not disclose to third-persons, except Subcontractors, Subsubcontractors, and Design Professional as is necessary for the performance of the Work, or use for its own benefit any of Owner's developments, confidential information, know-how, discoveries, production methods, and the like that may be disclosed to Design-Builder or which Design-Builder may acquire in connection with the Work. Owner shall treat as confidential information all of Design-Builder's estimating systems and historical and parameter cost data that may be disclosed to Owner in connection with the performance of this Agreement. The Parties shall each specify those items to be treated as confidential and shall mark them as "Confidential." Confidentiality obligations do not supersede compulsion by Law, a governmental agency or authority, an order of a court of competent jurisdiction, or a validly issued subpoena. In such event, a Party shall promptly notify the other Party to permit that Party's legal objection.



3.11 ADDITIONAL SERVICES Design-Builder shall provide or procure the following Additional services upon the request of Owner. A written agreement between The Parties shall define the extent of such Additional services. Such Additional services shall be considered a Change in the Work, unless they are specifically included in §3.1 or §3.2.

3.11.1 Assisting in the developing Owner's Program, establishing the Project budget, investigating sources of financing, general business planning, and other information and documentation as may be required to establish the feasibility of the Project;

3.11.2 Consultations, negotiations, and documentation supporting the procurement of Project financing;

3.11.3 Surveys, site evaluations, legal descriptions, and aerial photographs;

3.11.4 Appraisals of existing equipment, existing properties, new equipment, and developed properties;

3.11.5 Soils, subsurface, and environmental studies, reports, and investigations required for submission to governmental authorities or others having jurisdiction over the Project;

3.11.6 Consultations and representations before governmental authorities or others having jurisdiction over the Project other than normal assistance in securing building permits;

3.11.7 Investigation or making measured drawings of existing conditions or the verification of Owner-provided drawings and information;

3.11.8 Artistic renderings, models, and mockups of the Project or any part of the Project or the Work;

3.11.9 Inventories of existing furniture, fixtures, furnishings, and equipment which might be under consideration for incorporation into the Project;

3.11.10 Interior design and related services including procurement and placement of furniture, furnishings, artwork, and decorations;

3.11.11 Making revisions to design documents after they have been approved by Owner when revisions are due to causes beyond the control of Design-Builder. Causes beyond the control of Design-Builder do not include acts or omissions on the part of Subcontractors, Subsubcontractors, or Design Professional;

3.11.12 Design, coordination, management, expediting, and other services supporting the procurement of materials to be obtained, or work to be performed, by Owner, including but not limited to telephone systems, computer wiring networks, sound systems, alarms, security systems, and other specialty systems which are not a part of this Agreement;

3.11.13 Estimates, proposals, appraisals, consultations, negotiations, and services in connection with the repair or replacement of an insured loss, provided such repair or replacement did not result from the negligence of Design-Builder;

3.11.14 The premium portion of overtime work ordered by Owner including productivity impact costs, other than that required by Design-Builder to maintain the Schedule of Work;

3.11.15 Out-of-town travel by Design Professional in connection with the Work, except between Design Professional's office, Design-Builder's office, Owner's office, and the Project site;



- 3.11.16 Obtaining service contractors and training maintenance personnel; assisting and consulting in the use of systems and equipment after the initial startup;
- 3.11.17 Services for tenant or rental spaces not required by this Agreement;
- 3.11.18 services requested by Owner or required by the Work which are not specified in the Contract Documents and which are not normally part of generally accepted design and construction practice;
- 3.11.19 Except when Design Professional is a party to the proceeding, serving or preparing to serve as an expert witness in connection with any proceeding, legal or otherwise, regarding the Project;
- 3.11.20 document reproduction exceeding the limits provided for in this Agreement;
- 3.11.21 providing services relating to Hazardous Material discovered at the Worksite;
- 3.11.22 acting as a Green Building Facilitator as identified in the ConsensusDocs 310 Green Building Addendum or separate addenda, which, at a minimum, shall include: (a) coordinating and facilitating the achievement of elected green measures and green status, such as achieving Leadership in Energy and Environmental Design "LEED" certification; (b) identifying, preparing, and submitting necessary documentation for elected green status; and (c) identifying project participants responsible to complete physical and procedural green measures;
- 3.11.23 performing formal commissioning services; and
- 3.11.24 other services as agreed to by the Parties and identified in an attached exhibit.

3.12 DESIGN-BUILDER'S REPRESENTATIVE Design-Builder shall designate a person who shall be Design-Builder's authorized representative. Design-Builder's Representative is Dan Bradley

#### **ARTICLE 4 OWNER'S RESPONSIBILITIES**

4.1 INFORMATION AND SERVICES PROVIDED BY OWNER Owner's responsibilities under this article shall be provided with reasonable detail and in a timely manner.

4.2 WORKSITE INFORMATION To the extent Owner has obtained, or is required elsewhere in the Contract Documents to obtain, the following Worksite information, Owner shall provide at Owner's expense and with reasonable promptness:

- 4.2.1 information describing the physical characteristics of the site, including surveys, site evaluations, legal descriptions, data, or drawings depicting existing conditions, subsurface conditions, and environmental studies, reports, and investigations;
- 4.2.2 tests, inspections, and other reports dealing with environmental matters, Hazardous Material, and other existing conditions, including structural, mechanical, and chemical tests, required by the Contract Documents or by Law;
- 4.2.3 the limits of Pollution Liability Insurance covering the Worksite held by Owner; and
- 4.2.4 any other information or services requested in writing by Design-Builder which are required for Design-Builder's performance of the Work and under Owner's control.

#### **4.3 RESPONSIBILITIES DURING DESIGN**

4.3.1 Owner shall review and approve further development of the drawings and specifications as set forth in ARTICLE 3.



#### 4.4 RESPONSIBILITIES DURING CONSTRUCTION

4.4.1 Owner shall review the Construction Schedule, timely approve milestone dates set forth, and timely respond to its obligations.

4.4.2 If Owner becomes aware of any error, omission, or failure to meet the requirements of the Contract Documents or any fault or defect in the Work, Owner shall give prompt written notice to Design-Builder. The failure of Owner to give such notice shall not relieve Design-Builder of its obligations to fulfill the requirements of the Contract Documents.

4.4.3 Owner shall have no contractual obligations to Subcontractors, suppliers, or Design Professional.

4.4.4 Owner shall provide insurance for the Project as provided in ARTICLE 10.

4.5 ELECTRONIC DOCUMENTS If Owner requires that The Parties exchange documents and data in electronic or digital form, before any such exchange, The Parties shall agree on a written protocol governing all exchanges in ConsensusDocs 200.2 or a separate agreement, which, at a minimum, shall specify: (a) the definition of documents and data to be accepted in electronic or digital form or to be transmitted electronically or digitally; (b) management and coordination responsibilities; (c) necessary equipment, software, and services; (d) acceptable formats, transmission methods, and verification procedures; (e) methods for maintaining version control; (f) privacy and security requirements; and (g) storage and retrieval requirements. The Parties shall each bear their own costs for the requirements identified in the protocol. In the absence of a written protocol, use of documents and data in electronic or digital form shall be at the sole risk of the recipient.

4.6 Owner's Representative is

\_\_\_\_\_ Owner's representative shall: (a) be fully acquainted with the Project; (b) agree to furnish the information and services required of Owner in a timely manner; and (c) have the authority to bind Owner in all matters requiring Owner's approval, authorization or written notice. If Owner changes its representative or the representative's authority as listed above, Owner shall notify Design-Builder in writing in advance.

#### ARTICLE 5 SUBCONTRACTS

5.1. RETAINING SUBCONTRACTORS Design-Builder shall not retain any Subcontractor or Supplier to whom Owner has a reasonable and timely objection, provided that Owner agrees to increase the Contract Price for any additional costs incurred by Design-Builder as a result of such objection. Owner may propose subcontractors to be considered by Design-Builder. Design-Builder shall not be required to retain any subcontractor to whom Design-Builder has a reasonable objection.

5.2. MANAGEMENT OF SUBCONTRACTORS Design-Builder shall be responsible for the management of Subcontractors in the performance of their work.

#### 5.3. CONTINGENT ASSIGNMENT OF SUBCONTRACT AGREEMENTS

5.3.1. If this Agreement is terminated, each subcontract agreement shall be assigned by Design-Builder to Owner, subject to the prior rights of any surety, provided that:

5.3.1.1. this Agreement is terminated by Owner pursuant to §11.2 or §11.3; and

5.3.1.2. Owner accepts such assignment, after termination by notifying the Subcontractor and Design-Builder in writing, and assumes all rights and obligations of Design-Builder pursuant to each subcontract or supply agreement.



5.3.2. If Owner accepts such an assignment, and the Work has been suspended for more than thirty (30) consecutive Days, following termination, if appropriate, Subcontractor's or Supplier's compensation shall be equitably adjusted as a result of the suspension.

5.4. **BINDING OF SUBCONTRACTORS AND SUPPLIERS** Design-Builder agrees to bind every Subcontractor and Supplier (and require every Subcontractor to so bind its Subsubcontractors and significant Suppliers) to all the provisions of this Agreement and the Contract Documents' applicable provisions to that portion of the Work.

## ARTICLE 6 CONTRACT TIME

6.1. **DATE OF COMMENCEMENT** The Date of Commencement is the Agreement date in ARTICLE 1 unless otherwise set forth below TBD. The Work shall proceed in general accordance with the Project Schedule which may be amended in accordance with this Agreement.

### 6.2. SUBSTANTIAL COMPLETION/FINAL COMPLETION

6.2.1. Substantial Completion of the Work shall be achieved in twenty-eight (28) Days from the Date of Commencement. Unless otherwise specified, the Work shall be finally complete within thirty (30) Days after the date of Substantial Completion, subject to adjustments as provided for in the Contract Documents.

6.2.2. Time is of the essence with regards to the obligations of the Contract Documents.

6.2.3. Unless otherwise instructed by an Interim Directive, Design-Builder shall not knowingly commence the Work before the effective date of insurance required to be provided by Design-Builder.

### 6.3. DELAYS AND EXTENSIONS OF TIME

6.3.1. If Design-Builder is delayed at any time in the commencement or progress of the Work by any cause beyond the control of Design-Builder, Design-Builder shall be entitled to an equitable extension of the Date of Substantial Completion or the Date of Final Completion. Examples of causes beyond the control of Design-Builder include, but are not limited to, the following: (a) acts or omissions of Owner or Others; (b) changes in the Work or the sequencing of the Work ordered by Owner, or arising from decisions of Owner that impact the time of performance of the Work; (c) encountering Hazardous Materials, or concealed or unknown conditions; (d) delay authorized by Owner pending dispute resolution or suspension by Owner under §12.1; (e) transportation delays not reasonably foreseeable; (f) labor disputes not involving Design-Builder; (g) general labor disputes impacting the Project but not specifically related to the Worksite; (h) fire; (i) Terrorism; (j) epidemics; (k) adverse governmental actions, (l) unavoidable accidents or circumstances; (m) adverse weather conditions (n) government imposition of tariffs which result in unprofitability, economic hardship, market fluctuations, or delay in availability to Design-Builder. Design-Builder shall process any requests for equitable extensions of the Date of Substantial Completion or the Date of Final Completion in accordance with the provisions of ARTICLE 8.

6.3.2. In addition, if Design-Builder incurs additional costs as a result of a delay that is caused by acts or omissions of Owner or Others, changes in the Work or the sequencing of the Work ordered by Owner, or arising from decisions of Owner that impact the time of performance of the Work, encountering Hazardous Materials unanticipated by Design-Builder or concealed or unknown conditions, government imposition of tariffs which result in unprofitability, economic hardship, market fluctuations, or delay in availability to Design-Builder, delay authorized by Owner pending dispute resolution, or suspension by Owner under §ARTICLE 11, Design-Builder shall be entitled to an equitable adjustment in the Contract Price subject to §6.5.



6.3.3. In the event delays to the project are encountered for any reason, the Parties agree to undertake reasonable steps to mitigate the effect of such delays.

#### 6.4. SUBSTANTIAL COMPLETION

6.4.1. SUBSTANTIAL COMPLETION The Parties agree that this Agreement shall not provide for the imposition of liquidated damages based on the Date of Substantial Completion.

6.4.2. FINAL COMPLETION Owner and Design-Builder agree that this Agreement shall provide for the imposition of liquidated damages based on the Date of Final Completion.

6.4.2.1. Design Builder understands that the Date of Final Completion is not attained, Owner will suffer damages which are difficult to determine and accurately specify.

Constructor agrees that the Date of Substantial Completion is not attained, Design Builder shall pay Owner FIVE HUNDRED AND NO/100 DOLLARS (\$500.00) as liquidated damages for each Day that Final Completion extends beyond the Date of Final Completion. The liquidated damages provided herein shall be in lieu of all liability for any and all extra costs, losses, expenses, claims, penalties, and any other damages of whatsoever nature incurred by Owner which are occasioned by any delay in achieving the Date of Final Completion.

~~6.4.2.2.~~

6.5. LIMITED MUTUAL WAIVER OF CONSEQUENTIAL DAMAGES Except for losses covered by insurance required by the Contract Documents, Owner and Design-Builder agree to waive all claims against each other for any consequential damages that may arise out of or relate to this Agreement, except for those specific items of damages excluded from this waiver as mutually agreed upon by the Parties and identified below. Owner agrees to waive damages including but not limited to Owner's loss of use of the Project, any rental expenses incurred, loss of income, profit, or financing related to the Project, as well as the loss of business, loss of financing, principal office overhead and expenses, loss of profits not related to this Project, loss of reputation, or insolvency. Design-Builder agrees to waive damages including but not limited to loss of business, loss of financing, loss of profits not related to this Project, loss of bonding capacity, loss of reputation, or insolvency.

6.5.1. The following items of damages are excluded from this mutual waiver:

6.5.2. The provisions of this section shall also apply to the termination of this Agreement and shall survive such termination. Owner and Design-Builder shall require similar waivers in contracts with Subcontractors and Others retained for the Project.

#### ARTICLE 7 CONTRACT PRICE

The Contract Price is One Hundred Forty Three Thousand Three Hundred Seventy Three and 05/100 dollars (\$ \$143,373.05) subject to adjustment as provided in ARTICLE 8.

#### ARTICLE 8 CHANGES IN THE WORK

Changes in the Work which are within the general scope of this Agreement may be accomplished without invalidating this Agreement by Change Order, Interim Directive, or a minor change in the Work, subject to the limitations stated in the Contract Documents.

#### 8.1. CHANGE ORDERS

8.1.1. Design-Builder may request or Owner, without invalidating this Agreement, may order changes in the Work within the general scope of the Contract Documents consisting of adjustment to the



Contract Price or the Date of Substantial Completion or the Date of Final Completion. All such changes in the Work shall be authorized by applicable Change Order, and processed in accordance with this article. Each adjustment in the Contract Price resulting from a Change Order shall clearly separate the amount attributable to Design services.

8.1.2. The Parties shall negotiate an appropriate adjustment to Contract Price or the Date of Substantial Completion or the Date of Final Completion in good faith and conclude negotiations as expeditiously as possible. Said Change Orders shall be at Design-Builder's cost plus 8.0% general conditions and 5.0% profit. Acceptance of the Change Order and any adjustment in the Contract Price or the Date of Substantial Completion or the Date of Final Completion shall not be unreasonably withheld.

8.1.3. NO OBLIGATION TO PERFORM Design-Builder shall not be obligated to perform changes in the Work until a Change Order has been executed or a written Interim Directive has been issued.

## 8.2. INTERIM DIRECTIVE

8.2.1. Owner may issue an Interim Directive directing a change in the Work before agreeing on an adjustment, if any, in the Contract Price or the Date of Substantial Completion or the Date of Final Completion, and if appropriate, the compensation for Design services or directing Design-Builder to perform Work that Owner believes is not a change. If the Parties disagree that the Interim Directed work is within the scope of the Work, Design-Builder shall perform the disputed Work and furnish Owner with an estimate of the costs to perform the disputed work in accordance with Owner's interpretations.

8.2.2. The Parties shall negotiate expeditiously and in good faith for appropriate adjustments, as applicable, to the Contract Price or the Date of Substantial Completion or the Date of Final Completion, and if appropriate the compensation for Design services, arising out of Interim Directive. As the changed work is completed, the Design Builder shall submit its costs for such work with its Application for Payment beginning with the next Application for Payment within thirty (30) Days of the issuance of the Interim Directive. Owner's payment does not prejudice its right to be reimbursed should it be determined that the disputed work was within the scope of the Work.

8.2.3. If the Parties agree upon the adjustments in the Contract Price or the Date of Substantial Completion or the Date of Final Completion, and if appropriate, the compensation for Design services, for a change in the Work directed by an Interim Directive, such agreement shall be the subject of an appropriate Change Order. The Change Order shall include all outstanding Interim Directives issued since the last Change Order.

## 8.3. MINOR CHANGES IN THE WORK

8.3.1. Design-Builder may make minor changes in the design and construction of the Project consistent with the intent of the Contract Documents which do not involve an adjustment in the Contract Price or the Date of Substantial Completion or the Date of Final Completion; and do not materially and adversely affect the design of the Project, the quality of any of the materials or equipment specified in the Contract Documents, the performance of any materials, equipment, or systems specified in the Contract Documents, or the quality of workmanship required by the Contract Documents.

8.3.2. Design-Builder shall promptly inform Owner in writing of any such changes and shall record such changes on the Design-Build Documents maintained by Design-Builder.

8.4. CONCEALED OR UNKNOWN SITE CONDITIONS If a condition encountered at the Worksite are (a) subsurface or other physical conditions materially different from those indicated in the Contract



Documents, or (b) unusual and unknown physical conditions materially different from conditions ordinarily encountered and generally recognized as inherent in Work provided for in the Contract Documents, Design-Builder shall stop affected Work after the concealed or unknown condition is first observed and give prompt written notice of the condition to Owner. Owner shall investigate and then issue an Interim Directive specifying the extent to which Owner agrees that a concealed or unknown condition exists and directing how Design-Builder is to proceed. Design-Builder shall not be required to perform any Work relating to the unknown condition without the written mutual agreement of the Parties. Any change in the Contract Price or Contract Time as a result of the condition, including any dispute about its existence or nature, shall be determined as provided in this ARTICLE 8.

## 8.5. DETERMINATION OF COST

8.5.1. An increase or decrease in the Contract Price resulting from a change in the Work shall be determined by one or more of the following methods:

8.5.1.1. unit prices set forth in this Agreement or as subsequently agreed;

8.5.1.2. a mutually accepted, itemized lump sum; or

8.5.1.3. COST OF THE WORK Cost of the Work as defined by this §8.5.1.3 plus eight percent(8%) for Overhead and five percent 5% for profit. "Cost of the Work" shall include the following costs reasonably incurred to perform a change in the Work:

8.5.1.3.1. Labor wages directly employed by Design-Builder performing the Work;

8.5.1.3.2. Salaries of Design-Builder's employees when stationed at the field office to the extent necessary to complete the applicable Work, employees engaged on the road expediting the production or transportation of material and equipment, and supervisory employees from the principal or branch office as mutually agreed by the Parties in writing;

8.5.1.3.3. Cost of applicable employee benefits and taxes, including but not limited to, workers' compensation, unemployment compensation, social security, health, welfare, retirement and other fringe benefits as required by law, labor agreements, or paid under Design-Builder's standard personnel policy, insofar as such costs are paid to employees of Design-Builder who are included in the Cost of the Work in §8.5.1.3.1 and §8.5.1.3.2;

8.5.1.3.4. Reasonable transportation, travel, and hotel expenses of Design-Builder's personnel incurred in connection with the Work;

8.5.1.3.5. Cost of all materials, supplies, and equipment incorporated in the Work, including costs of inspection and testing if not provided by Owner, transportation, storage, and handling;

8.5.1.3.6. Payments made by Design-Builder to Subcontractors for performed Work;

8.5.1.3.7. Fees and expenses for design services procured or furnished by Design-Builder

8.5.1.3.8. Cost, including transportation and maintenance of all materials, supplies, equipment, temporary facilities, and hand tools not owned by the workers that are used or consumed in the performance of the Work, less salvage value or residual value; and



cost less salvage value of such items used, but not consumed that remain the property of Design-Builder;

8.5.1.3.9. Rental charges of all necessary machinery and equipment, exclusive of hand tools owned by workers, used at the Worksite, whether rented from Design-Builder or others, including installation, repair and replacement, dismantling, removal, maintenance, transportation, and delivery costs. Rental from unrelated third parties shall be reimbursed at actual cost. Rentals from Design-Builder or its affiliates, subsidiaries, or related parties shall be reimbursed at the prevailing rates in the locality of the Worksite up to eighty-five percent (85%) of the value of the piece of equipment;

8.5.1.3.10. Cost of the premiums for all insurance and surety bonds which Design-Builder is required to procure or deems necessary, and approved by Owner including any additional premium incurred as a result of any increase in the cost of the Work;

8.5.1.3.11. Sales, use, gross receipts or other taxes, tariffs, or duties related to the Work for which Design-Builder is liable;

8.5.1.3.12. Permits, fees, licenses, tests, and royalties;

8.5.1.3.13. Losses, expenses or damages to the extent not compensated by insurance or otherwise, and the cost of corrective work, provided that such did not arise from Design-Builder's negligence.

8.5.1.3.14. Water, power, and fuel costs necessary for the changed Work;

8.5.1.3.15. Cost of removal of all nonhazardous substances, debris, and waste materials;

8.5.1.3.16. Costs directly incurred to perform a change in the Work which are reasonably inferable from the Contract Documents for the changed Work

8.5.1.3.17. DISCOUNTS All discounts for prompt payment shall accrue to Owner to the extent such payments are made directly by Owner. To the extent payments are made with funds of Design-Builder, all cash discounts shall accrue to Design-Builder. All trade discounts, rebates and refunds, and all returns from sale of surplus materials and equipment, shall be credited to the Cost of the Work;

8.5.1.3.18. COST AND SCHEDULE ESTIMATES Design-Builder shall use reasonable skill and judgment in the preparation of a cost estimate or schedule for a change to the Work, but does not warrant or guarantee their accuracy.

8.5.1.3.19. Cost of the Work pursuant to §8.5.1.3 is determined net of savings from the change. Design-Builder's Overhead and profit shall be added to any net increase in Cost of the Work. No Overhead and profit shall be applied to any net decrease in the Cost of the Work that is less than ten (10) percent of the Contract Price. Overhead and profit shall be applied to any net decrease ten (10) percent or more. Design-Builder shall maintain a documented, itemized accounting evidencing expenses and savings.

8.5.2. If unit prices are indicated in the Contract Documents or are subsequently agreed to by the Parties, but the character or quantity of such unit items as originally contemplated is so different in a proposed Change Order that the original unit prices will cause substantial inequity to Owner or Design-Builder, such unit prices shall be equitably adjusted.



8.5.3. If Owner and Design-Builder disagree as to whether work required by Owner is within the scope of the Work, Design-Builder shall furnish Owner with an estimate of the costs to perform the disputed work in accordance with Owner's interpretations. If Owner issues a written order for Design-Builder to proceed, Design-Builder shall perform the disputed work and Owner shall pay Design-Builder fifty percent (50%) of its estimated cost to perform the work. In such event, both Parties reserve their rights as to whether the work was within the scope of the Work. Owner's payment does not prejudice its right to be reimbursed should it be determined that the disputed work was within the scope of Work. Design-Builder's receipt of payment for the disputed work does not prejudice its right to receive full payment for the disputed work should it be determined that the disputed work is not within the scope of the Work.

8.6. CHANGES NOTICE For any claim for an increase in the Contract Price or an extension in the Date of Substantial Completion or the Date of Final Completion, Design-Builder shall give Owner written notice of the claim within twenty-one (21) Days after the occurrence giving rise to the claim or within twenty-one (21) Days after Design-Builder first recognizes the condition giving rise to the claim, whichever is later. Except in an emergency, notice shall be given before proceeding with the Work. Claims for design and estimating costs incurred in connection with possible changes requested by Owner, but which do not proceed, shall be made within twenty-one (21) Days after the decision is made not to proceed. Thereafter, Design-Builder shall submit written documentation of its claim, including appropriate supporting documentation, within twenty-one (21) Days after giving notice, unless the Parties mutually agree upon a longer period of time. Owner shall respond in writing denying or approving Design-Builder's claim no later than fourteen (14) Days after receipt of Design-Builder's documentation of claim. Owner's failure to so respond shall be deemed a denial of Design-Builder's claim. Any change in Contract Price or the Date of Substantial Completion or the Date of Final Completion resulting from such claim shall be authorized by Change Order.

8.7. INCIDENTAL CHANGES Owner may direct Design-Builder to perform incidental changes in the Work upon concurrence with Design-Builder that such changes do not involve adjustments in the Cost of the Work or Contract Time. Incidental changes shall be consistent with the scope and intent of the Contract Documents. Owner shall initiate an incidental change in the Work by issuing a written order to Design-Builder. Such written notice shall be carried out promptly and is binding on the Parties.

## ARTICLE 9 PAYMENT

### 9.1. PROGRESS PAYMENT

9.1.1. Before submitting the first application for payment, Design-Builder shall provide a Schedule of Values satisfactory to Owner, consisting of a breakdown of the Contract Price, with a separate line item for Design services.

9.1.2. On or before the last Day of each month after the Work has commenced, Design-Builder shall submit to Owner an application for payment in accordance with the Schedule of Values based upon the Work completed and materials suitably stored on the Worksite or at other locations approved by Owner. Approval of payment applications for such stored materials shall be conditioned upon submission by Design-Builder of bills of sale and applicable insurance or such other procedures satisfactory to Owner to establish Owner's title to such materials, or otherwise to protect Owner's interest including transportation to the site.

9.1.3. Within seven (7) Days after receipt of each monthly application for payment, Owner shall give written notice to Design-Builder of Owner's acceptance or rejection, in whole or in part, of such application for payment. Owner shall pay directly to Design-Builder the appropriate amount for which application for payment is made, less amounts previously paid by Owner in accordance with Tex. Govt. Code Sec. 2251.001 *et seq.* If such application is rejected in whole or in part, Owner shall



indicate the reasons for its rejection. If Owner and Design-Builder cannot agree on a revised amount, then, within fifteen (15) Days after its initial rejection in part of such application, Owner shall pay directly to Design-Builder the appropriate amount for those items not rejected by Owner for which application for payment is made, less amounts previously paid by Owner. Those items rejected by Owner shall be due and payable when the reasons for the rejection have been removed.

9.1.4. If Owner fails to pay Design-Builder at the time payment of any amount becomes due, then Design-Builder may, at any time thereafter, upon serving written notice that the Work will be stopped within seven (7) Days after receipt of the notice by Owner, and after such seven (7) Day period, stop the Work until payment of the amount owing has been received.

9.1.5. Payments due but unpaid pursuant to §9.1.3, less any amount retained pursuant to §9.2 or §9.3, may bear interest from the date payment is due pursuant to Tex. Govt. Code Sec. 2251.025.

9.1.6. Design-Builder warrants and guarantees that title to all Work, materials, and equipment covered by an application for payment, whether incorporated in the Project or not, will pass to Owner upon receipt of such payment by Design-Builder free and clear of all liens, claims, security interests, or encumbrances, hereinafter referred to as "liens."

9.1.7. Owner's progress payment, occupancy, or use of the Project, whether in whole or in part, shall not be deemed an acceptance of any Work not conforming to the requirements of the Contract Documents.

9.1.8. Upon Substantial Completion of the Work, Owner shall pay Design-Builder the unpaid balance of the Contract Price, less a sum equal to one hundred fifty percent (150%) of Design-Builder's estimated cost of completing any unfinished items as agreed to between The Parties as to extent and time for completion. Owner thereafter shall pay Design-Builder monthly the amount retained for unfinished items as each item is completed.

9.1.9. STORED MATERIALS AND EQUIPMENT Unless otherwise provided in the contract documents, applications for payment may include materials and equipment not yet incorporated into the Work but delivered to and suitably stored onsite or offsite, including applicable insurance, storage and costs incurred transporting the materials to an offsite storage facility. Approval of payment applications for stored materials and equipment stored offsite shall be conditioned on submission by Design-Builder of bills of sale and proof of required insurance, or such other procedures satisfactory to Owner to establish the proper valuation of the stored materials and equipment, Owner's title to such materials and equipment, and to otherwise protect Owner's interests therein, including transportation to the site.

9.2. RETAINAGE Notwithstanding any contradicting terms in the Contract Documents, withholding and payment of retainage shall be pursuant to Tex. Govt. Code Ch. 2252. From each progress payment made before the time of Substantial Completion, Owner may retain five percent (5%) of the amount otherwise due after deduction of any amounts as provided in §9.3, provided such percentage doesn't exceed the Law. If Owner chooses to use this retainage provision:

9.3. ADJUSTMENT OF AN APPLICATION FOR PAYMENT Owner may adjust or reject an application for payment or nullify a previously approved application for payment, in whole or in part, as may reasonably be necessary to protect Owner from loss or damage based upon the following, to the extent that Design-Builder is responsible under this Agreement:

9.3.1. Design-Builder's repeated failure to perform the Work as required by the Contract Documents;



9.3.2. except as accepted by the insurer providing Builders Risk or other property insurance covering the project, loss or damage arising out of or relating to this Agreement and caused by Design-Builder to Owner, or others to whom Owner may be liable;

9.3.3. Design-Builder's failure to pay either Design Professional, Subcontractor or Supplier following receipt of payment from Owner for that portion of the Work or for supplies, provided that Owner is making payments to Constructor in accordance with the terms of this Agreement;

9.3.4. Defective Work not corrected in a timely fashion;

9.3.5. reasonable evidence of delay in performance of the Work such that the Work will not be completed by the Date of Substantial Completion or the Date of Final Completion, and that the unpaid balance of the Contract Price is not sufficient to offset any direct damages that may be sustained by Owner as a result of the anticipated delay caused by Design-Builder;

9.3.6. reasonable evidence demonstrating that the unpaid balance of the Contract Price is insufficient to fund the cost to complete the Work;

9.3.7. uninsured third-party claims involving the Contractor or reasonable evidence demonstrating that third-party claims are likely to be filed unless and until the Contractor furnishes Owner with adequate security in the form of a surety bond, letter of credit, or other collateral or commitment which are sufficient to discharge such claims if established; and

9.3.8. uninsured third-party claims involving Design-Builder or reasonable evidence demonstrating that third-party claims are likely to be filed unless and until Design-Builder furnishes Owner with adequate security in the form of a surety bond, letter of credit, or other collateral or commitment sufficient to discharge such claims if established.

No later than seven (7) Days after receipt of an application for payment, Owner shall give written notice to Design-Builder, at the time of disapproving or nullifying all or part of an application for payment, stating its specific reasons for such disapproval or nullification, and the remedial actions to be taken by Design-Builder in order to receive payment. When the above reasons for disapproving or nullifying an application for payment are removed, payment will be promptly made for the amount previously withheld.

#### 9.4. OWNER OCCUPANCY OR USE OF COMPLETED OR PARTIALLY COMPLETED WORK

Portions of the Work that are completed or partially completed may be used or occupied by Owner when (a) the portion of the Work is designated in a Certificate of Substantial Completion, (b) appropriate insurer(s) or sureties consent to the occupancy or use, and (c) appropriate public authorities authorize the occupancy or use. Such partial occupancy or use shall constitute Substantial Completion of that portion of the Work. Design-Builder shall not unreasonably withhold consent to partial occupancy or use. Owner shall not unreasonably refuse to accept partial occupancy or use, provided such partial occupancy or use is of value to Owner.

#### 9.5. FINAL PAYMENT

9.5.1. Final payment, consisting of the unpaid balance of the Contract Price, shall be due and payable when the Work is fully completed. Before issuance of final payment, Owner may request satisfactory evidence that all payrolls, materials bills, and other indebtedness connected with the Work have been paid or otherwise satisfied.

9.5.2. In making final payment Owner waives all claims except for:

9.5.2.1. improper workmanship or defective materials appearing within one year after the date of Substantial Completion;



9.5.2.2. Work not in conformance with the Contract Documents; and

9.5.2.3. terms of any special warranties required by the Contract Documents.

9.5.3. In accepting final payment, Design-Builder waives all claims except those previously made in writing and which remain unsettled.

## ARTICLE 10 INDEMNITY, INSURANCE, AND BONDS

### 10.1. INDEMNITY

10.1.1. TO THE FULLEST EXTENT PERMITTED BY LAW, DESIGN-BUILDER SHALL INDEMNIFY AND HOLD HARMLESS OWNER, OWNER'S OFFICERS, DIRECTORS, MEMBERS, CONSULTANTS, AGENTS, AND EMPLOYEES (THE INDEMNITEES) FROM ALL CLAIMS FOR BODILY INJURY AND PROPERTY DAMAGE, OTHER THAN TO THE WORK ITSELF AND OTHER PROPERTY REQUIRED TO BE INSURED UNDER §10.3, INCLUDING REASONABLE ATTORNEYS' FEES, COSTS, AND EXPENSES THAT MAY ARISE FROM THE PERFORMANCE OF THE WORK, BUT ONLY TO THE EXTENT CAUSED BY THE NEGLIGENT OR INTENTIONALLY WRONGFUL ACTS OR OMISSIONS OF DESIGN-BUILDER, SUBCONTRACTORS, OR ANYONE EMPLOYED DIRECTLY OR INDIRECTLY BY ANY OF THEM OR BY ANYONE FOR WHOSE ACTS ANY OF THEM MAY BE LIABLE. DESIGN-BUILDER SHALL NOT BE REQUIRED TO INDEMNIFY OR HOLD HARMLESS THE INDEMNITEES FOR ANY NEGLIGENT OR INTENTIONALLY WRONGFUL ACTS OR OMISSIONS OF THE INDEMNITEES. DESIGN-BUILDER SHALL BE ENTITLED TO REIMBURSEMENT OF ANY DEFENSE COSTS PAID ABOVE DESIGN-BUILDER'S PERCENTAGE OF LIABILITY FOR THE UNDERLYING CLAIM TO THE EXTENT PROVIDED FOR BY THE SUBSECTION BELOW.

10.1.2. TO THE FULLEST EXTENT PERMITTED BY LAW, OWNER SHALL INDEMNIFY AND HOLD HARMLESS DESIGN-BUILDER, ITS OFFICERS, DIRECTORS, OR MEMBERS, SUBCONTRACTORS, OR ANYONE EMPLOYED DIRECTLY OR INDIRECTLY BY ANY OF THEM OR ANYONE FOR WHOSE ACTS ANY OF THEM MAY BE LIABLE FROM ALL CLAIMS FOR BODILY INJURY AND PROPERTY DAMAGE, OTHER THAN PROPERTY INSURED UNDER §10.3, INCLUDING REASONABLE ATTORNEYS' FEES, COSTS, AND EXPENSES, THAT MAY ARISE FROM THE PERFORMANCE OF WORK BY OTHERS, BUT ONLY TO THE EXTENT CAUSED BY THE NEGLIGENT OR INTENTIONALLY WRONGFUL ACTS OR OMISSIONS OF OTHERS. OWNER SHALL BE ENTITLED TO REIMBURSEMENT OF ANY DEFENSE COSTS PAID ABOVE OWNER'S PERCENTAGE OF LIABILITY FOR THE UNDERLYING CLAIM TO THE EXTENT PROVIDED FOR BY THE SUBSECTION ABOVE.

10.1.3. NO LIMITATION ON LIABILITY In any and all claims against the Indemnitees by any employee of Design-Builder, anyone directly or indirectly employed by Design-Builder or anyone for whose acts Design-Builder may be liable, the indemnification obligation shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Design-Builder under Workers' Compensation acts, disability benefit acts, or other employee benefit acts.

### 10.2. DESIGN-BUILDER'S LIABILITY INSURANCE

10.2.1. Before commencing the Work and as a condition for payment, Design-Builder shall procure and maintain in force Workers' Compensation Insurance, Employers' Liability Insurance, Business Automobile Liability Insurance, and Commercial General Liability Insurance (CGL). The CGL policy shall include coverage for liability arising from premises, operations, independent contractors,



products-completed operations, personal injury and advertising injury, contractual liability, and broad form property damage. Design-Builder shall maintain completed operations liability insurance for one year after Substantial Completion, or as required by the Contract Documents, whichever is longer. Design-Builder's Employers' Liability, Business Automobile Liability, and CGL policies shall be written with at least the following limits of liability:

10.2.1.1. Employers' Liability Insurance

- (a) \$1,000,000 bodily injury by accident per accident
- (b) \$1,000,000 bodily injury by disease policy limit
- (c) \$1,000,000 bodily injury by disease per employee

10.2.1.2. Business Automobile Liability Insurance per accident \$1,000,000.

10.2.1.3. Commercial General Liability Insurance

- (a) Per occurrence \$1,000,000 [REDACTED]
- (b) General aggregate \$2,000,000
- (c) Products/completed operations aggregate \$2,000,000
- (d) Personal and advertising injury limit \$1,000,000

10.2.2. Employers' Liability, Business Automobile Liability, and Commercial General Liability coverage required under §10.2.1 may be arranged under a single policy for the full limits required or by a combination of underlying policies with the balance provided by Excess or Umbrella Liability policies.

10.2.3. Design-Builder shall maintain in effect all insurance coverage required under §10.2.1 with insurance companies lawfully authorized to do business in the jurisdiction in which the Project is located. If Design-Builder fails to obtain or maintain any insurance coverage required under this Agreement, Owner may purchase such coverage and charge the expense to Design-Builder, or terminate this Agreement.

10.2.4. To the extent commercially available to Design-Builder and its current insurance company, insurance policies required under §10.2.1 shall contain a provision that the insurance company or its designee must give Owner written notice transmitted in paper or electronic format: (a) 30 Days before coverage is nonrenewed by the insurance company and (b) within 10 Business Days after cancellation of coverage by the insurance company. Before commencing the Work and upon renewal or replacement of the insurance policies, Design-Builder shall furnish Owner with certificates of insurance until one year after Substantial Completion or longer if required by the Contract Documents. In addition, if any insurance policy required under §10.2.1 is not to be immediately replaced without lapse in coverage when it expires, exhausts its limits, or is to be cancelled, Design-Builder shall give Owner prompt written notice upon actual or constructive knowledge of such condition.

10.3. PROPERTY INSURANCE

10.3.1. Owner, before the Work is started,, shall obtain and maintain a Builder's Risk Policy upon the entire Project for the full cost of replacement at the time of loss, including existing structures. This insurance shall also: (a) name Design-Builder, Subcontractors, Subsubcontractors, Suppliers, and Design Professional as insureds; (b) be written in such form as to cover all risks of physical loss except those specifically excluded by the policy; and (c) insure at least against and not exclude:



10.3.1.1. the perils of fire, lightning, explosion, windstorm, hail, smoke, aircraft (except aircraft, including helicopter, operated by or on behalf of the Contractor) and vehicles, riot and civil commotion, theft, vandalism, malicious mischief, debris removal, flood, earthquake, earth movement, water damage, wind damage, testing if applicable, collapse however caused;

10.3.1.2. damage resulting from defective design, workmanship, or material;

10.3.1.3. coverage extension for damage to existing buildings, plant, or other structures at the Worksite, when the Project is contained within or attached to such existing buildings, plant, or structures. Coverage shall be to the extent loss or damage arises out of Constructor's activities or operations at the Project;

10.3.1.4. equipment breakdown, including mechanical breakdown, electrical injury to electrical devices, explosion of steam equipment, and damage to steam equipment caused by a condition within the equipment;

10.3.1.5. testing coverage for running newly installed machinery and equipment at or beyond the specified limits of their capacity to determine whether they are fit for their intended use; and

10.3.1.6. physical loss resulting from Terrorism.

10.3.2. The Party that is the primary cause of a Builder's Risk Policy claim shall be responsible for any deductible amounts or coinsurance payments. If no Party is the primary cause of a claim, then the Party obtaining and maintaining the Builder's Risk Policy pursuant to §10.3.1 shall be responsible for the deductible amounts or coinsurance payments. This policy shall provide for a waiver of subrogation. This insurance shall remain in effect until final payment has been made or until no person or entity other than Owner has an insurable interest in the property to be covered by this insurance, whichever is sooner. Partial occupancy or use of the Work shall not commence until Design-Builder has secured the consent of the insurance company or companies providing the coverage required in this subsection. Before commencing the Work, Design-Builder shall provide a copy of the property policy or policies obtained in compliance with §10.3.1.

10.3.3. If Owner elects to purchase the property insurance required by this Agreement, including all of the same coverages and deductibles for the same duration specified in §10.3.1, then Owner shall give written notice to Design-Builder and the Design Professional before the Work is commenced and provide a copy of the property policy or policies obtained in compliance with §10.3.1. Owner may then provide insurance to protect its interests and the interests of the Design-Builder, Subcontractors, Suppliers, and Subsubcontractors. The cost of this insurance shall be paid by Owner in a Change Order. If Owner gives written notice of its intent to purchase property insurance required by this Agreement and fails to purchase or maintain such insurance, Owner shall be responsible for costs reasonably attributed to such failure.

10.3.4. The Parties waive all rights against each other and their respective employees, agents, contractors, subcontractors and subsubcontractors, and design professionals for damages caused by risks covered by the property insurance except such rights as they may have to the proceeds of the insurance.

10.3.5. To the extent of the limits of Design-Builder's CGL specified in §10.2.1 or One Million dollars [REDACTED] Builder shall indemnify and hold harmless Owner against any and all liability, claims, demands, damages, losses, and expenses, including attorneys' fees, in connection with or arising out of any damage or alleged damage to any of Owner's existing adjacent property that may arise from the performance of the Work, to the extent of the negligent acts or omissions of Design-Builder, Subcontractor, or anyone employed directly or indirectly by any of them or by anyone for whose acts any of them may be liable.



10.3.6. RISK OF LOSS Except to the extent a loss is covered by applicable insurance, risk of loss or damage to the Work shall be upon the Party obtaining and maintaining the Builder's Risk Policy pursuant to §10.3.1 until the Date of Final Completion.

#### 10.4. ADDITIONAL GENERAL LIABILITY COVERAGE

10.4.1. Owner shall not require Design-Builder to purchase and maintain additional liability coverage.

10.4.2. If required by the above subsection, the additional liability coverage required of Design-Builder shall be:

Additional Insured. Owner shall be named as an additional insured on Design-Builder's Commercial General Liability Insurance specified, for on-going operations and completed operations, excess/umbrella liability, commercial automobile liability, and any required pollution liability, but only with respect to liability for bodily injury, property damage, or personal and advertising injury to the extent caused by the negligent or intentionally wrongful acts or omissions of Design-Builder, or those acting on Design-Builder's behalf, in the performance of Design-Builder's Work for Owner at the Worksite. The insurance of the Subcontractor shall be primary and non-contributory to any insurance available to the Additional Insureds.

OCP. Design-Builder shall provide an Owners' and Contractors' Protective Liability Insurance ("OCP") policy with limits equal to the limits on Commercial General Liability Insurance specified, or limits as otherwise required by Owner.

Any documented additional cost in the form of a surcharge associated with procuring the additional liability coverage in accordance with this subsection shall be paid by Owner directly or the costs may be reimbursed by Owner to Design-Builder by increasing the contract price to correspond to the actual cost required to purchase and maintain the additional liability coverage.

Before commencing the Work, Design-Builder shall provide either a copy of the OCP policy, or a certificate and endorsement evidencing that Owner has been named as an additional insured, as applicable.

10.5. ROYALTIES, PATENTS, AND COPYRIGHTS Design-Builder shall pay all royalties and license fees which may be due on the inclusion of any patented or copyrighted materials, methods, or systems selected by Design-Builder and incorporated in the Work. Design-Builder shall indemnify and hold Owner harmless from all suits or claims for infringement of any patent rights or copyrights arising out of such selection. Owner agrees to indemnify and hold Design-Builder harmless from any suits or claims of infringement of any patent rights or copyrights arising out of any patented or copyrighted materials, methods, or systems specified by Owner.

10.6. PROFESSIONAL LIABILITY INSURANCE Design-Builder shall obtain, either itself or through Design Professional, professional liability insurance for claims arising from the negligent performance of professional services under this Agreement, which shall be: Project Specific Coverage

written for not less than \$1,000,000.00 per claim and in the aggregate with a deductible not to exceed \$25,000.00. The Professional Liability Insurance shall include prior acts coverage sufficient to cover all services rendered by Design Professional. This coverage shall be continued in effect for two year(s) after the Date of Substantial Completion.

#### 10.7. BONDING



10.7.1. Performance and Payment Bonds are required of Design-Builder. Such bonds shall be issued by a surety licensed in the state in which the Project is located and must be acceptable to Owner. Owner's acceptance shall not be withheld without reasonable cause.

10.7.2. Such Performance Bond shall be issued in accordance with Tex. Govt. Code Sec. 2252.064.

Such Performance Bond shall cover the cost to complete the Work, but shall not cover any damages of the type specified to be covered by the insurance pursuant to §10.2 and §10.3, whether or not such insurance is provided or in an amount sufficient to cover such damages.

10.7.3. The penal sum of the Payment Bond shall equal the penal sum of the Performance Bond. Design-Builder's payment bond for the Project, if any, shall be made available by Owner or Design-Builder upon Subcontractor's written request.

10.7.4. Design-Builder shall endeavor to keep its surety advised of changes within the scope of the initial Agreement potentially impacting the Contract Price or the Dates of Substantial Completion or Final Completion, though Design-Builder shall require that its surety waives any requirement to be notified of any alteration or extension of time.

## ARTICLE 11 SUSPENSION, NOTICE TO CURE, AND TERMINATION

### 11.1. SUSPENSION BY OWNER FOR CONVENIENCE

11.1.1. Owner may order Design-Builder in writing to suspend, delay, or interrupt all or any part of the Work without cause for such period of time as Owner may determine to be appropriate for its convenience.

11.1.2. Adjustments caused by suspension, delay, or interruption shall be made for increases in the Contract Price or the Date of Substantial Completion or the Date of Final Completion. No adjustment shall be made if Design-Builder is or otherwise would have been responsible for the suspension, delay, or interruption of the Work, or if another provision of this Agreement is applied to render an equitable adjustment.

### 11.2. NOTICE TO CURE A DEFAULT

11.2.1. If Design-Builder persistently fails to supply enough qualified workers, proper materials, or equipment to maintain the approved Construction Schedule, or fails to make prompt payment to its workers, Subcontractors, or Suppliers, disregards Laws or orders of any public authority having jurisdiction, or is otherwise guilty of a material breach of a provision of this Agreement, Design-Builder may be deemed in default.

If Design-Builder fails within seven (7) Days after receipt of written notice to commence and continue satisfactory correction of such default, then Owner shall give Design-Builder a second notice to correct the default within a three (3) Day period.

11.2.2. After receiving Owner's written notice, if Design-Builder fails to promptly commence and continue satisfactory correction of the default, then Owner without prejudice to any other rights or remedies may: (a) take possession of the Worksite; (b) complete the Work utilizing any reasonable means; (c) withhold payment due to Design-Builder; and (d) as Owner deems necessary, supply workers and materials, equipment, and other facilities for the satisfactory correction of the default, and charge Design-Builder the costs and expenses, including reasonable Overhead, profit, and attorneys' fees.



11.2.3. In the event of an emergency affecting the safety of persons or property, Owner may immediately commence and continue satisfactory correction of a default without first giving written notice to Design-Builder, but shall give o Design-Builder prompt notice.

### 11.3. OWNER'S RIGHT TO TERMINATE FOR DEFAULT

11.3.1. TERMINATION BY OWNER FOR DEFAULT Upon expiration of the second notice for default period pursuant to §12.21.2.1 and absent appropriate corrective action, Owner may terminate this Agreement by written notice. Termination for default is in addition to any other remedies available to Owner under §12.2. If Owner's costs arising out of Design-Builder's failure to cure, including the costs to complete the Work and reasonable attorneys' fees, exceed the GMP, Design-Builder shall be liable to Owner for such excess costs. If Owner's costs are less than the GMP, Owner shall pay the difference to Design-Builder. If Owner exercises its rights under this section, upon the request of Design-Builder, Owner shall furnish to Design-Builder a detailed accounting of the costs incurred by Owner.

11.3.2. If Design-Builder files a petition under the bankruptcy code, this Agreement shall terminate if Design-Builder or Design-Builder's trustee rejects the Agreement or, if a default occurs and Design-Builder is unable to give adequate assurance of required performance; or (c) Design-Builder is otherwise is unable to comply with the requirements for assuming this Agreement under the applicable provisions of the Bankruptcy Code.

11.3.3. Owner shall make reasonable efforts to mitigate damages arising from Design-Builder's default, and shall promptly invoice Design-Builder for all amounts due.

11.4. TERMINATION BY OWNER FOR CONVENIENCE If Owner terminates this Agreement other than as set forth in §11.1.2, Owner shall pay Design-Builder for all Work executed and for all proven loss, cost, or expense in connection with the Work, plus all demobilization costs. In addition, Design-Builder shall be paid an amount calculated as set forth below: If Owner terminates this Agreement before commencing construction, Design-Builder shall be paid the unpaid balance of Design-Builder's design costs as set forth in the Schedule of Values If Owner terminates this Agreement after commencing construction, Design-Builder shall be paid the unpaid balance of Design-Builder's design costs as set forth in the Schedule of Values, the Construction services provided to date, reasonable attorneys' fees and costs related to termination,

11.4.3. Owner shall also pay to Design-Builder fair compensation, either by purchase or rental at the election of Owner, for all equipment retained. Owner shall assume and become liable for obligations, commitments, and unsettled claims that Design-Builder has previously undertaken or incurred in good faith in connection with the Work or as a result of the termination of this Agreement. As a condition of receiving the payments provided under this article, Design-Builder shall cooperate with Owner by taking all steps necessary to accomplish the legal assignment of Design-Builder's rights and benefits to Owner, including the execution and delivery of required papers.

### 11.5. TERMINATION BY DESIGN-BUILDER

11.5.1. Seven (7) Days' after Owner's receipt of written notice from Design-Builder, Design-Builder may terminate this Agreement for any of the following reasons: if the Work has been stopped for a thirty (30) Day period through no fault of the Design-Builder: (a) under court order or order of other governmental authorities having jurisdiction, or (b) as a result of the declaration of a national emergency or other governmental act emergency during which, through no act or fault of Design-Builder, materials are not available; (c) Work is suspended by Owner for Convenience;

11.5.2. In addition, upon seven (7) Days written notice to Owner and an opportunity to cure within three (3) Days, Design Builder may terminate this Agreement if Owner: (a) fails to furnish reasonable



evidence that sufficient funds are available and committed for the entire cost of the Project ;(b) assigns this Agreement over Design-Builder's reasonable objection; (c) fails to pay Design-Builder in accordance with this Agreement and Design-Builder stopped Work accordingly; or (d) otherwise materially breaches this Agreement.

11.5.3. Upon termination by Design-Builder in accordance with §11.5.1, Design-Builder shall be entitled to recover from Owner payment for all Work executed and for all proven loss, cost, or expense in connection with the Work, plus all demobilization costs and reasonable damages.

## ARTICLE 12 DISPUTE MITIGATION OR RESOLUTION

12.1. WORK CONTINUANCE AND PAYMENT Unless otherwise agreed in writing, Design-Builder shall continue the Work and maintain the approved schedules during any dispute mitigation or resolution proceedings. If Design-Builder continues to perform, Owner shall continue to make payments in accordance with the Agreement.

12.2. DIRECT DISCUSSIONS If the Parties cannot reach resolution on a matter relating to or arising out of this Agreement, the Parties shall endeavor to reach resolution through good faith direct discussions between the Parties' representatives, who shall possess the necessary authority to resolve such matter and who will record the date of first discussions. If the Parties' representatives are not able to resolve such matter within five (5) Business Days of the date of first discussion, the Parties' representatives shall immediately inform senior executives of the Parties in writing that a resolution could not be reached. Upon receipt of such notice, the senior executives of the Parties shall meet within five (5) Business Days to endeavor to reach resolution. If the dispute remains unresolved after fifteen (15) Days from the date of first discussion, the Parties shall submit such matter to the dispute mitigation and dispute resolution procedures selected below.

12.3. MEDIATION If direct discussions pursuant to §12.12 do not result in resolution of the matter and no dispute mitigation procedure is selected, upon mutual election by the Parties, the Parties shall endeavor to resolve the matter by mediation through the current Construction Industry Mediation Rules of the American Arbitration Association (AAA), or the Parties may mutually agree to select another set of mediation rules. The administration of the mediation shall be as mutually agreed by the Parties. The mediation shall be convened within thirty (30) Business Days of the matter first being discussed and shall conclude within forty-five (45) Business Days of the matter first being discussed. Either Party may terminate the mediation at any time after the first session by written notice to the non-terminating Party and mediator. The costs of the mediation shall be shared equally by the Parties.

12.4. BINDING DISPUTE RESOLUTION If the matter is unresolved after submission of the matter to a mitigation procedure or to mediation, the Parties shall submit the matter to litigation in either the state or federal court having jurisdiction of the matter in the location of the Project.

12.4.1. COSTS The costs of any binding dispute resolution procedures and reasonable attorneys' fees shall be borne by the non-prevailing Party, as determined by the adjudicator of the dispute.

12.4.2. VENUE The Project location shall serve as the venue.

12.5. MULTIPARTY PROCEEDING The Parties agree that all Parties necessary to resolve a matter shall be Parties to the same dispute resolution procedure, if possible. Appropriate provisions shall be included



in all other contracts relating to the Work to provide for the joinder or consolidation of such dispute resolution proceedings.

12.6. RIGHTS Nothing in this article shall limit any rights or remedies that Design-Builder may have under law.

### ARTICLE 13 MISCELLANEOUS PROVISIONS

13.1. EXTENT OF AGREEMENT Except as expressly provided, this Agreement is solely for the benefit of the Parties, represents the entire and integrated agreement between the Parties, and supersedes all prior negotiations, representations, or agreements, either written or oral. This Agreement and each and every provision is for the exclusive benefit of The Parties and not for the benefit of any third party.

13.2. ASSIGNMENT Neither Owner nor Design-Builder shall assign its interest in this Agreement without the written consent of the other except as to the assignment of proceeds. The terms and conditions of this Agreement shall be binding upon both Parties, their partners, successors, assigns, and legal representatives. Neither Party to this Agreement shall assign the Agreement as a whole without written consent of the other except that Owner may assign the Agreement to a wholly owned subsidiary of Owner when Owner has fully indemnified Design-Builder or to an institutional lender providing construction financing for the Project as long as the assignment is no less favorable to Design-Builder than this Agreement. In the event of such assignment, Design-Builder shall execute all consents reasonably required. In such event, the wholly-owned subsidiary or lender shall assume Owner's rights and obligations under the Contract Documents. If either Party attempts to make such an assignment, that Party shall nevertheless remain legally responsible for all obligations under the Agreement, unless otherwise agreed by the other Party.

13.3. GOVERNING LAW The Law in effect at the location of the Project shall govern this Agreement.

13.4. SEVERABILITY The partial or complete invalidity of any one or more provisions of this Agreement shall not affect the validity or continuing force and effect of any other provision.

13.5. NOTICE Unless changed in writing, a Party's address indicated in ARTICLE 1 shall be used when delivering notice to a physical address. Except for Agreement termination and as otherwise specified in the Contract Documents, notice is effective upon transmission by any effective means, including U.S. postal service and overnight delivery service

13.6. NO WAIVER OF PERFORMANCE The failure of either Party to insist, in any one or more instances, on the performance of any of the terms, covenants, or conditions of this Agreement, or to exercise any of its rights, shall not be construed as a waiver or relinquishment of such term, covenant, condition, or right with respect to further performance.

13.7. TITLES AND GROUPINGS The title given to the articles and sections are for ease of reference only and shall not be relied upon or cited for any other purpose.

13.8. JOINT DRAFTING The Parties expressly agree that this Agreement was jointly drafted, and that both had opportunity to negotiate its terms and to obtain the assistance of counsel in reviewing its terms before execution. Therefore, this Agreement shall be construed neither against nor in favor of either Party, but shall be construed in a neutral manner.

### ARTICLE 14 CONTRACT DOCUMENTS

14.1. CONTRACT DOCUMENTS The Contract Documents are as follows:



- (a) This Agreement;
- (b) Basis of Design/Owner's Program;
- (c) Owner-provided information pursuant to §3.6.3 and other Owner information identified as intended to be a contract document;
- (d) Synergy January 30, 2026 bid sheet with descriptions, limitations, and exclusions attached thereto

14.2. ORDER OF PRECEDENCE In case of any inconsistency, conflict, or ambiguity among the Contract Documents, the documents shall govern in the following order: (a) Change Orders and written amendments to this Agreement; (b) this Agreement; (c) design documents approved by Owner in order of the most recently approved; (d) information furnished by Owner pursuant to §4.1 or designated as a Contract Document in §ARTICLE 14; (e) other documents listed in this Agreement. Except as otherwise provided, among categories of documents having the same order of precedence, the term or provision that includes the latest date shall control. Where figures are given, they shall be preferred to scaled dimensions. Unless otherwise specifically defined in this Agreement, any terms that have well-known technical or trade meanings shall be interpreted in accordance with their well-known meanings.

OWNER: City of Killeen, Texas

BY: \_\_\_\_\_ NAME: Kent Cagle TITLE: City Manager

DESIGN-BUILDER:  
Synergy Commercial Construction, LLC

BY: \_\_\_\_\_ NAME: Morgan McLaughlin TITLE: Manager

END OF DOCUMENT.





**SYNERGY COMMERCIAL  
CONSTRUCTION**

CULTIVATING RELATIONSHIPS ONE BUILDING AT A TIME

<b>Project:</b> Skylark Field Airport -Restroom Only	<b>Contractor:</b> Synergy Commercial Construction
<b>Address:</b> 1523 Stonetree Drive Killeen	<b>Address:</b> 114 Halmar Cove., Georgetown, TX 78628
<b>Date:</b> 01/20/26	<b>Contact:</b> Dbradley
	<b>Email:</b> dbradley@synergycctx.com
	<b>Phone:</b> 512-689-3172

Division	Description	Qty.	Units	Cost Per Unit		Comments
<b>General Conditions</b>						
<b>Division 1</b>	<b>General Conditions</b>				<b>\$21,588.20</b>	
	Project Management		1 WK	1,600.00	\$1,600.00	1 week of construction proposed
	Project Coordinator		1 WK	250.00	\$250.00	Project Coordinator at 20% of time
	Superintendent		1 WK	2,800.00	\$2,800.00	Full time Superintendent for duration of project
	Vehicle Expense		1 WK	400.00	\$400.00	Included for mileage
	Safety Inspections	0.5	EA	350.00	\$175.00	Core Safety Group - Bi-weekly inspections at \$350
	Safety Box		1 EA	0.00	\$0.00	Safety box includes OSHA required posters
	Project Wi-fi / Tablets		1 WK	28.00	\$28.00	Included for Superintendent site cellular /wifi service
	Temporary Water		1 WK	45.00	\$45.00	Temporary water needed for construction
	Temporary Toilets		1 WK	95.00	\$95.00	Temporary toilets needed for construction
	SWPPP: Storm Water Prevention Plan		0 LS	0.00	\$0.00	Excluded
	Site Video & Surveillance		1 WK	175.00	\$175.00	Truelook site camera
	Interim Clean-up		1 WK	235.00	\$235.00	Included for weekly site cleanup
	Project Signs		1 EA	0.00	\$0.00	N/A
	Dumpster		1 EA	650.00	\$650.00	1 Dumpster figured
	Project permits		1 EA	3,500.00	\$3,500.00	Budget for project permits
	Fees		1 EA	10,000.00	\$10,000.00	Professional Design service fees for building and sewer line
	Small Tools		1 EA	0.00	\$0.00	N/A
	Final Clean up	2,808	EA	0.40	\$1,123.20	Final cleaning
	Plans & Specifications		1 EA	500.00	\$500.00	(2) Sets of plans printed
	Postage & Shipping		1 WK	12.00	\$12.00	Misc shipping fees
	Warranty		1 LS	0.00	\$0.00	Included for 1 year
	<b>Fees &amp; Soft Costs</b>				<b>\$11,934.85</b>	
<b>Division 1</b>	Technology		1 LS	154.64	\$154.64	
	Insurance (General Liability)		1 LS	1,182.94	\$1,182.94	Excluded Builders Risk
	State Remodel Tax		1 LS	0.00	\$0.00	
	Payment & Performance Bond		1 LS	2,640.00	\$2,640.00	
	Contractor's OH&P		1 LS	7,957.27	\$7,957.27	6.00%
<b>TOTAL GENERAL CONDITIONS COST:</b>					<b>\$33,523.05</b>	
<b>BUILDING</b>						
<b>Division 3</b>	<b>Concrete</b>				<b>\$850.00</b>	
	Sealed Concrete		1 LS	850.00	\$850.00	Labor and materials needed to seal restroom floor concrete
<b>Division 8</b>	<b>Openings</b>				<b>\$2,225.00</b>	
	Metal Doors & Frames		1 LS	1,500.00	\$1,500.00	Labor and material to supply and install 1 HM door for the restroom (exterior doors figured in PEMB)
	Hardware		1 LS	375.00	\$375.00	Hardware for restroom door
	Mirrors		1 LS	350.00	\$350.00	Mirror for restroom
<b>Division 9</b>	<b>Finishes</b>				<b>\$2,950.00</b>	
	Exterior Studs, Light Gauge Framing, drywall, sheathing insulation etc		1 LS	1,000.00	\$1,000.00	Labor and materials to frame out the restroom space
	Acoustical Ceiling Material & Installation		1 LS	450.00	\$450.00	Acoustic ceiling in restroom space only
	FRP		1 LS	850.00	\$850.00	Labor and materials to FRP the walls in the restroom up to 4'
	Painting		1 LS	650.00	\$650.00	Labor and materials needed to tape/float and paint the walls in the restrooms up to ceiling (above FRP)
<b>Division 10</b>	<b>Specialties</b>				<b>\$1,500.00</b>	
	Toilet & Bath Accessories/Diaper Changers		1 LS	1,500.00	\$1,500.00	Provide and install grab bars, paper towel & soap dispensers
<b>Division 22</b>	<b>Plumbing</b>				<b>\$8,000.00</b>	
	Sub Labor/Materials		1 LS	8,000.00	\$8,000.00	Labor and materials to provide and install a water closet and a lavatory in the restroom
<b>Division 23</b>	<b>HVAC</b>				<b>\$0.00</b>	
<b>Division 26</b>	<b>Building Electric</b>				<b>\$1,000.00</b>	
	Sub Labor/Materials		1 LS	1,000.00	\$1,000.00	Install one 2x4 light and general outlet in restroom (no exterior lighting assumed to be needed)
<b>TOTAL BUILDING COST:</b>					<b>\$16,525.00</b>	
<b>SITE</b>						
<b>Division 2</b>	<b>Demolition</b>				<b>\$2,800.00</b>	

	Existing Conditions		1 LS	2,800.00	\$2,800.00	Saw Cut/excavate concrete needed for restroom plumbing
<b>Division 31</b>	<b>Earthwork</b>				<b>\$3,500.00</b>	
	Erosion Control / SWPPP		1 LS	0.00	\$0.00	Excluded
	Soil Stabilization Systems		1 LS	3,500.00	\$3,500.00	Final grade and hydromulch ditches once sanitary sewer line is installed
<b>Division 32</b>	<b>Exterior Improvements</b>				<b>\$15,800.00</b>	
	Asphalt Patch & Seal		1 LS	8,500.00	\$8,500.00	Repairs to asphalt once sanitary sewer line has been installed
	Site Concrete		1 LS	4,800.00	\$4,800.00	Labor and materials to pour back concrete flatwork at exterior of the building that is demolished for sanitary line installation
	Landscaping		1 LS	2,500.00	\$2,500.00	Hydroseed revegetation at disturbed areas
<b>Division 33</b>	<b>Utilities</b>				<b>\$71,225.00</b>	
	Sanitary Sewer		1 LS	61,225.00	\$61,225.00	Labor and materials to supply/install roughly 395 lf of 4" sanitary sewer line over to the golf course manhol
	Road Boring		1 LS	10,000.00	\$10,000.00	Boring under Stone Tree Drive
<b>TOTAL SITE COST:</b>					<b>\$93,325.00</b>	
<b>GC'S/OH&amp;P</b>		<b>GENERAL CONDITIONS:</b>		<b>\$33,523.05</b>		
<b>BUILDING COST</b>		<b>TOTAL BUILDING COST:</b>		<b>\$16,525.00</b>		
<b>SITE COST</b>		<b>TOTAL SITE WORK:</b>		<b>\$93,325.00</b>		
<b>GRAND TOTAL</b>		<b>GRAND TOTAL:</b>		<b>\$143,373.05</b>		
<b>ALTERNATE BID ITEMS - (OPTIONAL) Price does NOT include OH&amp;P, Insurance and/or taxes</b>						
<b>Total Alternates</b>					<b>\$0.00</b>	
<b>CLARIFICATIONS</b>						
<p>It is understood that the sanitary sewer line will be done at the same time as the golf course remodel so we only have minor hydroseed revegetation included (not golf course soc  It is assumed that a floor drain won't be needed in restroom as there never was one roughed in  We are assuming a general patch back of a 2' wide trench in the taxiway areas - Not full depth reclamation  It is assumed that domestic water is available at the building and that the power is adequate to accommodate additional lighting needed for restroom and hanger space  An insta hot in line water heater has been accounted for to run one sink in the restroom  Vinyl backed insulation has been accounted for in the base bid for the hanger space (as the restroom area should already be insulated)  No HVAC has been figured for restroom space  No fire sprinkler and/or fire alarm has been accounted for</p>						
<b>EXCLUSIONS NOT LISTED ABOVE:</b>						
<p>Permits/tap fees/3rd party inspections, impact/meter fees, etc.  Haul off of hazardous materials and/or Rock Excavation  Relocation of unknown existing utilities uncovered during construction  A/V, POS, Low Voltage, locksmith, elevator access key pads, intercom system &amp; CCTV  Pricing due to market fluctuations, tariffs or other supply chain issues</p>						

# CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.  
Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

### OFFICE USE ONLY CERTIFICATION OF FILING

Certificate Number:  
2026-1415426

Date Filed:  
02/02/2026

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Synergy Commercial Construction, LLC  
Georgetown, TX United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Killeen

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

RFQ#26-15 Restroom Finish out  
Construct a small restroom within an existing hangar including any necessary site utilities.

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary
	Mclaughlin, Morgan	Georgetown, TX United States	X	

5 Check only if there is NO Interested Party.

6 UNSWORN DECLARATION

My name is Kellie Jones, and my date of birth is 11/2/1974.

My address is 114 Halmar Cove, Georgetown, TX, 78628, US.  
(city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Williamson County, State of Texas, on the 2<sup>nd</sup> day of February, 2026.  
(month) (year)

Kellie Jones  
Signature of authorized agent of contracting business entity  
(Declarant)



DESIGN-BUILD AGREEMENT-  
RESTROOM FINISH OUT-  
SYNERGY COMMERCIAL  
CONSTRUCTION

RS-26-042

March 3, 2026

# Background

- In August 2017, City Council approved a resolution accepting federal and state grant funding from the TxDOT–Aviation Division for the design and construction of a 10-unit box hangar facility at Skylark Field Airport.
- Although the original project included all 10 hangar units, bid results showed that available funding was insufficient for the full build-out. In coordination with TxDOT, the City poured the slab for all 10 units but constructed only eight, leaving two bays unfinished for future completion. The concrete slab also included the necessary plumbing to add a restroom at a later date.

# Discussion

- In November 2025, the Aviation Department issued RFQ 26-15 for design-build services for two additional box hangars and a restroom at Skylark Field Airport. Four proposals were received on January 6, 2026, and evaluated by a selection committee comprised of Aviation staff.
- Synergy Commercial Construction was selected as the most qualified contractor for the project.

# Discussion

4

- Aviation staff, project consultants, and Synergy Commercial Construction met to establish design requirements for the restroom and associated site improvements.

# Discussion

- Funding for the Box Hangars Finish-Out will be provided through the Bipartisan Infrastructure Law (BIL) Airport Infrastructure Grant (AIG) and Aviation Capital Improvement Program (CIP) funds.
- The restroom component will be funded through the TxDOT Routine Airport Maintenance Program (RAMP) grant revenue and Aviation CIP funds.

# Discussion

6

- After reviewing several conceptual plans, Synergy Commercial Construction developed and submitted a proposed Design-Build Agreement, in the amount of \$143,373.05, for completion of the restroom project.
  - ▣ Skylark TxDOT RAMP Grant: \$100,000.00
  - ▣ City Share (Aviation CIP) Fund: \$ 43,373.05

# Recommendation

7

- Staff recommends the City Council approve a design-build agreement with Synergy Commercial Construction, in the amount of \$143,373.05, for the design and construction of a restroom at Skylark Field Airport and authorize the City Manager or designee to execute all contract documents and any change orders or actions within the amounts allowed by state and local law.



# City of Killeen

## Staff Report

File Number: RS-26-043

---

Consider a memorandum/resolution electing a Mayor Pro-Tem.

**DATE:** March 3, 2026  
**TO:** Kent Cagle, City Manager  
**FROM:** Holli Clements, City Attorney  
**SUBJECT:** Election of Mayor Pro-Tem

### **BACKGROUND AND FINDINGS:**

The City Charter provides for the position of Mayor Pro-Tem. The Charter provides for the Council to "elect a mayor pro tem from their number, who shall act as the Mayor during the absence or disability of the Mayor, and, if a vacancy should occur, shall become the Mayor until the next regular General Election.

Mayor Debbie Nash-King resigned from her position on February 13, 2026. With Mayor Pro-Tem Adams becoming Mayor as of February 21, 2026, a new mayor pro-tem needs to be elected amongst the members of the City Council.

### **THE ALTERNATIVES CONSIDERED:**

Click or tap here to enter text.

#### **Which alternative is recommended? Why?**

Click or tap here to enter text.

### **CONFORMITY TO CITY POLICY:**

This item conforms to city policy.

### **FINANCIAL IMPACT:**

**What is the amount of the revenue/expenditure in the current fiscal year? For future years?**

N/A

**Is this a one-time or recurring revenue/expenditure?**

N/A

**Is this revenue/expenditure budgeted?**

N/A

**If not, where will the money come from?**

N/A

**Is there a sufficient amount in the budgeted line-item for this revenue/expenditure?**

N/A

**RECOMMENDATION:**

That Council consider election of a Mayor Pro-Tem.

**DEPARTMENTAL CLEARANCES:**

Click or tap here to enter text.

**ATTACHED SUPPORTING DOCUMENTS:**

Presentation



# ELECTION OF MAYOR PRO-TEM

RS-26-043

March 3, 2026

# Background

- City Charter provides for the position of Mayor Pro-Tem who shall act as the Mayor during absence or disability of the Mayor, and, if a vacancy should occur, shall become the Mayor until the next regular General Election.
- The Charter provides for the Council to “elect a mayor pro tem from their number.”

# Background

- Mayor Debbie Nash-King resigned from her position on February 13, 2026.
- With Mayor Pro-Tem Adams becoming Mayor as of February 21, 2026, a new mayor pro-tem needs to be elected amongst the members of the City Council.

# Next Step

4

- Council consider election of a Mayor Pro-Tem



# City of Killeen

## Staff Report

File Number: RS-26-044

---

Consider a memorandum/resolution appointing Councilmembers to various boards, commissions and committees.

**DATE:** March 3, 2026  
**TO:** Kent Cagle, City Manager  
**FROM:** Laura Calcote, City Secretary  
**SUBJECT:** Appointing Councilmembers to Various Boards, Commissions and Committees

**BACKGROUND AND FINDINGS:**

Previous Mayor Debbie Nash-King served as a City representative on several boards, commissions and committees. Mayor Nash-King’s resignation went into effect on Saturday, February 21, 2026. Therefore, vacancies have been created on the following boards, commissions and committees.

**THE ALTERNATIVES CONSIDERED:**

N/A

**Which alternative is recommended? Why?**

N/A

**CONFORMITY TO CITY POLICY:**

Making these appointments conforms to relevant city ordinances and policies.

**CITY COUNCIL REGULAR COMMITTEES:**

***Audit Committee (One-year term)***

Current Member	Appt. Date	Exp. Date	New Member	Position
Vacant	June 2025	June 2026	Mayor	

***Central Texas Council of Governments (CTCOG) (One-year term)***

Current Member	Appt. Date	Exp. Date	New Member	Position
Vacant	June 2025	June 2026	Elected Official Rep.	
Riakos Adams	June 2025	June 2026	Alternate (Elected Official Rep.)	

***Killeen Economic Development Corporation (KEDC) (Three-year term)***

<b>Current Member</b>	<b>Appt. Date</b>	<b>Exp. Date</b>	<b>New Member</b>	<b>Position</b>
Vacant	June 2024	June 2027		Elected Official Rep.

***Tax Increment Reinvestment Zone Number Two Board (TIRZ #2) (Two-year term)***

<b>Current Member</b>	<b>Appt. Date</b>	<b>Exp. Date</b>	<b>New Member</b>	<b>Position</b>
Vacant	August 2023	June 2027		City Rep.

**FINANCIAL IMPACT:**

**What is the amount of the revenue/expenditure in the current fiscal year? For future years?**

N/A

**Is this a one-time or recurring revenue/expenditure?**

N/A

**Is this revenue/expenditure budgeted?**

N/A

**If not, where will the money come from?**

N/A

**Is there a sufficient amount in the budgeted line-item for this revenue/expenditure?**

N/A

**RECOMMENDATION:**

N/A

**DEPARTMENTAL CLEARANCES:**

Legal

**ATTACHED SUPPORTING DOCUMENTS:**

Presentation



**COUNCIL APPOINTMENTS  
TO BOARDS, COMMISSIONS  
AND COMMITTEES**

RS-26-044

March 3, 2026

# Background

2

- Vacancies created on several boards, commissions and committees with previous Mayor Nash-King's resignation

# Regular Appointments

3

## Audit Committee (One-year term)

<u>Current Member</u>	<u>Appt. Date</u>	<u>Exp. Date</u>	<u>New Member</u>	<u>Position</u>
Vacant	June 2025	June 2026		Mayor

## Central Texas Council of Governments (CTCOG) (One-year term)

<u>Current Member</u>	<u>Appt. Date</u>	<u>Exp. Date</u>	<u>New Member</u>	<u>Position</u>
Vacant	June 2025	June 2026		Elected Official Rep.
Riakos Adams	June 2025	June 2026		Alternate (Elected Official Rep.)

# Regular Appointments

4

## Killeen Economic Development Corporation (KEDC) (Three-year term)

<u>Current Member</u>	<u>Appt. Date</u>	<u>Exp. Date</u>	<u>New Member</u>	<u>Position</u>
Vacant	June 2024	June 2027		Elected Official Rep.

## Tax Increment Reinvestment Zone Number Two Board (TIRZ #2) (Two-year term)

<u>Current Member</u>	<u>Appt. Date</u>	<u>Exp. Date</u>	<u>New Member</u>	<u>Position</u>
Vacant	August 2023	June 2027		City Rep.



# City of Killeen

## Staff Report

File Number: OR-26-006

---

Consider an ordinance ordering the May 2, 2026 Special Election for the purpose of electing a Councilmember for District 3.

**DATE:** March 3, 2026

**TO:** Kent Cagle, City Manager

**FROM:** Laura Calcote, City Secretary

**SUBJECT:** Ordering the May 2, 2026 Special Election to elect a Councilmember for District 3

### **BACKGROUND AND FINDINGS:**

On Saturday, February 21, 2026, District 3 Councilmember, Nina Cobb, resigned her position. The resignation took effect on Sunday, March 1, 2026, creating a vacancy for the District 3 seat.

The Texas Election Code, Chapter 201, provides for the ordering of an election to fill a vacancy. If a vacancy in office is to be filled by special election, the election shall be ordered as soon as practicable after the vacancy occurs. Section 201.054 provides that if the special election to fill a vacancy is ordered on or before the 46th day (Tuesday, March 17, 2026) before election day (Saturday, May 2, 2026), the candidate application must be filed by 5:00 p.m. on the 40th day before election day, which is Monday, March 23, 2026, to be considered for the Councilmember, District 3 vacancy.

The attached ordinance has been prepared ordering the 2026 Special Election and giving notice of an election for the purpose of electing a Councilmember for District 3 and designating the Early Voting and Election Day precinct-specific polling locations and times.

### **THE ALTERNATIVES CONSIDERED:**

N/A

**Which alternative is recommended? Why?**

N/A

### **CONFORMITY TO CITY POLICY:**

This ordinance conforms to Article IX (Nominations and Elections) of the City Charter, authorizing

the ordering of an election to be held on a uniform election date provided for in the Texas Election Code.

**FINANCIAL IMPACT:**

**What is the amount of the revenue/expenditure in the current fiscal year? For future years?**

The estimated expenditure to conduct the General and Special Elections is \$90,000.00 for Fiscal Year 2026. Funds are budgeted to cover the costs associated with the elections.

**Is this a one-time or recurring revenue/expenditure?**

Holding an election is a recurring expenditure.

**Is this revenue/expenditure budgeted?**

Yes, expenditures are budgeted.

Expenditures are budgeted in the General Fund, Legal Department under the following accounts:

- Personnel Services:
  - 100-51130-150-152-000000
  - 100-51610-150-152-000000
  - 100-51620-150-152-000000
  - 100-51700-150-152-000000
- Election Expense:
  - 100-55620-150-152-000000

**If not, where will the money come from?**

N/A

**Is there a sufficient amount in the budgeted line-item for this revenue/expenditure?**

Yes.

**RECOMMENDATION:**

Staff recommends City Council approve the ordinance ordering a May 2, 2026 Special Election for the purpose of electing a Councilmember for District 3.

**DEPARTMENTAL CLEARANCES:**

Finance  
Legal

**ATTACHED SUPPORTING DOCUMENTS:**

Ordinance  
Exhibit A - Order of Special Election for Municipalities  
Presentation

**AN ORDINANCE ORDERING THE HOLDING OF AN ELECTION IN THE CITY OF KILLEEN, TEXAS, FOR THE PURPOSE OF ELECTING A COUNCILMEMBER FOR DISTRICT 3; PROVIDING FOR THE FILING OF WRITTEN APPLICATION TO HAVE THEIR NAMES PRINTED ON THE OFFICIAL BALLOT; SPECIFYING THAT THE PROVISIONS OF THE SPECIAL ELECTION LAWS SHALL CONTROL ALL QUESTIONS PERTAINING TO SUCH ELECTION; DESIGNATING THE POLLING LOCATIONS; PRESCRIBING THE CONTENTS OF THE OFFICIAL BALLOT; PROVIDING FOR ELECTION WORKER COMPENSATION; AND PROVIDING FOR POSTING AND PUBLICATION OF NOTICE OF ELECTION AND CONTAINING MISCELLANEOUS PROVISIONS.**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KILLEEN:**

**SECTION I.** That, pursuant to the laws of the State of Texas and the Charter of the City of Killeen, it is ordered by the City Council that a Special Election (Election) be held in the City of Killeen, Texas, on Saturday, May 2, 2026, for the purpose of electing a Councilmember for District 3. Any reference in this Ordinance hereinafter to "Election Day" shall mean May 2, 2026.

**SECTION II.** The manner of holding the Election and all questions pertaining to such Election shall be governed by the Texas Election Code, and the returns shall be made and canvassed and the results declared as in other legal elections of the City of Killeen.

**SECTION III.** Any eligible and qualified person may have his or her name printed upon the official ballot as an independent candidate for the office Councilmember, District 3 by filing a written application with the City Secretary beginning Wednesday, March 4, 2026, through Monday, March 23, 2026, by 5:00 p.m. Any person wishing to file a declaration of write-in candidacy must do so not later than Monday, March 23, 2026, by 5:00 p.m.

**SECTION IV.** The names of all those who have filed their written applications to have their names printed on the official ballot as candidates shall be posted by the City Secretary in a conspicuous place at his/her office for the inspection of the public for at least five (5) days before he/she orders the ballot to be printed. The City Secretary shall preserve in his/her office for a period established by the Texas State Library and Archives

Commission and adopted by the City all applications, statements, notice of objections and other related papers.

**SECTION V.** Any person eligible for the office Councilmember, District 3 who has filed his or her written application in accordance with the provisions of this Ordinance shall have his or her name printed on the official ballot. Any such person may cause his or her name to be withdrawn at any time prior to 5:00 p.m. on Saturday, March 28, 2026, by filing in writing with the City Secretary, a request to that effect over his or her signature, duly attested to by a Notary Public. No name so withdrawn shall be printed on the ballot.

**SECTION VI.** Each qualified voter who desires to cast an early vote or who expects to be absent on the date of the Election shall be entitled to an official ballot, and to cast such ballot in accordance with the applicable provisions of the Texas Election Code, Title 7, beginning Monday, April 20, 2026, and continuing through Tuesday, April 28, 2026, with no voting occurring on Tuesday, April 21, 2026, Saturday, April 25, 2026, or Sunday, April 26, 2026. The City Secretary will serve as the Early Voting Clerk, who may appoint by written order one (1) or more temporary deputies to serve as Deputy Early Voting Clerks, in accordance with the applicable law. Early Voting will be held in the first floor foyer/lobby of Killeen City Hall (*Main Early Voting Location*), 101 North College Street, Killeen, TX 76541 (*mailing address: 101 N. College Street, Killeen, TX 76541, Attention: Early Voting Clerk*), the Jackson Professional Learning Center (*Branch Early Voting Location*), 902 Rev R A Abercrombie Drive, Killeen, TX 76543 and at the Killeen Lions Park Senior Center (*Branch Early Voting Location*), 1700-B E. Stan Schlueter Loop, Killeen, TX 76542 between the hours of 8:00 a.m. to 5:00 p.m. on each day of Early Voting, except Saturdays, Sundays and official State or City holidays. Provided, however, that on the first and last day of Early Voting, the hours shall be 7:00 a.m. to 7:00 p.m. For the Election those dates shall be Monday, April 20, 2026, and Tuesday, April 28, 2026.

Applications for ballot by mail shall be mailed to:

Laura Calcote, Early Voting Clerk

101 N. College Street

Killeen, TX 76541

(254) 501-7717

[citysec@killeentexas.gov](mailto:citysec@killeentexas.gov)

<https://www.killeentexas.gov/719/2026-District-3-Special-Election>

Applications for Ballots by Mail (ABBM)s must be received no later than the close of business on: Monday, April 20, 2026.

Federal Post Card Applications (FPCAs) must be received no later than the close of business on: Monday, April 20, 2026.

Exhibit A, "Order of Special Election for Municipalities," to this Ordinance summarizes the aforementioned Election information and will be posted accordingly at Killeen City Hall.

**SECTION VII.** The Election shall be held in the hereafter-designated Election Day polling locations between the hours of 7:00 a.m. to 7:00 p.m.

**PRECINCTS #206/408/409/419/420**

Killeen Lions Park Senior Center  
1700-B E. Stan Schlueter Loop  
Killeen, TX 76542

**PRECINCTS #404/412/415**

Palo Alto Middle School  
2301 W. Elms Road  
Killeen, TX 76549

**SECTION VIII.** The City Council shall appoint Election Day presiding judges and alternate presiding judges at the aforementioned precinct polling locations and also appoint a presiding judge and an alternate presiding judge to the Early Voting Ballot Board to process the early voting results and conduct additional official duties as prescribed by the Texas Election Code. If neither the presiding judge nor the alternate judge can serve, and their inability to serve is discovered so late that it is impracticable to fill the vacancy in the normal manner, the Mayor shall have the authority and is hereby directed to appoint a replacement judge to preside at the Election. The presiding judge for each precinct shall appoint no more than two (2) election clerks, in addition to the alternate presiding judge, to assist the presiding judge in the conduct of the Election. The presiding judges, alternate presiding judges and clerks shall be paid \$20.00 per hour for serving in such capacities, and the presiding judges and/or alternate presiding judges shall be paid an additional \$25.00 for delivering the returns of such Election to the City Secretary for proper tabulation. No presiding judge, alternate presiding judge or clerk shall be compensated for a period in excess of the time extending from one (1) hour before the polls open until two

(2) hours after the polls close. The Early Voting Ballot Board/Central Counting Station presiding judge is entitled to a minimum compensation of five (5) hours' pay regardless of the amount of time worked, for a total of \$100.00, for serving in such capacity that will include proper tabulation. The Early Voting Ballot Board/Central Counting Station alternate presiding judge and additional member is entitled to a minimum compensation of three (3) hours' pay regardless of the amount of time worked, for a total of \$60.00, for serving in such capacity that will include proper tabulation. No later than the twenty-first (21<sup>st</sup>) day after Election Day, the Early Voting Ballot Board will need to reconvene to conduct the Post-Election Hand Count Audit and shall be compensated at \$20.00 per hour for such services. Additionally, if the Early Voting Ballot Board needs to reconvene to tabulate provisional ballots or any mail ballots after Election Day, they shall be paid an additional \$20.00 per hour for such services.

**SECTION IX.** The following positions shall be set forth on digital scan and paper ballots hereinafter provided, in substantially the following form:

**CITY OF KILLEEN SPECIAL ELECTION  
MAY 2, 2026  
OFFICIAL BALLOT**

**Councilmember, District 3**  
*(Miembro del Consejo, Distrito Electoral 3)*  
**Vote for None or One (1)**  
*(Vote por ninguno o uno (1))*

( ) \_\_\_\_\_  
( ) \_\_\_\_\_  
( ) \_\_\_\_\_

**SECTION X.** Digital scan ballots, the DS200 Digital Tabulator and the ExpressVote Universal Voting System shall be used for voting by personal appearance during Early Voting, curbside voting and on Election Day. Privacy screens shall be used by voters marking ballots by personal appearance for Early Voting and on Election Day. Paper ballots and the DS200 Digital Tabulator shall be used for voting by mail.

**SECTION XI.** All resident qualified electors of the City of Killeen shall be permitted to vote at the Election.

**SECTION XII.** The election materials enumerated in the Texas Election Code, Sec. 272.001, *et seq.*, shall be printed and furnished in both English and Spanish for use at each polling location for Early Voting and on Election Day.

**SECTION XIII.** A traditional polling location set up will be used at the polls for Early Voting and on Election Day.

**SECTION XIV.** Notice of Election shall be given by posting substantial copies of the Notice of Election as prescribed by the Secretary of State's office in both English and Spanish at Killeen City Hall, the official City of Killeen website and at three (3) other public places in the City at least thirty (30) days prior to the date set for the Election; and substantial copies of the Notice of Election in both English and Spanish shall be published on the same day of the week, for two (2) successive weeks, in a newspaper of general circulation in the City, the date of first publication to be not less than fourteen (14) days prior to the date set for the Election.

**SECTION XV.** Returns of the Election shall be made by the election officers to the City Council at a meeting following the Election; the returns will be canvassed and the results of the Election declared as prescribed by the Texas Election Code and the City Charter.

**SECTION XVI.** It is officially found, determined and declared that the meeting at which this Ordinance has been adopted was open to the public and public notice of the time, place and subject matter of the public business to be considered and acted upon at the meeting, including this Ordinance, was given, all as required by the applicable provisions of the Texas Government Code, Sec. 551.001, *et seq.*

**PASSED AND APPROVED** at a regular meeting of the City Council of the City of Killeen, Texas, this 3<sup>rd</sup> day of March 2026, at which meeting a quorum was present, held in accordance with the provisions of the Texas Government Code, Sec. 551.001, *et seq.*

**APPROVED:**

\_\_\_\_\_  
Riakos Adams, MAYOR

**ATTEST:**

\_\_\_\_\_  
Laura J. Calcote, CITY SECRETARY

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Holli C. Clements, CITY ATTORNEY



# Exhibit A

## ORDER OF SPECIAL ELECTION FOR MUNICIPALITIES (ORDEN DE ELECCIÓN ESPECIAL PARA MUNICIPIOS)

An election is hereby ordered to be held on 05 / 02 / 2026 for the purpose of voting on:  
(date)  
*(Por la presente se ordena celebrar una elección el 05 / 02 / 2026 con el propósito de votar sobre.)*  
(fecha)

Applications for a place on the ballot shall be filed by: 03 / 23 / 2026 at 5:00 p.m.  
 A deadline is required to be stated in the order for a special election.  
*(Solicitudes para un lugar en la boleta serán presentadas por: 03 / 23 / 2026 a las 5:00 p.m.)*  
*(De acuerdo con la orden de elección especial se requiere una fecha límite)*

List Offices/Propositions/Measures on the ballot *(Enúmere los puestos/proposiciones/medidas oficiales en la boleta)*

Councilmember, District 3 (Miembro del Consejo, Distrito Electoral 3)

Early voting by personal appearance will be conducted each weekday at:  
*(La votación adelantada en persona se llevará a cabo de lunes a viernes en:)*

The Main Early Voting Location *(sitio principal de votación adelantada)*

Location <i>(sitio)</i>	Hours <i>(horas)</i>
Killeen City Hall	4/20&4/28(7am-7pm), 4/22-4/24&4/27(8am-5pm)

Branch Early Voting Locations *(sucursal sitios de votación adelantada)*

Location <i>(sitio)</i>	Hours <i>(horas)</i>
Jackson Professional Learning Center	4/20&4/28(7am-7pm), 4/22-4/24&4/27(8am-5pm)
Killeen Lions Park Senior Center	4/20&4/28(7am-7pm), 4/22-4/24&4/27(8am-5pm)

Early voting by personal appearance will be conducted each weekend at:  
*(La votación adelantada en persona se llevará a cabo en el fin de semana en:)*

The Main Early Voting Location *(sitio principal de votación adelantada)*

Location <i>(sitio)</i>	Hours <i>(horas)</i>
N/A	N/A

Branch Early Voting Locations *(sucursal sitios de votación adelantada)*

Location <i>(sitio)</i>	Hours <i>(horas)</i>
N/A	N/A

Applications for ballot by mail shall be mailed to:  
(Las solicitudes para boletas que se votarán adelantada por correo deberán enviarse a:)

Laura Calcote

\_\_\_\_\_  
Name of Early Voting Clerk  
(Nombre del Secretario/a de la Votación Adelantada)

101 N. College Street

\_\_\_\_\_  
Address (Dirección)

Killeen 76541-0000

\_\_\_\_\_  
City (Ciudad) Zip Code (Código Postal)

(254) 501-7717

\_\_\_\_\_  
Telephone Number (Número de teléfono)

citysec@killeentexas.gov

\_\_\_\_\_  
Email Address (Dirección de Correo Electrónico)

<https://www.killeentexas.gov/719/2026-District-3-Special>

\_\_\_\_\_  
Early Voting Clerk's Website (Sitio web del Secretario/a de Votación Adelantada)

Applications for Ballots by Mail (ABBM)s must be received no later than the close of business on:  
(Las solicitudes para boletas que se votarán adelantada por correo deberán recibirse no más tardar de las horas de negocio el:)

04 / 20 / 2026  
\_\_\_\_\_  
(date)(fecha)

Federal Post Card Applications (FPCAs) must be received no later than the close of business on:  
(La Tarjeta Federal Postal de Solicitud deberán recibirse no más tardar de las horas de negocio el:)

04 / 20 / 2026  
\_\_\_\_\_  
(date)(fecha)

Issued this 03 day of 03, 20 26.  
(day) (month) (year)

(Emitida este día 03 de 03, 20 26.)  
(día) (mes) (año)

\_\_\_\_\_  
Signature of Mayor (Firma del Alcalde)

\_\_\_\_\_  
Signature of Councilperson  
(Firma del Concejal)

\_\_\_\_\_  
Signature of Councilperson  
(Firma de Concejal)

\_\_\_\_\_  
Signature of Councilperson  
(Firma del Concejal)

\_\_\_\_\_  
Signature of Councilperson  
(Firma del Concejal)

\_\_\_\_\_  
Signature of Councilperson  
(Firma del Concejal)

\_\_\_\_\_  
Signature of Councilperson  
(Firma de Concejal)

**Instruction Note: A copy of this election order must be delivered to the County Clerk/Elections Administrator and Voter Registrar not later than 60 days before election day.**

*Nota de Instrucción: Se deberá entregar una copia de esta orden de elección al/a la Secretario(a) del Condado/Administrador(a) de Elecciones y el/la Registrador(a) de Votantes a más tardar 60 días antes del día de elección.*

A stylized graphic in the background consisting of a grey five-pointed star at the top right, with a curved grey line extending from its base towards the bottom left. Behind this line are several overlapping grey trapezoidal shapes of varying sizes and orientations, creating a sense of depth and movement.

ORDERING THE MAY 2,  
2026 SPECIAL ELECTION  
FOR DISTRICT 3

OR-26-006

March 3, 2026

# Background & Purpose of Special Election

2

- District 3 Councilmember resigned on February 21st
- Vacancy was created on March 1<sup>st</sup>
- Texas Election Code, Chapter 201, provides for the ordering of an election to fill a vacancy

# Application and Voting Dates

- Applications for name placement on ballots:
  - ▣ First day – Wednesday, March 4, 2026
  - ▣ Last day – Monday, March 23, 2026, by 5:00 p.m.
- Early Voting dates (weekdays only):
  - ▣ Monday, April 20, 2026 (7:00 a.m. to 7:00 p.m.)
  - ▣ **Tuesday, April 21, 2026 (No Voting – State Holiday)**
  - ▣ Wednesday, April 22, 2026 (8:00 a.m. to 5:00 p.m.)
  - ▣ Thursday, April 23, 2026 (8:00 a.m. to 5:00 p.m.)
  - ▣ Friday, April 24, 2026 (8:00 a.m. to 5:00 p.m.)
  - ▣ Monday, April 27, 2026 (8:00 a.m. to 5:00 p.m.)
  - ▣ Tuesday, April 28, 2026 (7:00 a.m. to 7:00 p.m.)
- Election Day:
  - ▣ Saturday, May 2, 2026 (Polls open 7:00 a.m. to 7:00 p.m.)

# Early Voting Polling Locations

4

- Killeen City Hall – *Main Early Voting Location*
- Jackson Professional Learning Center – *Branch Early Voting Location*
- Killeen Lions Club Park Senior Center – *Branch Early Voting Location*

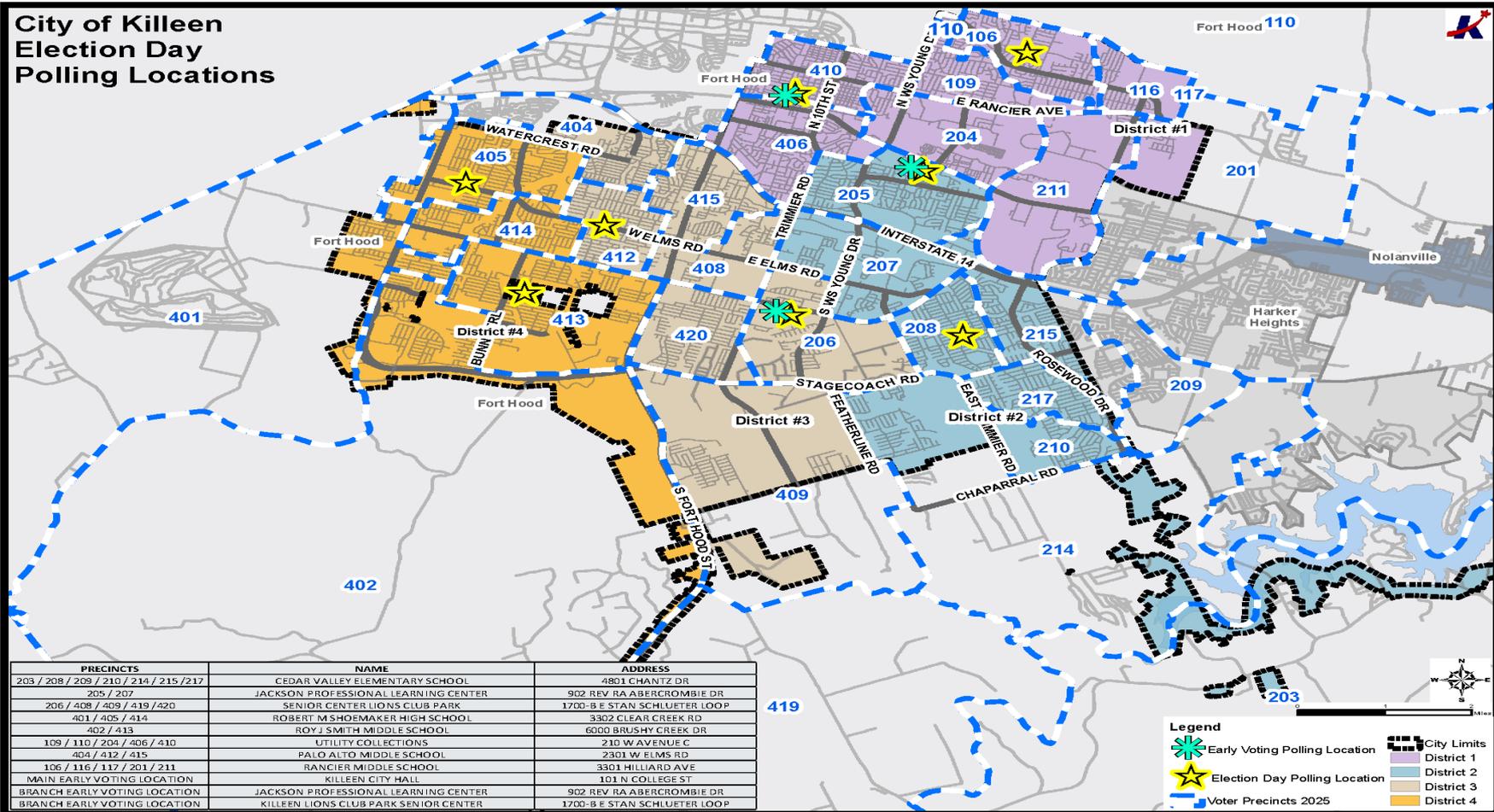
# District 3 Election Day Polling Locations

5

- Precincts #206/408/409/419/420 – Killeen Lions Park Senior Center
- Precincts #404/412/415 – Palo Alto Middle School

# Polling Locations Map

## City of Killeen Election Day Polling Locations



PRECINCTS	NAME	ADDRESS
203 / 208 / 209 / 210 / 214 / 215 / 217	CEDAR VALLEY ELEMENTARY SCHOOL	4801 CHANTZ DR
205 / 207	JACKSON PROFESSIONAL LEARNING CENTER	902 REV RA ABERCROMBIE DR
206 / 408 / 409 / 419 / 420	SENIOR CENTER LIONS CLUB PARK	1700-B E STAN SCHLUETER LOOP
401 / 405 / 414	ROBERT M SHOEMAKER HIGH SCHOOL	3302 CLEAR CREEK RD
402 / 413	ROY J SMITH MIDDLE SCHOOL	6000 BRUSHY CREEK DR
109 / 110 / 204 / 406 / 410	UTILITY COLLECTIONS	210 W AVENUE C
404 / 412 / 415	PALO ALTO MIDDLE SCHOOL	2301 W ELMS RD
106 / 116 / 117 / 201 / 211	RANCIER MIDDLE SCHOOL	3301 HILLIARD AVE
MAIN EARLY VOTING LOCATION	KILLEEN CITY HALL	101 N COLLEGE ST
BRANCH EARLY VOTING LOCATION	JACKSON PROFESSIONAL LEARNING CENTER	902 REV RA ABERCROMBIE DR
BRANCH EARLY VOTING LOCATION	KILLEEN LIONS CLUB PARK SENIOR CENTER	1700-B E STAN SCHLUETER LOOP

**Legend**

- Early Voting Polling Location
- Election Day Polling Location
- Voter Precincts 2025
- City Limits
- District 1
- District 2
- District 3
- District 4

# Voting Equipment Utilized

7

## ExpressVote Universal Voting System



© Copyright 2019 Election Systems & Soft

## Electronic Pollbook (ePollbook)



© Copyright 2022 Election Systems & Software

## DS200 Digital Tabulator



# Recommendation

8

Staff recommends City Council approve the ordinance ordering a *May 2, 2026 Special Election* for the purpose of electing a Councilmember for District 3



# City of Killeen

## Staff Report

File Number: DS-26-020

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Receive Quarterly Financial Report

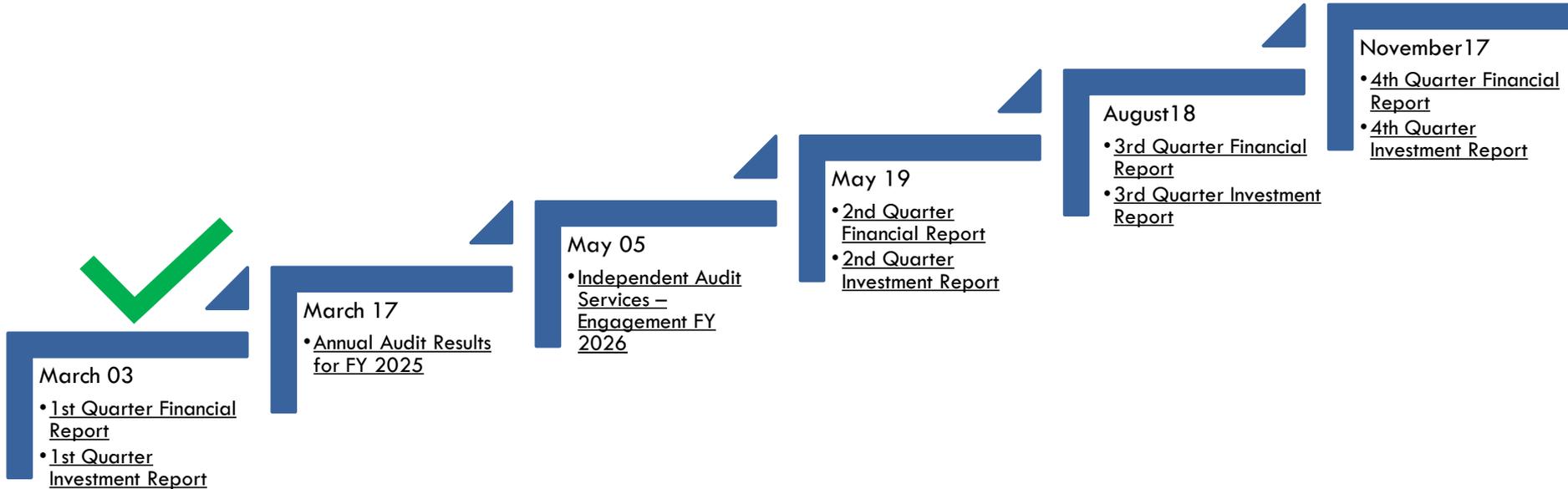


# 1ST QUARTER FINANCIAL REPORT

DS-26-020

March 3, 2026

# Accounting Calendar FY 2026



# Overview

3

- Staffing Indicators
- Review Major Operating Funds
- Special Revenue Funds

# Staffing Indicators – Turnover

4

12-Month Annualized Turnover ( as of December 2025)							
DEPARTMENT	TOTAL # OF APPROVED POSITIONS	YTD TOTAL EXITING EMPLOYEES	YTD Dept. Turnover %	DEPARTMENT	TOTAL # OF APPROVED POSITIONS	YTD TOTAL EXITING EMPLOYEES	YTD Dept. Turnover %
ANIMAL SERVICES	30.00	19.00	63.33%	FIRE DEPARTMENT	273.00	29.00	10.62%
AVIATION	47.00	6.00	12.77%	HUMAN RESOURCES	16.00	4.00	25.00%
CITY MANAGER	6.50	-	0.00%	INFORMATION TECHNOLOGY	22.00	1.00	4.55%
COMMUNICATIONS AND MARKETING	8.00	3.00	37.50%	LEGAL	10.00	3.00	30.00%
COMMUNITY DEVELOPMENT	79.63	12.00	15.07%	PARKS AND RECREATION	87.49	28.00	32.00%
DEVELOPMENT SERVICES	42.00	9.00	21.43%	POLICE DEPARTMENT	344.00	30.00	8.72%
ENGINEERING SERVICES	32.00	2.00	6.25%	PUBLIC WORKS	270.00	64.00	23.70%
FINANCE	118.50	23.00	19.41%				

TOTAL OF RESIGNED EMPLOYEES	233
TOTAL EMPLOYEES	1,386.12
OVERALL TURNOVER	16.81%

	FY 2026	FILLED	% FILLED
TOTAL CLASSIFIED	854.12	618.12	72.37%
PUBLIC SAFETY SWORN POSITIONS:			
FIRE	263	270	102.66%
POLICE	269	279	103.72%

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# General Fund

# Key Revenue Sources

General Fund

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	<u>YTD Total Dec 31, 2025</u>	<u>Revised Budget</u>	<u>% Budget</u>	<u>YTD Total Dec 31, 2024</u>	<u>Inc/Dec PY</u>
Property Taxes	\$ 49,556,938	\$ 58,967,744	84.04%	\$ 46,907,687	5.65%
Sales and Excise Taxes	9,758,855	36,922,058	26.43%	9,121,679	6.99%
Franchise	8,828	5,924,412	0.15%	277,261	-96.82%
Licenses & Permits	564,961	3,005,773	18.80%	562,522	0.43%
Intergovernmental	337,679	2,011,825	16.78%	667,487	-49.41%
Charges For Services	2,049,492	8,795,765	23.30%	1,976,320	3.70%
Fines & Fees	858,217	3,499,725	24.52%	836,040	2.65%
Investment Income	431,715	2,552,254	16.92%	420,036	2.78%
Miscellaneous Income	47,348	83,279	56.85%	123,145	-61.55%
Contributions & Donations	-	-	-	1,000	-100.00%
Other Financing Sources	2,862,209	11,584,620	24.71%	2,842,539	0.69%
<b>Total Revenues</b>	<b>\$ 66,476,241</b>	<b>\$ 133,347,455</b>	<b>49.85%</b>	<b>\$ 63,735,716</b>	<b>4.30%</b>



# Key Expenses/Fund Balance

General Fund

7

	<u>YTD Total Dec 31, 2025</u>	<u>Revised Budget</u>	<u>% Budget</u>	<u>YTD Total Dec 31, 2024</u>	<u>Inc/Dec PY</u>
Personnel Services	\$ 19,757,412	\$ 99,665,057	19.82%	\$ 18,353,838	7.65%
Supplies	907,563	5,751,177	15.78%	609,755	48.84%
Repairs & Maintenance	674,277	3,561,841	18.93%	372,991	80.78%
Misc Services & Charges	3,084,687	14,267,994	21.62%	2,382,187	29.49%
Designated Expenses	1,726,256	6,047,363	28.55%	2,193,629	-21.31%
Capital Outlay	1,213	695,966	0.17%	378,620	-99.68%
Debt Service	18,421	116,729	15.78%	21,918	-15.96%
Other Financial Uses	3,182,473	3,241,328	98.18%	5,602,529	-43.20%
<b>Total Expenses</b>	<b>\$ 29,352,302</b>	<b>\$ 133,347,455</b>	<b>22.01%</b>	<b>\$ 29,915,468</b>	<b>-1.88%</b>
<b>Net Change</b>	<b>\$ 37,123,939</b>	<b>\$ -</b>			
Fund Balance - Beginning	36,664,916	36,664,916			
<b>Fund Balance - Ending</b>	<b>\$ 73,788,855</b>	<b>\$ 36,664,916</b>			



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# Water & Sewer Fund

# Key Financials

	<u>YTD Total Dec 31, 2025</u>	<u>Revised Budget</u>	<u>% Budget</u>	<u>YTD Total Dec 31, 2024</u>	<u>Inc/Dec PY</u>
Charges For Services	12,214,262	51,495,749	23.72%	11,583,911	5.44%
Investment Income	77,782	587,093	13.25%	140,742	-44.73%
Other Financing Sources	78,474	323,895	24.23%	78,528	-0.07%
<b>Total Revenues</b>	<b>\$ 12,370,518</b>	<b>\$ 52,406,737</b>	<b>23.60%</b>	<b>\$ 11,803,182</b>	<b>4.81%</b>
Personnel Services	1,781,082	9,156,494	19.45%	1,802,798	-1.20%
Supplies	199,048	1,050,386	18.95%	202,109	-1.51%
Repairs & Maintenance	121,980	909,702	13.41%	292,261	-58.26%
Misc Services & Charges	1,188,092	5,476,509	21.69%	1,093,550	8.65%
Designated Expenses	4,154,448	17,720,774	23.44%	3,490,491	19.02%
Capital Outlay	36,889	1,120,540	3.29%	40,147	-8.11%
Debt Service	9,132	6,703,393	0.14%	9,824	-7.05%
Other Financial Uses	5,170,065	10,268,939	50.35%	6,613,379	-21.82%
<b>Total Expenses</b>	<b>\$ 12,660,735</b>	<b>\$ 52,406,737</b>	<b>24.16%</b>	<b>\$ 13,544,560</b>	<b>-6.53%</b>
<b>Net Change</b>	<b>\$ (290,218)</b>	<b>\$ -</b>			
Fund Balance - Beginning	11,025,587	11,025,587			
<b>Fund Balance - Ending</b>	<b>\$ 10,735,369</b>	<b>\$ 11,025,587</b>			



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# Solid Waste Fund

# Key Financials

Solid Waste Fund

11

	<u>YTD Total Dec 31, 2025</u>	<u>Revised Budget</u>	<u>% Budget</u>	<u>YTD Total Dec 31, 2024</u>	<u>Inc/Dec PY</u>
Charges For Services	6,963,870	28,176,177	24.72%	6,231,159	11.76%
Investment Income	22,579	244,484	9.24%	62,129	-63.66%
Miscellaneous Income	-	1,000	0.00%	5,591	-100.00%
Other Financing Sources	-	30,000	0.00%	1,161	-100.00%
<b>Total Revenues</b>	<b>\$ 6,986,450</b>	<b>\$28,451,661</b>	<b>24.56%</b>	<b>\$ 6,300,041</b>	<b>10.90%</b>
Personnel Services	1,352,636	6,509,403	20.78%	1,215,029	11.33%
Supplies	163,408	1,613,234	10.13%	267,911	-39.01%
Repairs & Maintenance	294,371	1,528,011	19.26%	218,589	34.67%
Misc Services & Charges	509,707	2,346,840	21.72%	493,403	3.30%
Designated Expenses	1,075,881	8,787,035	12.24%	1,430,450	-24.79%
Capital Outlay	-	201,272	0.00%	65,860	-100.00%
Debt Service	660	688,971	0.10%	660	0.00%
Other Financial Uses	3,879,035	6,776,895	57.24%	4,423,669	-12.31%
<b>Total Expenses</b>	<b>\$ 7,275,698</b>	<b>\$28,451,661</b>	<b>25.57%</b>	<b>\$ 8,115,571</b>	<b>-10.35%</b>
<b>Net Change</b>	<b>\$ (289,249)</b>	<b>\$ -</b>			
Fund Balance - Beginning	6,993,224	6,993,224			
<b>Fund Balance - Ending</b>	<b>\$ 6,703,975</b>	<b>\$ 6,993,224</b>			



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# Drainage Utility Fund

# Key Financials

	<u>YTD Total Dec 31, 2025</u>	<u>Revised Budget</u>	<u>% Budget</u>	<u>YTD Total Dec 31, 2024</u>	<u>Inc/Dec PY</u>
Charges For Services	1,342,786	5,481,674	24.50%	1,231,730	9.02%
Investment Income	7,292	84,407	8.64%	11,905	-38.75%
Other Financing Sources	-	16,149	0.00%	15,750	-100.00%
<b>Total Revenues</b>	<b>\$ 1,350,078</b>	<b>\$ 5,582,230</b>	<b>24.19%</b>	<b>\$ 1,259,384</b>	<b>7.20%</b>
Personnel Services	513,103	2,602,101	19.72%	469,615	9.26%
Supplies	29,408	200,079	14.70%	25,932	13.40%
Repairs & Maintenance	46,066	250,275	18.41%	38,155	20.73%
Misc Services & Charges	69,219	386,756	17.90%	85,444	-18.99%
Designated Expenses	867	122,509	0.71%	2,479	-65.03%
Debt Service	-	522,730	0.00%	-	0.00%
Other Financial Uses	813,492	1,497,780	54.31%	784,339	3.72%
<b>Total Expenses</b>	<b>\$ 1,472,154</b>	<b>\$ 5,582,230</b>	<b>26.37%</b>	<b>\$ 1,405,964</b>	<b>4.71%</b>
<b>Net Change</b>	<b>\$ (122,076)</b>	<b>\$ -</b>			
Fund Balance - Beginning	1,659,080	1,659,080			
<b>Fund Balance - Ending</b>	<b>\$ 1,537,004</b>	<b>\$ 1,659,080</b>			



14

# Aviation Fund

# Key Financials

	<u>YTD Total Dec 31, 2025</u>	<u>Revised Budget</u>	<u>% Budget</u>	<u>YTD Total Dec 31, 2024</u>	<u>Inc/Dec PY</u>
Intergovernmental	759,787	3,539,150	21.47%	738,750	2.85%
Charges For Services	1,199,618	3,351,644	35.79%	798,933	50.15%
Investment Income	28,877	120,404	23.98%	14,183	103.59%
Miscellaneous Income	-	50	0.00%	50	-100.00%
Other Financing Sources	-	-	-	550	-100.00%
<b>Total Revenues</b>	<b>\$ 1,988,282</b>	<b>\$ 7,011,248</b>	<b>28.36%</b>	<b>\$ 1,552,467</b>	<b>28.07%</b>
Personnel Services	593,904	3,175,683	18.70%	572,813	3.68%
Supplies	38,659	235,180	16.44%	72,686	-46.81%
Repairs & Maintenance	60,661	781,406	7.76%	104,353	-41.87%
Misc Services & Charges	199,435	993,864	20.07%	155,370	28.36%
Designated Expenses	396,916	484,607	81.90%	83,091	377.69%
Capital Outlay	-	17,000	0.00%	21,200	-100.00%
Debt Service	620	402,721	0.15%	620	0.00%
Other Financial Uses	371,143	371,143	100.00%	356,868	4.00%
<b>Total Expenses</b>	<b>\$ 1,661,338</b>	<b>\$ 6,461,604</b>	<b>25.71%</b>	<b>\$ 1,367,001</b>	<b>21.53%</b>
<b>Net Change</b>	<b>\$ 326,945</b>	<b>\$ 549,644</b>			
Fund Balance - Beginning	3,311,158	3,311,158			
<b>Fund Balance - Ending</b>	<b>\$ 3,638,103</b>	<b>\$ 3,860,802</b>			



16

# Golf Course Fund

# Key Financials

	<u>YTD Total Dec 31, 2025</u>	<u>Revised Budget</u>	<u>% Budget</u>	<u>YTD Total Dec 31, 2024</u>	<u>Inc/Dec PY</u>
Charges For Services	436,815	1,543,690	28.30%	469,815	-7.02%
Investment Income	2,360	5,146	45.86%	1,809	30.43%
<b>Total Revenues</b>	<b>\$ 439,175</b>	<b>\$ 1,548,836</b>	<b>28.36%</b>	<b>\$ 471,624</b>	<b>-6.88%</b>
Repairs & Maintenance	10,417	-	-	-	0.00%
Misc Services & Charges	412,860	1,475,283	27.99%	373,500	10.54%
Debt Service	-	221,694	0.00%	-	0.00%
<b>Total Expenses</b>	<b>\$ 423,277</b>	<b>\$ 1,696,977</b>	<b>24.94%</b>	<b>\$ 373,500</b>	<b>13.33%</b>
<b>Net Change</b>	<b>\$ 15,898</b>	<b>\$ (148,141)</b>			
Fund Balance - Beginning	360,044	360,044			
<b>Fund Balance - Ending</b>	<b>\$ 375,942</b>	<b>\$ 211,903</b>			



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# Hotel Occupancy Tax (HOT) Fund

# Key Financials

Hotel Occupancy Tax Fund

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	<u>YTD Total Dec 31, 2025</u>	<u>Revised Budget</u>	<u>% Budget</u>	<u>YTD Total Dec 31, 2024</u>	<u>Inc/Dec PY</u>
Taxes	430,413	1,989,567	21.63%	421,233	2.18%
Intergovernmental	-	86,000	0.00%	96,490	-100.00%
Charges For Services	200,672	975,157	20.58%	182,712	9.83%
Investment Income	7,104	66,277	10.72%	15,818	-55.09%
Miscellaneous Income	-	2,420	0.00%	-	0.00%
<b>Total Revenues</b>	<b>\$ 638,188</b>	<b>\$ 3,119,421</b>	<b>20.46%</b>	<b>\$ 716,253</b>	<b>-10.90%</b>
Personnel Services	216,970	1,046,159	20.74%	211,841	2.42%
Supplies	5,108	55,441	9.21%	14,203	-64.03%
Repairs & Maintenance	8,915	72,015	12.38%	23,331	-61.79%
Misc Services & Charges	116,883	816,086	14.32%	132,925	-12.07%
Designated Expenses	130,633	414,070	31.55%	159,411	-18.05%
Capital Outlay	-	-	-	142,016	-100.00%
Debt Service	240	715,650	0.03%	240	0.00%
<b>Total Expenses</b>	<b>\$ 478,749</b>	<b>\$ 3,119,421</b>	<b>15.35%</b>	<b>\$ 683,968</b>	<b>-30.00%</b>
<b>Net Change</b>	<b>\$ 159,439</b>	<b>\$ -</b>			
Fund Balance - Beginning	804,970	804,970			
<b>Fund Balance - Ending</b>	<b>\$ 964,409</b>	<b>\$ 804,970</b>			



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# Street Maintenance Fund

# Key Financials

	<u>YTD Total Dec 31, 2025</u>	<u>Revised Budget</u>	<u>% Budget</u>	<u>YTD Total Dec 31, 2024</u>	<u>Inc/Dec PY</u>
Charges For Services	2,498,997	10,032,396	24.91%	2,273,112	9.94%
Investment Income	157,662	212,844	74.07%	114,862	37.26%
<b>Total Revenues</b>	<b>\$ 2,656,659</b>	<b>\$ 10,245,240</b>	<b>25.93%</b>	<b>\$ 2,387,974</b>	<b>11.25%</b>
Repairs & Maintenance	106,124	4,650,000	2.28%	16,849	529.86%
Capital Outlay	89,750	11,175,147	0.80%	-	0.00%
Debt Service	-	1,536,850	0.00%	-	0.00%
<b>Total Expenses</b>	<b>\$ 195,874</b>	<b>\$ 17,361,997</b>	<b>1.13%</b>	<b>\$ 16,849</b>	<b>1062.53%</b>
<b>Net Change</b>	<b>\$ 2,460,785</b>	<b>\$ (7,116,757)</b>			
Fund Balance - Beginning	16,980,738	16,980,738			
<b>Fund Balance - Ending</b>	<b>\$ 19,441,523</b>	<b>\$ 9,863,981</b>			





# Questions



# City of Killeen

## Staff Report

File Number: DS-26-021

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Discuss and consider March 17, 2026 meeting date.