



# City of League City, TX

300 West Walker  
League City TX 77573

## Text File

File Number: 18-0734

**Agenda Date:** 12/11/2018

**Version:** 1

**Status:** Consent Agenda

**In Control:** City Council

**File Type:** Agenda Item

**Agenda Number:** 9H.

### Title

Consider and take action on a resolution authorizing a construction contract with Triad Retail Construction, Inc. for the League City Animal Care and Adoption Center Project (PD1502), in the amount of \$4,299,900.00 and establish a budget of \$429,990.00 for a Construction Work Change Directive (Director of Budget & Project Management)

### ..Background:

If approved, this resolution will authorize the award of the construction contract to Triad Retail Construction, Inc. for the League City Animal Care and Adoption Center Project (Bid No. 19-PD-001), in the amount of \$4,299,900.00 and establish a budget of \$429,990.00 for a Construction Work Change Directive for a construction cost total of \$4,729,800.

The League City Animal Care and Adoption Center projects includes the construction of a new single-story animal care and adoption center with approximately 13,025 square feet of floor area and will include green space, parking, and site improvements. The project site will be located at 755 West Walker Street, League City, Texas 77573.

There were five (5) proposals received, and they were evaluated for best value by an Evaluation Committee for the recommendation of the construction award. The top three (3) proposals based on the evaluation of the Evaluation Committee were:

- (1) Triad Retail Construction with a proposal of \$4,299,900.
- (2) Construction LTD with a proposal of \$5,156,000
- (3) Construction Masters of Houston with a proposal of \$5,550,000

The Evaluation Committee recommends awarding the contract to Triad Retail Construction, Inc. for the base amount of \$4,299,900.00 as the best value offeror to the City. Staff anticipates the total cost, including construction, furniture, fixtures and equipment (FFE), and architectural services, to be considerably less than the \$7,500,000 approved project amount. FF&E will be purchased using competitive procurement methods, when possible, providing additional savings.

This project is anticipated to take 365 calendar days from the notice to proceed.

### Attachment:

- 1) Data Sheet
- 2) Proposed Resolution
- 3) Exhibit A - Construction Agreement

- 4) Recommendation Memorandum
- 5) Evaluation Summary
- 6) Aerial Location Map

FUNDING

{X} Funding in the amount of \$4,729,800 is available from 2018 CO Fund 5345 with expenses charged to project expense string PD1502-CONSTRUCT-CONSTRUCT-2018CO.

STRATEGIC PLANNING

{x} Addresses Strategic Planning Critical Success Factor #4 and Initiative #7C

*Resolution No. 2018-193*



# AIA® Document A101™ – 2017

## **Standard Form of Agreement Between Owner and Contractor** where the basis of payment is a Stipulated Sum

**AGREEMENT** made as of the Twelfth day of December in the year Two Thousand Eighteen  
(In words, indicate day, month and year.)

**BETWEEN** the Owner:

(Name, legal status, address and other information)

City of League City  
300 West Walker Street  
League City, Texas 77573  
Telephone Number: 281-554-1026

and the Contractor:

(Name, legal status, address and other information)

Triad Retail Construction, Inc.  
2206 O'Day Road  
Pearland, Texas 77581  
Telephone Number: 281-485-4700

for the following Project:

(Name, location and detailed description)

League City Animal Care and Adoption Center (CIP# PD1502)  
755 West Walker Street  
League City, Texas 77573

New Single-Story Animal Care and Adoption Center

The Architect:

(Name, legal status, address and other information)

Jackson & Ryan Architects, Inc.  
2370 Rice Boulevard, Suite 210  
Houston, Texas 77005  
Telephone Number: 713-526-5436

The Owner and Contractor agree as follows.

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

The parties should complete A101™–2017, Exhibit A, Insurance and Bonds, contemporaneously with this Agreement. AIA Document A201™–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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User Notes:

(1750745720)

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## EXHIBIT A INSURANCE AND BONDS

### ARTICLE 1 THE CONTRACT DOCUMENTS

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary, and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract, and are as fully a part of the Contract as if attached to this Agreement or repeated herein. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. An enumeration of the Contract Documents, other than a Modification, appears in Article 9.

### ARTICLE 2 THE WORK OF THIS CONTRACT

The Contractor shall fully execute the Work described in the Contract Documents, except as specifically indicated in the Contract Documents to be the responsibility of others.

### ARTICLE 3 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION

§ 3.1 The date of commencement of the Work shall be:  
(Check one of the following boxes.)

- ☐ The date of this Agreement.
- ☒ A date set forth in a notice to proceed issued by the Owner.
- ☐ Established as follows:  
(Insert a date or a means to determine the date of commencement of the Work.)

If a date of commencement of the Work is not selected, then the date of commencement shall be the date of this Agreement.

§ 3.2 The Contract Time shall be measured from the date of commencement of the Work.

#### § 3.3 Substantial Completion

§ 3.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Contractor shall achieve Substantial Completion of the entire Work:  
(Check one of the following boxes and complete the necessary information.)

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[ ☒ ] Not later than three hundred sixty-five ( 365 ) calendar days from the date of commencement of the Work.

[ ☐ ] By the following date:

§ 3.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Contractor shall achieve Substantial Completion of such portions by the following dates:

Portion of Work	Substantial Completion Date
<u>N/A</u>	

§ 3.3.3 If the Contractor fails to achieve Substantial Completion as provided in this Section 3.3, liquidated damages, if any, shall be assessed as set forth in Section 4.5.

#### ARTICLE 4 CONTRACT SUM

§ 4.1 The Owner shall pay the Contractor the Contract Sum in current funds for the Contractor's performance of the Contract. The Contract Sum shall be four million two hundred ninety-nine thousand nine hundred dollars (\$ 4,299,900.00), subject to additions and deductions as provided in the Contract Documents.

#### § 4.2 Alternates

§ 4.2.1 Alternates, if any, included in the Contract Sum:

Item	Price
<u>N/A</u>	

§ 4.2.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Agreement. Upon acceptance, the Owner shall issue a Modification to this Agreement. *(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)*

Item	Price	Conditions for Acceptance
<u>N/A</u>		

§ 4.3 Allowances, if any, included in the Contract Sum:  
*(Identify each allowance.)*

Item	Price
<u>Allowance #1 – Owner's Contingency</u>	<u>\$215,000.00</u>

§ 4.4 Unit prices, if any:  
*(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)*

Item	Units and Limitations	Price per Unit (\$0.00)
<u>N/A</u>		

§ 4.5 Liquidated damages, if any:  
*(Insert terms and conditions for liquidated damages, if any.)*

\$1,000 per calendar day beyond substantial completion. \$500 per calendar day for non-completion of punch list beyond 60 days.

§ 4.6 Other:  
*(Insert provisions for bonus or other incentives, if any, that might result in a change to the Contract Sum.)*

## ARTICLE 5 PAYMENTS

### § 5.1 Progress Payments

§ 5.1.1 Based upon Applications for Payment submitted to the Architect by the Contractor and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum to the Contractor as provided below and elsewhere in the Contract Documents.

§ 5.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

N/A

§ 5.1.3 Provided that an Application for Payment is received by the Architect not later than the 5th day of a month, the Owner shall make payment of the amount certified to the Contractor not later than the 15th day of the following month. If an Application for Payment is received by the Architect after the application date fixed above, payment of the amount certified shall be made by the Owner not later than forty-five (45) days after the Architect receives the Application for Payment.

*(Federal, state or local laws may require payment within a certain period of time.)*

§ 5.1.4 Each Application for Payment shall be based on the most recent schedule of values submitted by the Contractor in accordance with the Contract Documents. The schedule of values shall allocate the entire Contract Sum among the various portions of the Work. The schedule of values shall be prepared in such form, and supported by such data to substantiate its accuracy, as the Architect may require. This schedule of values shall be used as a basis for reviewing the Contractor's Applications for Payment.

§ 5.1.5 Applications for Payment shall show the percentage of completion of each portion of the Work as of the end of the period covered by the Application for Payment.

§ 5.1.6 In accordance with AIA Document A201™–2017, General Conditions of the Contract for Construction, and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 5.1.6.1 The amount of each progress payment shall first include:

- .1 That portion of the Contract Sum properly allocable to completed Work;
- .2 That portion of the Contract Sum properly allocable to materials and equipment delivered and suitably stored at the site for subsequent incorporation in the completed construction, or, if approved in advance by the Owner, suitably stored off the site at a location agreed upon in writing; and
- .3 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified.

§ 5.1.6.2 The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;
- .3 Any amount for which the Contractor does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Contractor intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017; and
- .5 Retainage withheld pursuant to Section 5.1.7.

### § 5.1.7 Retainage

§ 5.1.7.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

*(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)*

5% of Contract Sum properly allocable to completed work. 5% of materials and equipment delivered and

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suitably stored at the site for subsequent incorporation in the completed construction

§ 5.1.7.1.1 The following items are not subject to retainage:

*(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)*

Division one items.

§ 5.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:

*(If the retainage established in Section 5.1.7.1 is to be modified prior to Substantial Completion of the entire Work, including modifications for Substantial Completion of portions of the Work as provided in Section 3.3.2, insert provisions for such modifications.)*

The full 5% will be retained until Substantial Completion of the work has been achieved.

§ 5.1.7.3 Except as set forth in this Section 5.1.7.3, upon Substantial Completion of the Work, the Contractor may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 5.1.7. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:

*(Insert any other conditions for release of retainage upon Substantial Completion.)*

Retainage shall not be submitted until all incomplete work and punch list items are completed. Contractor may submit application for reduction of retainage down to 1% after completion of work and of punch list items if close out documents are not completed to date.

§ 5.1.8 If final completion of the Work is materially delayed through no fault of the Contractor, the Owner shall pay the Contractor any additional amounts in accordance with Article 9 of AIA Document A201–2017.

§ 5.1.9 Except with the Owner's prior approval, the Contractor shall not make advance payments to suppliers for materials or equipment which have not been delivered and stored at the site.

## § 5.2 Final Payment

§ 5.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Contractor when

- .1 the Contractor has fully performed the Contract except for the Contractor's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment; and
- .2 a final Certificate for Payment has been issued by the Architect.

§ 5.2.2 The Owner's final payment to the Contractor shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

and after contractor has submitted and Architect has approved all Project closeout requirements including all releases of liens, etc.

## § 5.3 Interest

~~Payments due and unpaid under the Contract shall bear interest from the date payment is due at the rate stated below, or in the absence thereof, at the legal rate prevailing from time to time at the place where the Project is located.~~

~~(Insert rate of interest agreed upon, if any.)~~ Delayed Payments: Should OWNER fail to make payment to CONTRACTOR of sum named

in any Application for Payment within thirty (30) calendar days after the day on which OWNER received the mutually acceptable Application for Payment, then OWNER will pay to CONTRACTOR, in addition to sum shown as due by such Application for Payment, interest thereon at the rate specified in Government Code, Section 2251.025(b) from date due until fully paid, which shall fully liquidate any injury to CONTRACTOR growing out of such delay in

—%—payment.

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## ARTICLE 6 DISPUTE RESOLUTION

### § 6.1 Initial Decision Maker

The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017, unless the parties appoint below another individual, not a party to this Agreement, to serve as the Initial Decision Maker.

*(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)*

### § 6.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by, mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:

*(Check the appropriate box.)*

- ☐ Arbitration pursuant to Section 15.4 of AIA Document A201–2017
- ☒ Litigation in a court of competent jurisdiction
- ☐ Other *(Specify)*

If the Owner and Contractor do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent ~~jurisdiction~~ jurisdiction in Galveston County, Texas.

## ARTICLE 7 TERMINATION OR SUSPENSION

§ 7.1 The Contract may be terminated by the Owner or the Contractor as provided in Article 14 of AIA Document A201–2017.

§ 7.1.1 If the Contract is terminated for the Owner's convenience in accordance with Article 14 of AIA Document A201–2017, then the Owner shall pay the Contractor a termination fee as follows:

*(Insert the amount of, or method for determining, the fee, if any, payable to the Contractor following a termination for the Owner's convenience.)*

Cost of work completed and accepted to date. No termination fee.

§ 7.2 The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201–2017.

## ARTICLE 8 MISCELLANEOUS PROVISIONS

§ 8.1 Where reference is made in this Agreement to a provision of AIA Document A201–2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 8.2 The Owner's representative:

*(Name, address, email address, and other information)*

Gary Ratliff, Chief of Police  
City of League City Police Department  
555 West Walker Street  
League City, Texas 77573  
Telephone Number: 281-338-4180

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Email Address: [Gary.Ratliff@leaguecitytx.gov](mailto:Gary.Ratliff@leaguecitytx.gov)

§ 8.3 The Contractor's representative:  
(Name, address, email address, and other information)

Hernan Morales, Chief Executive Officer  
Triad Retail Construction, Inc.  
2206 O'Day Road  
Pearland, Texas 77581  
Telephone Number: 281-485-4700

Email Address: [h.morales@triadrc.com](mailto:h.morales@triadrc.com)

§ 8.4 Neither the Owner's nor the Contractor's representative shall be changed without ten days' prior notice to the other party.

#### § 8.5 Insurance and Bonds

§ 8.5.1 The Owner and the Contractor shall purchase and maintain insurance as set forth in AIA Document A101™-2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 8.5.2 The Contractor shall provide bonds as set forth in AIA Document A101™-2017 Exhibit A, and elsewhere in the Contract Documents.

§ 8.6 Notice in electronic format, pursuant to Article 1 of AIA Document A201-2017, may be given in accordance with AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, if completed, or as otherwise set forth below:

*(If other than in accordance with AIA Document E203-2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)*

AIA E203 attached herewith.

§ 8.7 Other provisions:

N/A

#### ARTICLE 9 ENUMERATION OF CONTRACT DOCUMENTS

§ 9.1 This Agreement is comprised of the following documents:

- .1 AIA Document A101™-2017, Standard Form of Agreement Between Owner and Contractor
- .2 ~~AIA Document A101™-2017, Exhibit A, Insurance and Bonds~~
- .3 AIA Document A201™-2017, General Conditions of the Contract for Construction
- ~~.4 AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:~~

*(Insert the date of the E203-2013 incorporated into this Agreement.)*

~~.5~~ .4 Drawings

Number	Title	Date
<u>See attached Exhibit B</u>		

~~.6~~ .5 Specifications

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Section	Title	Date	Pages
	See attached Exhibit C		

7. 6 Addenda, if any:

Number	Date	Pages
Addendum No. 01	October 26, 2018	18
Addendum No. 02	October 26, 2018	1
Addendum No. 03	October 30, 2018	3

Portions of Addenda relating to bidding or proposal requirements are not part of the Contract Documents unless the bidding or proposal requirements are also enumerated in this Article 9.

8. 7 Other Exhibits:

*(Check all boxes that apply and include appropriate information identifying the exhibit where required.)*

☐ AIA Document E204™-2017, Sustainable Projects Exhibit, dated as indicated below:  
*(Insert the date of the E204-2017 incorporated into this Agreement.)*

N/A

☐ The Sustainability Plan:

Title	Date	Pages
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☐ Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
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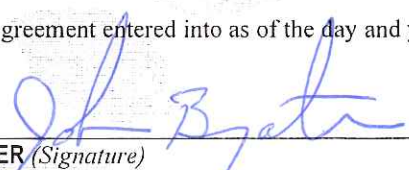
As outlined in the Project Manual.

9. 8 Other documents, if any, listed below:

*(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201™-2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)*

N/A

This Agreement entered into as of the day and year first written above.

  
OWNER (Signature)

John Baumgartner, City Manager  
(Printed name and title)

  
CONTRACTOR (Signature)

Hernan Morales, Chief Executive Officer  
(Printed name and title)

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User Notes:

(1750745720)



## ***Certification of Document's Authenticity***

***AIA® Document D401™ – 2003***

I, Martha Seng, FAIA, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with this certification at 09:02:10 ET on 01/08/2019 under Order No. 8629719898 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A101™ – 2017, Standard Form of Agreement Between Owner and Contractor where the basis of payment is a Stipulated Sum, as published by the AIA in its software, other than changes shown in the attached final document by underscoring added text and striking over deleted text.

  
(Signed)

Principal  
(Title)

January 08, 2019  
(Dated)