

rights and authority assigned to the Design Professional in the Contract Documents in connection with completion of the Work in accordance with the Contract Documents.

ARTICLE III: CONTRACT TIME

- 3.1 The date of Commencement of Contract Time for the Preconstruction Phase shall be the date of this agreement. The Contract Time shall be measured from the Date of Commencement. The Preconstruction Phase shall have Final Completion and be ready for the Construction Phase in accordance with the General Conditions within [INSERT WRITTEN DAYS] ([INSERT # DAYS]) [INSERT WORKING OR CALENDAR] Days after the date when the Contract Time commences to run as provided by the General Conditions.
- 3.2 The date of Commencement of Contract Time for the Preconstruction Phase shall be the date of this agreement. The Contract Time shall be measured from the Date of Commencement. The Preconstruction Phase shall have Final Completion and be ready for the Construction Phase in accordance with the General Conditions within [INSERT WRITTEN DAYS] ([INSERT # DAYS]) [INSERT WORKING OR CALENDAR] Days after the date when the Contract Time commences to run as provided by the General Conditions.
- 3.3 The Work shall be Substantially Complete within [INSERT WRITTEN DAYS] ([INSERT# DAYS]) [INSERT WORKING OR CALENDAR] Days after the date when the Contract Time commences to run as provided by the General Conditions.
- 3.4 The Work shall have Final Completion and be ready for Final Payment in accordance with the General Conditions within [INSERT WRITTEN DAYS] ([INSERT # DAYS]) [INSERT WORKING OR CALENDAR] Days after the date when the Contract Time commences to run as provided by the General Conditions.

ARTICLE IV: CONTRACT PRICE

- 4.1 The Contract Price shall be a Guaranteed Maximum Price (GMP) not to exceed the budgeted amount of [WRITTEN BUDGETED AMOUNT] ([NUMBER BUDGETED AMOUNT]). The City shall pay the Construction Manager for completion of the Work in accordance with the Contract Documents.
- 4.2 It is the intent of the City that the Guaranteed Maximum Price is to be determined based on complete Contract Documents. This amount shall be inclusive of the Construction Manager-at-Risk’s fee, Materials Testing,

and all other requirements necessary to build a complete and functional facility. The City shall pay the Construction Manager for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to Request For Proposal Form.

- 4.3 The Construction Manager shall not incur any costs associated to be reimbursed as part of the Cost of the Work prior to the commencement of the Construction Phase, unless the City has approved such costs in writing.
- 4.4 The City and the Construction Manager recognize that time is of the essence of this Agreement and that the City shall suffer financial loss if the Work is not completed within the time specified in Article 3.2 above, plus any extensions thereof allowed in accordance with the General Conditions. They also recognize the delays, expense, and difficulties involved in proving the actual loss suffered by the City if the Work is not completed on time. Accordingly, instead of requiring any such proof, the City and the Construction Manager agree that as liquidated damages for delay (not as a penalty) the Construction Manager shall pay the City [INSERT WRITTEN AMOUNT] Dollars ([INSERT # AMOUNT]) for each day that expires after the time specified in Article 3.2, in this Agreement, for Substantial Completion until the Work is Substantially Complete.
- 4.5 After Substantial Completion, if the Construction Manager shall neglect, refuse or fail to complete the remaining Work within the time specified in Article 3.3 for Final Completion and readiness for Final Payment or any proper extension thereof granted by the City, the Construction Manager shall pay the City [INSERT WRITTEN AMOUNT] Dollars ([INSERT # AMOUNT]) for each day that expires after the time specified in Article 3.3, in this Agreement, for Final Completion until the Work is Finally Complete and ready for Final Payment.
- 4.6 Construction Manager agrees any assessed liquidated damages may be offset against retainage held by the City.

ARTICLE V: PAYMENT PROCEDURES

- 5.1 The Construction Manager shall submit Contractor Payment Application. Payment Applications shall be processed by the City as provided in the General Conditions.
- 5.2 Progress Payments; The City shall make progress payments on account of the Contract Price on the basis of the Contractor's Payment Application on or about the twentieth (20th) day of each month during construction as provided in Paragraph 5.3 below. All such payments shall be measured

by the schedule of value established in Section 01295 – Schedule of Values (and in the case of Unit Price Work based on the number of units completed) or, in the event there is no schedule of values, as provided in the General Requirements.

- 5.3 Prior to Substantial Completion progress payments shall be made equal to the percentage of the Work completed, as established above, and materials and/or equipment not incorporated in the work completed but delivered, suitably stored, and accompanied by suitable documentation satisfactory to the City as provided in the General Conditions. Progress payments shall be made less retainage as indicated in Paragraph 5.4 and 5.5 below, but in each case, less the aggregate of payments previously made less such amounts as the City shall determine or withhold, in accordance with of the General Conditions.
- 5.4 Retainage prior to Substantial Completion; if the total Contract Price at the time of Contract Execution is Five Hundred Thousand Dollars (\$500,000) or more, the agreed retainage until Substantial Completions shall be five percent (5%), otherwise the agreed retainage shall be ten percent (10%).
- 5.5 Retainage after Substantial Completion: On projects where a long period of time is expected to occur between the Substantial Completion and Final Acceptance, retainage shall be reduced by one-half (1/2). The reduced retainage shall never be less that the expected value of any work requiring correction or unfinished work. A portion of the retainage shall always be held until issuance of a Certification of Final Completion.

ARTICLE VI: INTEREST

- 6.1 All monies except retainage, not paid when due as provided in the General Conditions shall bear interest at the maximum rate allowed by the law.

ARTICLE VII: CITY REPRESENTATIONS

- 7.1 The City shall provide information with reasonable promptness regarding requirements for and limitations to the Work.
- 7.2 During the Preconstruction Phase the City shall supply the Construction Manager any and all Environmental Tests, Geotechnical Tests, Surveys, and reports.
- 7.3 The City shall contract separately from the Construction Manager and the Design Professional, a qualified Laboratory for materials testing.
- 7.4 The City shall have a designated representative on site and during all

major parts of the Work. The City’s designated representative shall be the City Project Manager.

- 7.5 The City shall retain the services of a Design Professional during the Preconstruction and Construction Phases.
- 7.6 The City shall pay for all fees and permits required for the Work with the exception of trade registration which shall be paid by the trades.

ARTICLE VIII: CONSTRUCTION MANAGER’S REPRESENTATIONS

The Construction Manager’s Responsibilities shall be set in two (2) phases; the Preconstruction Phase (8.1) and the Construction Phase (8.3). The City and the Construction Manager may agree, with the consultation of the Design Professional, to commence with the Construction Phase prior to the completion of the Preconstruction Phase, in which case, both phase shall proceed concurrently. At such time of agreement, the Construction Manager shall designate a representative authorized to act on behalf of the Construction Manager with respect to the Project Construction.

8.1 PRECONSTRUCTION PHASE

- A. The Construction Manager shall provide a preliminary evaluation of the City’s program, schedule, and construction budget, each in terms of the other.
- B. The Construction Manager shall schedule and conduct meetings with the City and the Design Professional to discuss such matters as procedures, progress, coordination, and scheduling of the Work.
- C. The Construction Manager shall advise the City and the Design Professional on proposed site use and improvements, selection of materials, building systems, and equipment.
- D. The Construction Manager shall provide recommendations consistent with the Project Requirements to the City and Design Professional on constructability, availability of materials and labor, time requirement for procurement of materials, installation and constructions, and factors relating to construction costs, but not limited to the cost of alternative designs, materials, preliminary budgets, life-cycle data, and possible cost reductions.
- E. The Construction Manager shall prepare a Project Schedule once all the requirements of Paragraph 8.1.D have been sufficiently identified. This Project Schedule shall be update with each meeting. The Project Schedule shall coordinate and integrate the Construction Manager’s Services, the Design Professional’s

Services, the City's Services and Responsibilities, and identify items that could affect the Work's timely completion. The Project Schedule shall include submission of the Guaranteed Maximum Price, the times of commencement and completion required for each subcontractor and product, approval of submittals, and Work milestones.

- F. The Construction Manager shall provide recommendations with regard to accelerated or fast-tracked scheduling, procurement or phased construction. The Construction Manager take into consideration cost reduction, cost information, constructability, and procurement and construction scheduling issues.
- G. The Construction Manager shall prepare preliminary estimates of the Cost of the Work based on the preliminary design and other design criteria prepared by the City and the Design Professional, using volume or similar estimating techniques and submit to the City and the Design Professional for review. The City shall either approve or decline the Cost Estimate. If the City, Construction Manager, or the Design Professional suggests alternative materials or systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems. The Construction Manager shall inform the City and the Design Professional when the latest updated estimate exceeds the Guaranteed Maximum Price and make recommendations for corrective actions.
- H. The Construction Manager acknowledges that the drawings and specifications will be subject to further development that is consistent with the Guaranteed Maximum Price and is obligated to perform the Work in accordance with the Contract Documents approved by the City in return for payment by the City of an equal actual cost of the Work up to but Not To Exceed the Guaranteed Maximum Price.

8.2 GUARANTEED MAXIMUM PRICE AMENDMENT

- A. When the Drawings and Specifications are sufficiently complete to enable detailed Guaranteed Maximum Price (GMP) to be prepared for the entire project clearly itemizing the costs of each component (such as site work, demolition, concrete, masonry, thermal moisture protection, roofing, doors & windows, finishes, plumbing, HVAC, electrical, and like items) the Construction Manager shall prepare a GMP and submit it to the City for approval. The GMP shall be the sum of the direct coast of the Work, general requirements, Construction Manager's Fee for services, plus the guaranteed not-

to-exceed general condition items, the Construction Manager's estimated cost of all work within the scope defined by this Agreement, the Construction Manager's contingency, and the City's Allowances. The GMP shall not include any other project expenses not directly involved in the scope of construction included in this Agreement, such as site acquisition, professional design fees, site survey, material testing fees, financing costs, or other contract costs for contracts directly with the City.

- B. To the extent that the Drawings and Specifications are anticipated to require further development by the Design Professional, the Construction Manager shall provide within the GMP a not-to-exceed item for further development consistent with the Contract Documents and reasonably inferable therefrom. The proposed GMP will include a contingency which may be used by the Construction Manager only with prior written approval from the City to cover:
1. The amount of any excess of the amount bid by the successful Subcontractor for any Construction Work over the respective amount for that Construction Work in the Guaranteed Maximum Price Amendment, but not Construction to be performed by the Construction Manager.
 2. The amount of any other Actual Cost of the Construction Work to be performed by a Subcontractor but not Construction to be performed by the Construction Manager.
- C. The only budget line items within the Guaranteed Maximum Price Amendment that may be adjusted are:
1. The Contingency.
 2. Amounts in the line items covering Construction Work to be performed by the Subcontractors (but not work to be performed by the Construction Manager or the Construction Managers Fee).
- D. The Construction Manager shall include with the Guarantee Maximum Price Amendment a written statement of its basis which shall include the following:
1. A complete list of all the Drawings and Specifications, including all Addenda thereto, and the Conditions of the Contract.

2. A list of clarifications and assumptions made by the Construction Manager in the preparation of the Guaranteed Maximum Price. All clarifications and assumptions shall identify an associated value.
 3. A schedule of values for the proposed Guaranteed Maximum Price, including estimated cost of the Work organized by trade systems or categories, allowances, contingency, general conditions, and Construction Managers Fee.
 4. A list of work to be performed by the Construction Manager.
 5. A detailed Critical Path method schedule.
 6. A date sixty (60) days from the date of the Guaranteed Maximum Price Amendment Proposal for the City to accept the Guaranteed Maximum Price.
 7. A list of allowances and a statement on their basis.
- E. In preparing the Construction Manager's GMP proposal, the Construction Manager shall include its contingency for the Construction Manager's exclusive use to cover those costs considered reimbursable as the Cost of Work but not included in a Change Order. The Construction Manager's contingency shall only be available for use to cover Construction Manager's cost, expenses, overhead and profit, attributable to:
1. Refinement of the design details within the Scope of Work and standards quality on which the GMP is based.
 2. Cost due to general area wide labor disputes.
 3. Increases in bid or purchase order agreements.
 4. Labor disputes within manufacturing or transportation industries causing delays of materials or equipment not the fault of the Construction Manager.
 5. The Construction Manager's contingency SHALL NOT be available for:
 - a. Overruns in General Conditions.
 - b. Work performed by the Construction Manager.

- c. City increases in Allowances.
 - d. Changes in the Scope of Work including material or design changes.
 - e. Performance of Corrective or unacceptable work.
- F. Construction Manager shall be required to obtain three (3) written quotes for procurements under Fifty Thousand Dollars (\$50,000.00). The Construction Manager shall formally bid and obtain a minimum of three (3) bids for all work Fifty Thousand Dollars (\$50,000.00) and over, including work related to general conditions, which shall not be included as part of the Direct Cost of the Work. The management fee for general conditions will be included in the Construction Manager's base fee. If the Construction Manager is capable and desires to perform a portion of the Direct Work, the Construction Manager will be considered on the basis of a subcontract with a guaranteed maximum price competitively bid for that portion of the Work.
- G. There shall be no sales, consumer, use or other similar taxes included in the GMP being the City is a Tax Exempt entity.

8.3 CONSTRUCTION PHASE

- A. The Construction Phase shall begin on the mutual agreement of the City, the Design Professional, and the Construction Manager and a Notice to Proceed shall be issued by the City.
- B. Those portions of the work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontractors or other lawful agreements. The Construction Manager shall develop a list of subcontractors, material suppliers, manufacturers, and equipment vendors. Said list shall comply with the following:
 - 1. Any portion of the Work that is estimated to be under \$50,000 shall have a minimum of three (3) written quotes for the work/materials/equipment.
 - 2. Any portion of the Work that is estimated to be over \$50,000 shall be advertised for Bids or Proposals in accordance with Texas Statute – Government Code Chapter 2269, Subchapter F.
 - 3. All Contracts and proposals shall be approved by the City

before they are awarded.

- C. Subcontractors or other lawful agreements shall conform to all applicable provisions under this agreement.
 - D. The Construction Manager shall schedule and conduct progress meetings to discuss such matters as procedures, progress, scheduling, and status of the Work. The Construction Manager shall prepare and distribute minutes if such meeting to the City and the Design Professional within seven (7) calendar days of the meeting.
 - E. The Construction Manager shall develop a system of cost control for the Work, including regular monitoring of actual cost for activities in progress and estimates for uncompleted tasks. The Construction Manager shall identify variances between actual and estimated costs and report variances to the City and Design Professional and shall provide this information in its monthly reports.
 - F. The Construction Manager shall make available the accounting of the project to include the Accounts Receivable, Accounts Payable, and Payroll.
 - G. The Construction Manager shall provide a critical path method schedule and shall be updated previous to each progress meeting.
- 8.4 The Construction Manager has examined and carefully studied the Contract Documents (including the Addenda listed in Article IX) and other related data indentified in the Documents including “technical data” and performed a constructability review.
- 8.5 The Construction Manager has visited the site and become familiar with and is satisfied as to the general local and site conditions, including utilities that may affect cost, progress, performance and furnishing of the Work.
- 8.6 The Construction Manager is aware of the general nature of work to be performed by the City and others at the site that relates to the Work as indicated in the Contract Documents.
- 8.7 The Construction Manager has correlated the information known to the Construction Manager, information and observations obtained from visits to the site, reports and drawings identified in the Contract Documents and all examinations, investigations, explorations, tests, studies and data with the Contract Documents.
- 8.8 The Construction Manager has given the City written notice of all conflicts,

errors, ambiguities or discrepancies that the Construction Manager has discovered in the Contract Documents and the written resolution thereof by the City is acceptable to the Construction Manager, and the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

- 8.9 The Construction Manager shall provide compliance with and inspections of all applicable laws, ordinances, rules, orders, regulations, and codes of federal, state, and local governments relating to the performance of the Work, including but not limited to Form Surveys and ADA/TAS Inspections.

ARTICLE IX: THE CONTRACT DOCUMENTS

The Contract Documents which comprise the entire agreement between the City and the Construction Manager concerning the Work consists of the following:

- 9.1 Bid Package (Cover Sheet and numbered sheets), to be included in the GMP Amendment.
- 9.2 Request for Qualifications
- 9.3 Addenda as issued, with Acknowledgement of Addenda if applicable
- 9.4 Insurance Requirements
- 9.5 Child Support Affidavit
- 9.6 Guaranteed Maximum Price Form
- 9.7 Post-Bid Procedures
- 9.8 Standard Agreement for Construction Manager-At-Risk Services (this agreement)
- 9.9 Texas Workers Compensation
- 9.10 Wage Scale
- 9.11 Affidavit of Insurance, and Certificates of Insurance
- 9.12 Alcohol and Drug Free Workplace Policy.
- 9.13 Construction Storm Preparation Policy.
- 9.14 Hazardous Communications Program Requirement Agreement.

- 9.15 Homeland Security Policy.
- 9.16 Texas Ethics Commission Form 1295.
- 9.17 Performance Bond, included herein.
- 9.18 Payment Bond, included herein.
- 9.19 General Conditions.
- 9.20 Supplemental Conditions.
- 9.21 Technical Specifications Divisions 1 through 16
- 9.22 Any modification, including Change Orders, duly delivered after Execution of the Agreement.

There are no Contract Documents other than those listed above in this Article IX. The Contract Documents shall only be altered, amended, or repealed by a modification (as defined in the General Conditions).

ARTICLE X: INDEMNIFICATION

CONTRACTOR SHALL PROTECT, DEFEND, INDEMNIFY, AND HOLD THE CITY, ITS OFFICERS, ELECTED OFFICIALS, AGENTS, AND EMPLOYEES, HARMLESS FROM ANY CLAIMS, FINES, DEMANDS, LOSS, DAMAGE, SUIT, AND LIABILITY OF EVERY KIND, INCLUDING ALL EXPENSES OF LITIGATION, COURT COSTS, AND ATTORNEY'S FEES, FOR INJURY TO OR DEATH OF ANY PERSON, OR FOR DAMAGE TO ANY PROPERTY, CAUSED BY THE NEGLIGENT, INTENTIONAL OR WILLFUL ACTS OR OMISSIONS OF THE CONTRACTOR, ITS OFFICERS, EMPLOYEES, AGENTS, CONTRACT LABORERS, OR SUBCONTRACTORS IN THE PERFORMANCE OF THIS AGREEMENT.

CONTRACTOR SHALL COMPLY WITH THE REQUIREMENTS OF ALL APPLICABLE LAWS, RULES, AND REGULATIONS IN CONNECTION WITH THE SERVICES OF CONTRACTOR AND SHALL EXONERATE, INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CITY, ITS OFFICERS, AGENTS AND ALL EMPLOYEES FROM ANY AND ALL LIABILITY, LOSS OR DAMAGE ARISING OUT OF NONCOMPLIANCE WITH SUCH LAWS, RULES AND REGULATIONS, WITHOUT LIMITATION. CONTRACTOR SHALL ASSUME FULL RESPONSIBILITY FOR PAYMENTS OF FEDERAL, STATE AND LOCAL TAXES OR CONTRIBUTIONS IMPOSED OR REQUIRED UNDER THE SOCIAL SECURITY, WORKER'S COMPENSATION, AND INCOME TAX LAWS WITH RESPECT TO CONTRACTOR'S EMPLOYEES. FURTHER, CONTRACTOR SHALL EXONERATE, INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CITY, ITS OFFICERS, AGENTS AND ALL EMPLOYEES FROM ANY

AND ALL LIABILITY, LOSS, DAMAGES, EXPENSES OR CLAIMS ARISING OUT OF ANY ACT OR OMISSION, INTENTIONAL TORT, OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER OF CONTRACTOR, ITS OFFICERS, AGENTS AND EMPLOYEES IN CONNECTION WITH ANY OF THE WORK PERFORMED OR TO BE PERFORMED UNDER THIS CONTRACT BY CONTRACTOR OR AS A RESULT OF CONTRACTOR'S FAILURE TO USE AND EMPLOY REASONABLE SKILL AND CARE BEFITTING THE PROFESSION IN ACCORDANCE WITH THE TERMS OF THIS AGREEMENT. FURTHER, CONTRACTOR SHALL EXONERATE, INDEMNIFY, DEFEND, AND HOLD HARMLESS THE CITY, ITS OFFICERS, AGENTS, AND ALL EMPLOYEES FROM ANY AND ALL LIABILITY, LOSS, DAMAGES, EXPENSES OR CLAIMS FOR INFRINGEMENT OF ANY INTELLECTUAL PROPERTY ARISING OUT OF THE USE OF ANY PLANS, DESIGN, DRAWINGS, OR SPECIFICATIONS FURNISHED BY CONTRACTOR IN THE PERFORMANCE OF THIS AGREEMENT.

THE FOREGOING INDEMNIFICATION PROVISION SHALL APPLY TO CONTRACTOR REGARDLESS OF WHETHER OR NOT SAID LIABILITY, LOSS, DAMAGES, EXPENSES, OR CLAIMS IS CAUSED IN PART BY A PARTY INDEMNIFIED HEREUNDER.

THE CONTRACTOR SHALL REQUIRE ALL OF ITS APPROVED SUBCONTRACTORS TO INCLUDE IN THEIR SUBCONTRACTS, A RELEASE AND INDEMNITY IN FAVOR OF THE CITY IN SUBSTANTIALLY THE SAME FORM AS ABOVE.

ARTICLE XI: MISCELLANEOUS

- 10.1 Terms used in this Agreement which are defined in the General Conditions will have the meanings indicated in the General Conditions.
 - A. The term "Contractor" when used in the Technical Specifications, Special Specifications, and Special Provisions shall mean the Construction Manager.
- 10.2 No assignment by a party hereto of any rights under or interests in the Contract Documents shall be binding on another party hereto without written consent of the party sought to be bound; and specifically but without limitation, monies that may become due and monies that are due but may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment, no assignment shall release or discharge the assignor from any duty or responsibility under the Contract Documents.

- 10.3 The City and the Construction Manager each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.
- 10.4 Any provision or part of the Contract Documents held to be void or unenforceable under any Law or Regulation shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon the City and the Construction Manager, who agree that the Contract Documents shall be reformed to replace such stricken provision or part thereof with a valid and enforceable provision that comes as close to expressing the intention of the stricken provision.
- 10.5 The Construction Manager shall comply with all applicable laws, statutes, ordinances, codes, rules, regulations, and lawful orders of public authorities applicable to its performance under this contract. The governing law shall be the Statutes of the State of Texas.

ARTICLE XII: ADDRESSES FOR GIVING NOTICES

11.1 The City:

City of Friendswood
910 S. Friendswood Drive
Friendswood, Texas 77546

11.2 The Construction Manager:

[INSERT CONSTRUCTION MANAGER NAME]
[INSERT CONSTRUCTION MANAGER ADDRESS]
[INSERT CONSTRUCTION MANAGER CITY,STATE,ZIP]

ARTICLE XIII: VENUE

- 12.1 Any action brought by either party based on any claim arising under or as a result of this contract shall be brought in a court of competent jurisdiction in Galveston County, Texas.

ARTICLE XIV: TERMINATION OR SUSPENSION

13.1 Termination Prior to Establishment of the Guaranteed Maximum Price.

- A. Prior to the execution of the Guaranteed Maximum Price Amendment, the City may terminate this Agreement upon no less than seven (7) days' written notice to the Construction Manager for

the City's' convenience and without cause, and the Construction Manager may terminate this Agreement upon not less than seven (7) days' written notice to the City for the reasons set forth in General Conditions.

- B. In the event of termination of this Agreement pursuant to Paragraph 13.1.A of this Agreement, the Construction Manager shall be equitably compensated for all approved Preconstruction Phase services performed prior to receipt of a notice of termination. In no event shall the Construction Manager's compensation under this Agreement exceed the compensation as set forth in Article IV of this Agreement.
- C. If the City terminates this Agreement pursuant to Paragraph 13.1.A of this Agreement, after the commencement of the Construction Phase but prior to the Execution of the Guaranteed Maximum Price Amendment, the City shall pay the Construction Manager an amount calculated as follows, which amount shall be in addition to the Construction Manager under Paragraph 13.1.B of this Agreement:
 - 1. The Cost of the Work incurred by the Construction Manager to date of Termination.
 - 2. Add the Construction Manager's Fee computed upon the Work to date of Termination at the rate amount in Guaranteed Maximum Price.
 - 3. Subtract aggregate of previous payments made by City for Construction Phase Services.
- D. The City shall pay the Construction Manager fair compensation, either by purchase or rental at the election of the City, for any equipment owned by the Construction Manager which the City elects to retain and which is not included in Paragraph 13.C.1. In the event that the City elects to take legal assignment of subcontractors, purchase orders, and rental agreements, the Construction Manager shall, as a condition of receiving payments referred to in this Article, execute and deliver such papers and take all such steps, including legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the City may require for the purpose of fully vesting in the City the rights and benefits of the Construction Manager under such subcontracts, purchase orders, or rental agreements. All subcontracts, purchase orders, and rental agreements entered into by the Construction Manager shall contain provisions allowing for assignment to the City as described above.

- 13.2 Termination Subsequent to Establishing of the Guaranteed Maximum Price.
- A. Following the execution of the Guaranteed Maximum Price Amendment and subject to the provisions of Paragraphs 13.2.B or 13.2.C below, this Agreement may be terminated as set forth in General Conditions.
 - B. If the City terminates this Agreement after Execution of the Guaranteed Price Amendment, the amount payable to the Construction Manager pursuant to General Conditions shall not exceed the amount the Construction Manager would otherwise have received pursuant to Paragraphs 13.1 and 13.2 of this Agreement.
 - C. If the Construction Manager terminates this Agreement after Execution of the Guaranteed Price Amendment, the amount payable to the Construction Manager pursuant to General Conditions shall not exceed the amount the Construction Manager would otherwise have received pursuant to Paragraphs 13.1 and 13.2 of this Agreement.
- 13.2 The Work may be suspended by the City as provided for in General Conditions. The Contract may request a change in Contract Time and/or Guaranteed Maximum Price, but the Construction Managers Fee shall not increase.

EXECUTED IN on behalf of the Construction Manager by [INSERT CONSTRUCTION MANAGER REPRESENTATIVE] its [INSERT THEIR TITLE] shown below, and on behalf of the City by [INSERT CITY REPRESENTATIVE NAME], its [INSERT THEIR TITLE], thereto duly authorized this [INSERT DAY] day of [INSERT MONTH], [INSERT YEAR].

ACCEPTED:

CITY:

CITY OF FRIENDSWOOD, TEXAS
FIRM]

MAYOR

DATE: _____

PROPOSED AND AGREED TO:

CONSTRUCTION MANAGER:

[INSERT CONSTRUCTION MANAGER

BY: _____
[INSERT TITLE]

DATE: _____

ATTEST:

CITY SECRETARY

ATTEST:

(OFFICER OR SECRETARY)

APPROVED AS TO FORM:

CITY ATTORNEY

END OF DOCUMENT