

**FIRST AMENDMENT TO CONSTRUCTION MANAGEMENT AGREEMENT
BETWEEN CONSTRUCTION MANAGER AND OWNER**

THIS FIRST AMENDMENT made by and between Fort Bend County, Texas, by and through its governing body, the Fort Bend County Commissioners Court, hereinafter referred to as "the Owner," and JE Dunn Construction, hereinafter referred to as "the Construction Manager."

WITNESSETH:

WHEREAS, Owner and Construction Manager entered an agreement for the Project, construction of the Precinct 2 Senior Center dated August 14, 2012, (collectively, the "Agreement") attached hereto as Exhibit A, incorporated by reference as if set forth herein verbatim for all purposes. Owner and Construction Manager desire to amend said Agreement as forth below.

NOW, THEREFORE, in consideration of the foregoing, the Agreement between Owner and Construction Manager is hereby amended as follows:

A. Section 3.7.11 is hereby added to the Agreement:

3.7.11 Construction Manager Self-Performance.

3.7.11.1 Conditions. After the acceptance of the GMP Change Order by the Owner, and in the event the lowest responsible and responsive proposal received by the Construction Manager exceeds the Construction Manager's adjusted Construction Budget line item for such Work, or in the event no proposal is received, and any redesign permitted under Article 1.6.1 does not eliminate the budget shortfall or result in the submission of an acceptable proposal, the Construction Manager: (i) in the case where the lowest responsible and responsive proposal exceeds the line item budget, and with the prior approval of the Owner, may perform such Work with its own forces for the lump sum amount (which shall include any fee) stated in its line item budget for such Work in its current Construction Budget; or (ii) in the case where no responsible and responsive proposal is received, shall perform such Work with its own forces within the Guaranteed Maximum Price stated in the GMP Change Order for the lump sum amount (which shall include any fee) stated in its line item budget for such Work in its current Construction Budget. The Construction Manager's line item budget for Work stated in its current Construction Budget shall be deemed to be a proposal submitted by the Construction Manager for such Work for which, in accordance with this Paragraph 3.7.11.1 and subject to approval by Owner, the Construction Manager will undertake to perform such Work on a lump sum basis, including the fee included in the lump sum. The Construction Manager shall not be entitled to the Construction Manager's Fee calculated on such lump sum. No action permitted under this Paragraph shall increase the Guaranteed Maximum Price. If Construction Manager is permitted to perform Work with its own forces for a lump sum amount in accordance with this Paragraph 3.7.11.1, the Construction Manager's Fee shall be reduced in the same proportion which the lump sum paid to the Construction Manager for Work performed with its own forces bears to the Estimated Cost Component of the Guaranteed Maximum Price.

3.7.11.2 Default of Trade Contractor. In addition, the Construction Manager may with its own forces perform Work encompassed within any Trade Contract between the Construction Manager and any Trade Contractor upon the termination of such Trade



Contract by the Construction Manager by reason of the default or abandonment of the Work by the Trade Contractor but, except as provided in Article 1.5.5, the Construction Manager shall perform such Work or the balance thereof remaining at the time of termination for an amount not exceeding the contract sum specified in the Trade Contract or the unexpended balance thereof remaining at the time of termination, except as provided in Article 1.5.5, but Construction Manager's Fee shall not be reduced, or increased on account of the Work performed under this Paragraph 3.7.11.2.

- B. Except as modified herein, the Agreement remains in full force and effect and has not been modified or amended.
- C. If there is a conflict between this First Amendment and the Agreement, the provisions of this Amendment shall prevail.

OWNER


CONSTRUCTION MANAGER

Fort Bend County, Texas


JE Dunn Construction

BY: Owner's Representative

BY:



Don Brady, Director
Facilities Management and Planning Dept.



~~Executive Vice-President~~

Date: 10/10/12

Date: 10/11/12