

DRAFT AIA® Document A102™ - 2017

Exhibit A

Insurance and Bonds

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Contractor, dated the [redacted] day of [redacted] in the year 2018
(In words, indicate day, month and year.)

for the following PROJECT:
(Name and location or address)

Project Name
Street
City, State Zip

THE OWNER:
(Name, legal status and address)

Tarrant County Hospital District d/b/a JPS Health Network
1500 S. Main Street
Fort Worth, Texas 76104
Telephone Number: 817-702-4934
Fax Number: 817-702-4940

THE CONTRACTOR:
(Name, legal status and address)

Contractor Name
Street
City, State Zip
Phone Number

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ARTICLE A.1 GENERAL

The Contractor shall purchase and maintain insurance, and provide bonds, as set forth in this Exhibit. As used in this Exhibit, the term General Conditions refers to AIA Document A201™-2017 (as modified by Owner in the Agreement), General Conditions of the Contract for Construction.

ARTICLE A.2 OWNER'S INSURANCE

§ A.2.1 General
Omitted Intentionally.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with AIA Document A201™-2017, General Conditions of the Contract for Construction. Article 11 of A201™-2017 contains additional insurance provisions.

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§ A.2.2 Liability Insurance

The Owner is a political subdivision of the State of Texas, subject to the Texas Tort Claims Act (Tex. Civil Practice & Remedies Code Chapter 101), under which liability of Owner for tort claims is limited as provided in the Texas Tort Claims Act. The Owner is responsible for purchasing and maintaining or otherwise providing only such liability insurance, as Owner, in its sole discretion, may choose to purchase or provide. Owner may, in its sole discretion, self-insure as to all or any portion thereof.

§ A.2.3 Required Property Insurance

§ A.2.3.1 Whether or not the obligation to purchase builder's risk insurance for the Project is placed on the Contractor pursuant to Section A.3.3.2.1, the Owner may, in its sole discretion, but shall have no obligation to, purchase and maintain from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, or provide by self-insurance, property insurance written on a builder's risk "all-risks" completed value or equivalent policy form and sufficient determined reasonable by Owner, in its sole discretion, to cover the Project. The Owner's property insurance coverage shall be in such amounts determined by Owner in its sole discretion.

§ A.2.3.2 Occupancy or Use Prior to Substantial Completion. The Owner's occupancy or use of any completed or partially completed portion of the Work prior to Substantial Completion shall not commence until the insurance company or companies providing the insurance under Section A.2.3.1 have consented in writing to the continuance of coverage. The Owner and the Contractor shall take no action with respect to partial occupancy or use that would cause cancellation, lapse, or reduction of insurance, unless they agree otherwise in writing.

§ A.2.3.3 Insurance for Existing Structures

If the Work involves remodeling an existing structure or constructing an addition to an existing structure, the Owner shall purchase and maintain, such coverages in such amounts as Owner may elect in its sole discretion.

ARTICLE A.3 CONTRACTOR'S INSURANCE AND BONDS

§ A.3.1 General

§ A.3.1.1 Certificates of Insurance. The Contractor shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article A.3 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. An additional certificate evidencing continuation of commercial liability coverage, including coverage for completed operations (and a provision that coverages afforded under the policies will not be canceled or allowed to expire until at least 60 days' prior written notice has been given to the Owner), shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the periods required by Section A.3.2.1 and Section A.3.3.1. The certificates will show the Owner as an additional insured on the Contractor's Commercial General Liability and excess or umbrella liability policy or policies.

§ A.3.1.2 Deductibles and Self-Insured Retentions. The Contractor shall disclose to the Owner any deductible or self-insured retentions applicable to any insurance required to be provided by the Contractor.

§ A.3.1.3 Additional Insured Obligations. To the fullest extent permitted by law, the Contractor shall cause the commercial general liability coverage to include (1) the Owner, the Architect, and the Architect's consultants as additional insureds for claims caused in whole or in part by the Contractor's negligent acts or omissions during the Contractor's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Contractor's negligent acts or omissions for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of the Owner's general liability insurance policies and shall apply to both ongoing and completed operations. To the extent commercially available, the additional insured coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) forms CG 20 10 07 04, CG 20 37 07 04, and, with respect to the Architect and the Architect's consultants, CG 20 32 07 04.

§ A.3.2 Contractor's Required Insurance Coverage

§ A.3.2.1 The Contractor shall purchase and maintain the following types and limits of insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

(If the Contractor is required to maintain insurance for a duration other than the expiration of the period for correction of Work, state the duration.)

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§ A.3.2.2 Commercial General Liability

§ A.3.2.2.1 Commercial General Liability insurance for the Project (including Premises Operations, Independent Contractors and Completed Operations/Products), written on an occurrence form with policy limits of not less than Five Hundred Thousand Dollars (\$500,000) each occurrence for bodily injury, Five Hundred Thousand Dollars (\$500,000) general aggregate for bodily injury, and One Hundred Thousand Dollars (\$100,000) aggregate for products-completed operations hazard, providing coverage for claims including:

- .1 Claims under workers' compensation, disability benefit and other similar employee benefit acts that are applicable to the Work to be performed;
- .2 Claims for damages because of bodily injury, occupational sickness or disease, or death of the Contractor's employees;
- .3 Claims for damages because of bodily injury, sickness or disease, or death of any person other than the Contractor's employees;
- .4 Claims for damages insured by usual personal injury liability coverage;
- .5 Claims for damages, other than to the Work itself, because of injury to or destruction of tangible property, including loss of use resulting therefrom;
- .6 Claims for damages because of bodily injury, death of a person or property damage arising out of ownership, maintenance or use of a motor vehicle;
- .7 Claims for bodily injury or property damage arising out of completed operations; and
- .8 the Contractor's indemnity obligations under Section 3.18 of the General Conditions.

§ A.3.2.2.2 The Contractor's Commercial General Liability policy under this Section A.3.2.2 shall not contain an exclusion or restriction of coverage for the following:

- .1 Claims by one insured against another insured, if the exclusion or restriction is based solely on the fact that the claimant is an insured, and there would otherwise be coverage for the claim.
- .2 Claims for property damage to the Contractor's Work arising out of the products-completed operations hazard where the damaged Work or the Work out of which the damage arises was performed by a Subcontractor.
- .3 Claims for bodily injury other than to employees of the insured.
- .4 Claims for indemnity under Section 3.18 of the General Conditions arising out of injury to employees of the insured.
- .5 Claims or loss excluded under a prior work endorsement or other similar exclusionary language.
- .6 Claims or loss due to physical damage under a prior injury endorsement or similar exclusionary language.
- .7 Claims related to residential, multi-family, or other habitational projects, if the Work is to be performed on such a project.
- .8 Claims related to roofing, if the Work involves roofing.
- .9 Claims related to exterior insulation finish systems (EIFS), synthetic stucco or similar exterior coatings or surfaces, if the Work involves such coatings or surfaces.
- .10 Claims related to earth subsidence or movement, where the Work involves such hazards.
- .11 Claims related to explosion, collapse and underground hazards, where the Work involves such hazards.

Property Damage Liability Insurance shall provide Broad Form Property Damage Liability coverage and XCU (Explosion, Collapse and Underground Property Damage Liability) coverage as applicable.

§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Contractor, with policy limits of not less than Two Hundred Fifty Thousand Dollars (\$250,000) per person, Five Hundred Thousand Dollars (\$500,000) per accident, for bodily injury, death of any person, and not less than One Hundred Thousand Dollars (\$100,000) property damage per occurrence arising out of the ownership, maintenance and use of those motor vehicles along with any other statutorily required automobile coverage.

§ A.3.2.4 The Contractor may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section A.3.2.2 and A.3.2.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ A.3.2.4.1 The Contractor shall NOT include any of the following insurance coverages under or in connection with the Contractor's base proposal or base Contract Sum; however the Contractor shall provide the respective additional cost for each of the following amounts of coverage for the liability insurance under Section A.3.2.2 as alternates in the bid proposal for the Owner's review and consideration:

- a. \$1,000,000 Each Occurrence Bodily Injury/Property Damage Combined
\$1,000,000 Aggregate Bodily Injury/Property Damage Combined
- b. \$3,000,000 Each Occurrence Bodily Injury/Property Damage Combined
\$3,000,000 Aggregate Bodily Injury/Property Damage Combined
- c. \$5,000,000 Each Occurrence Bodily Injury/Property Damage Combined
\$5,000,000 Aggregate Bodily Injury/Property Damage Combined

§ A.3.2.4.2 In the event Owner elects to require any of the alternate coverage amounts set forth in any of Sections A.3.2.4.1 a, b or c above, such coverage in such amounts shall be provided and maintained by the Contractor from the award of the Contract until after the Final Completion at the additional cost submitted by Contractor with its alternative proposal.

§ A.3.2.5 Workers' Compensation at statutory limits.

§ A.3.2.6 Employers' Liability with policy limits not less than One Hundred Thousand Dollars (\$100,000) each accident, One Hundred Thousand Dollars (\$100,000) each employee, and Five Hundred Thousand Dollars (\$500,000) policy limit.

§ A.3.2.7 Jones Act, and the Longshore & Harbor Workers' Compensation Act, as required, if the Work involves hazards arising from work on or near navigable waterways, including vessels and docks

§ A.3.2.8 If the Contractor is required to furnish professional services as part of the Work, the Contractor shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than Five Hundred Thousand Dollars (\$500,000) in the aggregate.

§ A.3.2.9 If the Work involves the transport, dissemination, use, or release of pollutants, the Contractor shall procure Pollution Liability insurance, with policy limits of not less than Five Hundred Thousand Dollars (\$500,000) per claim and Seven Hundred Fifty Thousand Dollars (\$750,000) in the aggregate.

§ A.3.2.10 Coverage under Sections A.3.2.8 and A.3.2.9 may be procured through a Combined Professional Liability and Pollution Liability insurance policy, with combined policy limits of not less than Five Hundred Thousand Dollars (\$500,000) per claim and Seven Hundred Fifty Thousand Dollars (\$750,000) in the aggregate.

§ A.3.2.11 Left blank intentionally.

§ A.3.2.12 Left blank intentionally.

§ A.3.3 Contractor's Other Insurance Coverage

§ A.3.3.1 Insurance selected and described in this Section A.3.3 shall be purchased from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Contractor shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

(If the Contractor is required to maintain any of the types of insurance selected below for a duration other than the expiration of the period for correction of Work, state the duration.)

§ A.3.3.2 The Contractor shall purchase and maintain the following types and limits of insurance in accordance with Section A.3.3.1.

(Select the types of insurance the Contractor is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. Where policy limits are provided, include the policy limit in the appropriate fill point.)

- § A.3.3.2.1 Contractor shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance written on a builder's risk "all-risks" completed value or equivalent policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. Such builder's risk property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Contractor, Subcontractors, and Sub-subcontractors in the Project as insureds. The Contractor shall comply with all obligations of the Owner under Section A.2.3 except to the extent provided below. The Contractor shall disclose to the Owner the amount of any deductible, and the Owner shall be responsible for losses within the deductible. Upon request, the Contractor shall provide the Owner with a copy of the property insurance policy or policies required. The Owner shall adjust and settle the loss with the insurer and be the trustee of the proceeds of the property insurance in accordance with Article 11 of the General Conditions.
- § A.3.3.2.3 Asbestos Abatement Liability Insurance, with policy limits of not less than <> (\$ <>) per claim and <> (\$ <>) in the aggregate, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.

§ A.3.4 Performance Bond and Payment Bond

The Contractor shall furnish, and maintain in full force and effect until after Final Completion, bonds covering faithful performance of the Contract and payment of obligations arising thereunder. Such bonds shall be provided by a commercial surety in duration, form and substance which comply, in all respects, with the provisions of the McGregor Act and may be obtained through the Contractor's usual source. All cost and expense required to procure and maintain such bonds shall be included in the Contract Sum. The amount of the surety's obligation on such payment and performance bonds shall be equal to 100 percent of the Contract Sum.

- .1 The Contractor shall deliver the required bonds to the Owner in the required amounts, form and substance not later than three (3) days following the date the Contract has been signed by both Contractor and Owner; provided, however if the Work is to be commenced prior three (3) days following the date the Contract is executed in response or pursuant to a letter of intent or some other form of agreement and instructions of Owner to proceed, the Contractor shall, prior to the commencement of the Work, submit evidence satisfactory to the Owner that such bonds will be furnished in compliance with the provisions of this Section 11.5.
- .2 All bonds provided pursuant to this Section 11.5 shall be executed by the attorney-in-fact on behalf of the surety and a certified and current copy of the power of attorney appointing such attorney-in-fact shall be affixed thereto. All payment and performance bonds shall be issued by a commercial surety company having a rating of by A.M. Best Company, Inc. of A VIII or better in Best's Key Rating Guide.
- .3 The surety on any payment or performance bond provided pursuant to this Section 11.5 shall be deemed insolvent for the purposes of this Section 11.5 upon the occurrence of any one or more of the following events: (1) such surety becomes insolvent (as defined by Sec. 24.003 of Chapter 24 of the Texas Business and Commerce Code), (2) an order for relief is entered for or against such surety under any chapter of the United Bankruptcy Code, as hereafter amended, (3) such surety voluntarily or involuntarily makes an assignment for the benefit of creditors, and/or (4) a conservator, receiver or similar fiduciary is appointed over all or substantially all of such surety's assets. In the event the

surety on any bond provided by Contractor under the Agreement becomes insolvent during the term of the Agreement, at the Owner's request the Contractor shall immediately exercise every best commercial effort to replace the bond of the insolvent or bankrupt surety with the bond of another surety meeting the requirements of this Section 11.5 covering the balance of the Work in order to assure completion of the Project in a statutorily acceptable bonded condition. The Owner agrees to reimburse Contractor for the direct cost of any reasonable and standard bond premium associated with acquiring any such new surety bond.

§ A.3.4.2 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Agreement, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ A.3.4.2 Payment and Performance Bonds shall be AIA Document A312™, Payment Bond and Performance Bond, or contain provisions identical to AIA Document A312™, or other form reasonably acceptable to the Owner, current as of the date of this Agreement.

ARTICLE A.4 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Insurance and Bonds Exhibit, if any, are as follows:

Failure on the part of Contractor to procure and continuously maintain in effect any one or more of the insurance policies and coverages required by this Exhibit or in Section 11 of the General Terms and Conditions shall constitute a material breach of this Agreement. In addition to the remedies provided in the Agreement for material breach, and without limiting same, in the event of a material breach regarding insurance coverage and/or amounts, the Owner may, but shall have no obligation to, procure or renew any such required insurance policies and/or coverages and pay any and all premiums in connection therewith, and Contractor shall immediately repay all costs and expenses incurred by Owner in connection therewith upon demand by Owner, and the Owner shall have the right and privilege, at its sole election, to setoff such costs and expenses against the Contract Sum and any period payments thereof otherwise unpaid and due to Contractor, without prior notice to or consent of Contractor.