



# AIA® Document A133® – 2019 Exhibit A

## Guaranteed Maximum Price Amendment

This Amendment dated the \_\_\_ day of September in the year 2024, is incorporated into the accompanying AIA Document A133™–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price dated the 21st day of March in the year 2016 (the "Agreement")

*(In words, indicate day, month, and year.)*

for the following **PROJECT**:

*(Name and address or location)*

Comal Springs Conservation Center  
333 East Klingemann Street  
New Braunfels, Texas 78130

Phase 2 – Building interior Finish Out and Additional Landscaping

### THE OWNER:

*(Name, legal status, and address)*

New Braunfels Utilities (NBU), a municipally owned utility  
263 Main Plaza  
New Braunfels, Texas 78130

### THE CONSTRUCTION MANAGER:

*(Name, legal status, and address)*

Thos. S. Byrne, Inc.  
5851 Sebastian Place  
San Antonio, Texas 78249

### 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. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

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

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.

## TABLE OF ARTICLES

- A.1 GUARANTEED MAXIMUM PRICE
- A.2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION
- A.3 INFORMATION UPON WHICH AMENDMENT IS BASED
- A.4 CONSTRUCTION MANAGER'S CONSULTANTS, CONTRACTORS, DESIGN PROFESSIONALS, AND SUPPLIERS

### ARTICLE A.1 GUARANTEED MAXIMUM PRICE

#### § A.1.1 Guaranteed Maximum Price

Pursuant to Section 2.2 of the Agreement, the Owner and Construction Manager hereby amend the Agreement to establish a Guaranteed Maximum Price for Phase 2 – Building interior Finish Out and Additional Landscaping. As agreed by the Owner and Construction Manager, the Guaranteed Maximum Price is an amount that the Contract Sum shall not

exceed. The Contract Sum consists of the Construction Manager's Fee plus the Cost of the Work, as that term is defined in Article 6 of the Agreement.

§ A.1.1.1 The Contract Sum is guaranteed by the Construction Manager not to exceed Four Million Three Hundred Forty-Four Thousand Five Hundred Thirteen dollars (\$ 4,344,513.00 ), subject to additions and deductions by Change Order as provided in the Contract Documents.

§ A.1.1.2 **Itemized Statement of the Guaranteed Maximum Price.** Provided below is an itemized statement of the Guaranteed Maximum Price organized by trade categories, including allowances; the Construction Manager's contingency; alternates; the Construction Manager's Fee; and other items that comprise the Guaranteed Maximum Price as defined in Section 3.2.1 of the Agreement.

*(Provide itemized statement below or reference an attachment.)*

A detailed cost breakdown of the Building Interior Finish Out and Additional Landscaping components included in the Phase 2 Building Interior Finish Out and Additional Landscaping GMP are shown in Exhibit B – Phased Cost Estimate Summary Sheet. The Phase 2 Building Interior Finish Out and Additional Landscaping GMP includes construction of the Building Interior Finish Out and Additional Landscaping components listed in the Contract Documents List (Exhibit C).

§ A.1.1.3 The Construction Manager's Fee is a fixed fee of One Hundred Twenty-Four Thousand Four Hundred Ninety-One dollars (\$124,491.00) based on a fee percentage of 2.95% of the Cost of the Work.

§ A.1.1.4 The method of adjustment of the Construction Manager's Fee for changes in the Work is set forth in Section 6.1.3 of the Agreement.

§ A.1.1.5 **Alternates**

§ A.1.1.5.1 Alternates, if any, included in the Guaranteed Maximum Price:

Item	Price
See Exhibit B	

§ A.1.1.5.2 Subject to the conditions noted below, the following alternates may be accepted by the Owner following execution of this Exhibit A. Upon acceptance, the Owner shall issue a Modification to the Agreement.  
*(Insert below each alternate and the conditions that must be met for the Owner to accept the alternate.)*

Item	Price	Conditions for Acceptance
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§ A.1.1.6 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)
See Exhibit B		

**ARTICLE A.2 DATE OF COMMENCEMENT AND SUBSTANTIAL COMPLETION**

§ A.2.1 The date of commencement of the Work shall be:

*(Check one of the following boxes.)*

The date of execution of this Amendment.

Established as follows:  
*(Insert a date or a means to determine the date of commencement of the Work.)*

The Date of commencement of the Work shall be the date the Owner issues a written Notice to Proceed following receipt of any required building permits.

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

Init.

§ A.2.2 Unless otherwise provided, the Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work. The Contract Time shall be measured from the date of commencement of the Work.

**§ A.2.3 Substantial Completion**

§ A.2.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Construction Manager shall achieve Substantial Completion of the entire Work:

*(Check one of the following boxes and complete the necessary information.)*

Not later than ( ) calendar days from the date of commencement of the Work.

By the following date: July 18, 2025, based on receipt of Notice to Proceed on November 21, 2024.

§ A.2.3.2 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 Construction Manager shall achieve Substantial Completion of such portions by the following dates:

Portion of Work	Substantial Completion Date
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§ A.2.3.3 If the Construction Manager fails to achieve Substantial Completion as provided in this Section A.2.3, liquidated damages, if any, shall be assessed as set forth in Section 6.1.6 of the Agreement.

**ARTICLE A.3 INFORMATION UPON WHICH AMENDMENT IS BASED**

§ A.3.1 The Guaranteed Maximum Price and Contract Time set forth in this Amendment are based on the Contract Documents and the following:

§ A.3.1.1 The following Supplementary and other Conditions of the Contract:

Document	Title	Date	Pages
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§ A.3.1.2 The following Specifications:  
*(Either list the Specifications here, or refer to an exhibit attached to this Amendment.)*

See Exhibit C

Section	Title	Date	Pages
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§ A.3.1.3 The following Drawings:  
*(Either list the Drawings here, or refer to an exhibit attached to this Amendment.)*

See Exhibit C

Number	Title	Date
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§ A.3.1.4 The Sustainability Plan, if any:  
*(If the Owner identified a Sustainable Objective in the Owner's Criteria, identify the document or documents that comprise the Sustainability Plan by title, date and number of pages, and include other identifying information. The Sustainability Plan identifies and describes the Sustainable Objective; the targeted Sustainable Measures; implementation strategies selected to achieve the Sustainable Measures; the Owner's and Construction Manager's roles and responsibilities associated with achieving the Sustainable Measures; the specific details about design reviews, testing or metrics to verify achievement of each Sustainable Measure; and the Sustainability Documentation required for the Project, as those terms are defined in Exhibit C to the Agreement.)*

Title

Date

Pages

Other identifying information:

§ A.3.1.5 Allowances, if any, included in the Guaranteed Maximum Price:  
(Identify each allowance.)

Item	Price
See Exhibit B	

§ A.3.1.6 Assumptions and clarifications, if any, upon which the Guaranteed Maximum Price is based:  
(Identify each assumption and clarification.)

See Exhibit B and the following:

Material costs have been calculated based on the current prices for labor, equipment, and the component building materials. However, the market for building materials has been volatile, labor shortages are possible, and sudden price increases could occur.

If prices have escalated due to tariffs, material shortages, labor unavailability, or other financial market events beyond Contractor's control, Contractor may be entitled to an equitable adjustment in the contract sum.

Any claim by Contractor for an equitable adjustment, as provided above, requires advance written notice delivered by Contractor to Owner. Contractor's notice shall include the following items: an explanation of the increase in cost for the impacted labor, building materials, or equipment; the source of supply supported by invoices, bills of sale, payroll reports, pricing sheets, work orders, etc. to substantiate the equitable adjustment, and such supporting data shall be subject to Owner's satisfaction.

Owner shall consider all provided pricing data. Owner may request additional data. If approved by Owner, Contractor shall prepare a change order memorializing adjustment in price prior to commencement of the Work subject to the claim.

In the event Owner elects, in its sole discretion, to reject Contractor's request for equitable adjustment, Contractor is not excused from continuing performance. However, Contractor then reserves its right to submit a claim through the dispute resolution process set forth in this Agreement. Owner's failure to continue performance under these circumstances shall be considered a material breach of this Agreement.

§ A.3.1.7 The Guaranteed Maximum Price is based upon the following other documents and information:  
(List any other documents or information here, or refer to an exhibit attached to this Amendment.)

See Exhibits B & C, which are attached and incorporated herein by reference.

#### ARTICLE A.4 CONSTRUCTION MANAGER'S CONSULTANTS, CONTRACTORS, DESIGN PROFESSIONALS, AND SUPPLIERS

§ A.4.1 The Construction Manager shall retain the consultants, contractors, design professionals, and suppliers, identified below:

(List name, discipline, address, and other information.)

To be determined.

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

Init.

OWNER (Signature)

Ryan Kelso Chief Executive Officer  
(Printed name and title)



CONSTRUCTION MANAGER (Signature)

Tony Battle President  
(Printed name and title)

Init.

# Additions and Deletions Report for AIA® Document A133® – 2019 Exhibit A

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 14:32:14 ET on 09/23/2024.

## PAGE 1

This Amendment dated the      day of September in the year 2024, is incorporated into the accompanying AIA Document A133™–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price dated the 21st day of March in the year 2016 (the "Agreement")

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*(Name and address or location)*

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333 East Klingemann Street  
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Phase 2 – Building interior Finish Out and Additional Landscaping

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263 Main Plaza  
New Braunfels, Texas 78130

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Thos. S. Byrne, Inc.  
5851 Sebastian Place  
San Antonio, Texas 78249

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Pursuant to Section ~~3-2.6-2.2~~ of the Agreement, the Owner and Construction Manager hereby amend the Agreement to establish a Guaranteed Maximum ~~Price~~ Price for Phase 2 – Building interior Finish Out and Additional Landscaping. As agreed by the Owner and Construction Manager, the Guaranteed Maximum Price is an amount that the Contract Sum shall not exceed. The Contract Sum consists of the Construction Manager's Fee plus the Cost of the Work, as that term is defined in Article 6 of the Agreement.

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## PAGE 2

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§ A.1.1.3 The Construction Manager’s Fee is set forth in Section 6.1.2 of the Agreement, a fixed fee of One Hundred Twenty-Four Thousand Four Hundred Ninety-One dollars (\$124,491.00) based on a fee percentage of 2.95% of the Cost of the Work.

...

See Exhibit B

...

See Exhibit B

...

Established as follows:

...

The Date of commencement of the Work shall be the date the Owner issues a written Notice to Proceed following receipt of any required building permits.

PAGE 3

By the following date: July 18, 2025, based on receipt of Notice to Proceed on November 21, 2024.

...

See Exhibit C

...

See Exhibit C

PAGE 4

See Exhibit B

...

See Exhibit B and the following:

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Owner shall consider all provided pricing data. Owner may request additional data. If approved by Owner, Contractor shall prepare a change order memorializing adjustment in price prior to commencement of the Work subject to the claim.

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...

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...

To be determined.

**PAGE 5**

Ryan Kelso Chief Executive Officer

Tony Battle President



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

**AIA® Document D401™ – 2003**

I, The Chapman Firm, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 14:32:14 ET on 09/23/2024 under Order No. 2114449710 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document A133™ – 2019 Exhibit A, Guaranteed Maximum Price Amendment, other than those additions and deletions shown in the associated Additions and Deletions Report.

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*(Signed)*

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*(Title)*

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*(Dated)*

