

GREGORY-PORTLAND INDEPENDENT SCHOOL DISTRICT  
Portland, Texas

**CONSTRUCTION MANAGEMENT SERVICES CONTRACT**  
**(for Three (3) Construction Projects)**

This Agreement is made by and between Gregory Portland Independent School District, a public school district and political subdivision of the State of Texas, hereinafter referred to by name, or as “G-PISD” or the “Owner”, and PROCEDEO, LLC, a Texas corporation, hereinafter referred to as “PROCEDEO” (or as the “Construction Manager” or “Consultant”), collectively referred to as the “Parties.”

WHEREAS, Gregory-Portland Independent School District has selected PROCEDEO based on demonstrated competence and qualifications to perform construction management services as required herein;

NOW THEREFORE, Gregory-Portland Independent School District and PROCEDEO, for the consideration specified herein, hereby agree as follows:

The Construction Manager shall be the Owner’s consultant and representative in providing the full range of construction management services described in this Agreement for each of three (3) G-PISD construction projects, as follows:

1. G-PISD All Purpose Practice Facility Project
2. G-PISD Baseball/Softball Replacement Fields Project
3. G-PISD Family Resource Center, M&O, Transportation Facility Project  
(hereafter referred to as “the Projects”).

The Construction Manager shall perform for each of the three Projects all construction management duties as stated in this Agreement.

**1. Scope of Work/Services.**

PROCEDEO hereby agrees at its own expense to perform or cause to be performed, on an independent contractor basis, the following construction management services for each of the three G-PISD construction projects specified above:

All construction management services for Pre-Construction Phase, Construction Phase and Post Construction Phase, as described in or reasonably inferable from PROCEDEO’s detailed Project Management **Services Proposal dated September 28, 2023** (“Services Proposal”), which is attached hereto as **Exhibit A**, and incorporated herein as part of this Contract.

It is understood and agreed that this Contract for construction management services is non-exclusive, and the District may at its option designate and separately retain other construction management consultants to perform construction management tasks for G-PISD construction projects.

It is also understood and agreed that the full range of construction management services specified in the Services Proposal (Exhibit A to this Contract) are to be performed by PROCEDEO for each of the three Projects, even if there is apparent redundancy between services performed by PRECEDEO and the

duties and services required to be performed for a Project by a designated design professional (“A/E”), a general contractor, or the duties of an entity serving in the capacity of a construction manager-at-risk (“CMAR”) for a Project. PROCEDEO shall NOT DEFER to other parties such as the A/E, general contractor or CMAR without PROCEDEO carefully and diligently undertaking to perform duties specified herein as duties of PROCEDEO, and any redundancy in services performed shall serve as a double-check or independent confirmation by Owner’s agent and fiduciary (PROCEDEO) confirming for Owner that the construction Project is being performed by the construction contractor and consultants for the Project in accordance with the Contract Documents for the Project and in Owner’s best interests (including payment application review, and confirmation of conformity of the construction with plans and specifications, and adherence to the schedule of values, stipulated Contract Price and Completion Time for each Project). PROCEDEO shall promptly bring to Owner’s attention any discrepancies or failures by design consultants and contractors to comply with the requirements of the contract documents for each Project.

The Construction Manager shall submit to Owner in writing on an agreed reporting schedule, regular project reports (based on on-site visits for each of the three Projects) concerning the quality, status and progress of the work, specifying in each instance whether the project is on schedule and within budget, and informing the Owner of any issues or decisions Construction Manager is aware of concerning disputes between any interested party and the Owner relating to the acceptability or quality of the work, pay applications, requests for change orders, or the interpretation of the requirements of the Contract Documents pertaining to the furnishing and performing of the work. During construction, the Construction Manager shall endeavor to ensure substantial conformity of the construction with plans and specifications, and shall independently review and advise Owner concerning pay applications and requests for change orders for each of the Projects. Upon close-out of each Project, Construction Manager will endeavor to assure that all Operation and Maintenance (“O&M”) manuals, as-built drawings, warranties and appropriate certifications have been received, assembled by Project, and delivered to the Owner, while under contract with the Owner.

PROCEDEO shall perform the construction management services for each Project under this Agreement in a timely manner so as not to impede or delay progress of the Owner’s construction Projects. Construction Manager shall perform the services in coordination with and as requested by the G-PISD designated representatives for this Agreement, and in coordination with project architects, engineers, contractors and other consultants working on the same or related projects. The duties, authority and responsibilities of PROCEDEO shall be as prescribed in this Agreement, and even in the event of any redundancy shall not supersede, replace or override the customary contractual duties, responsibilities and authority of the project architect and/or project engineer retained by the District for District construction projects.

PROCEDEO as Construction Manager will not be responsible for, nor does the Construction Manager control, the means, methods, techniques, sequences and procedures of construction for the Project. It is understood that the Construction Manager’s action in providing quality review under this Agreement is a service of the Construction Manager for the sole benefit of the Owner and, by performing as provided herein, the Construction Manager is not acting in a manner so as to assume responsibility or liability, in whole or in part, for all or any part of the construction for this Project or its compliance with the Contract Documents. No action taken by the Construction Manager shall relieve the Architect or General Contractor or CMAR for the Project from their obligations to perform the work in strict

conformity with the requirements of the Contract Documents, and in strict conformity with all other applicable laws, codes, rules and regulations.

## **2. Term of Agreement.**

The Term of this Agreement commences upon execution of this document by the Parties. The Construction Phases of each of the three Projects are estimated to extend into 2025, with Post-Construction management services to be provided thereafter for each of the three G-PISD construction projects as described in PROCEDEO'S Services Proposal. This Agreement shall remain in full force and effect during the above referenced time period unless terminated sooner as provided by this Agreement.

## **3. Performance of Scope of Work (staffing and facilities)**

The Construction Manager's primary responsibilities will be to assist the Owner in managing the preconstruction, construction and closeout phases of the Project, as set forth in this Agreement and the Services Proposal (Exhibit A).

PROCEDEO shall provide personnel to assist in the oversight of the construction process on behalf of Owner for all three Projects. PROCEDEO personnel assigned to provide construction management services to G-PISD shall include at least one (1) full-time certified and experienced construction manager acceptable to G-PISD to serve full-time on-site at G-PISD, with administrative and clerical support personnel from the PROCEDEO home office as needed by the assigned PROCEDEO construction manager on-site at G-PISD. The Construction Manager will act as an extension of the Owner's staff to facilitate and assist in the management of various aspects of the Projects. The Construction Manager will report directly to and work under the direction of the Owner's Designated Representative (ODR), to be identified to Construction Manager in writing by Owner.

Office Facility: The Owner will provide the assigned full-time on-site Construction Manager with full access to existing construction related contracts and documents for each of the three Projects, and an office on-site at G-PISD for Construction Manager's use until completion of the construction phases of the Projects covered by this Agreement.

The Construction Manager is responsible, at no cost or expense to Owner, for the following:

- Personal computer(s).
- Software to perform services being requested.
- Transportation and lodging.
- Any necessary office supplies.
- Any other materials or equipment required to fulfill the terms of this Agreement.

## **4. Payment for Services**

Owner will pay PROCEDEO for all services performed under this Construction Management Services Contract a total fee not to exceed **\$750,000.00**, in accordance with the Services Proposal attached as **Exhibit A**, which shall constitute complete compensation for all services performed by PROCEDEO under this Contract with respect to the Scope of Services/Work. PROCEDEO shall not be entitled to any

reimbursement for expenses or compensation for additional services performed outside of the Scope of Services/Work, unless such additional services have been authorized and approved in writing by Owner in advance of performance. (Authorized additional services, if any, shall be compensated in accordance with PROCEDEO's Standard Hourly Rate Schedule attached as Exhibit B to this Contract.)

PROCEDEO's fee shall be payable based on monthly invoices (requests for payment) detailing the services that have been performed/completed during the period covered by the invoice. Monthly invoices must be certified by PROCEDEO and by the designated G-PISD representatives for the Project, and shall be consistent with the fees specified in PROCEDEO's Services Proposal (Exhibit A to this Contract). No less than 15% of the total fixed fee is to be paid as a final payment only after certification by the designated G-PISD representatives that all Services have been successfully completed and that PROCEDEO has submitted to G-PISD all deliverables, design documents, as built drawings, certified statements, reports, test results, sampling data and other deliverables and documentation for the Project, as described in Exhibit A, as required by G-PISD's designated representatives, and as required by the Construction Contract documents for the Project. PROCEDEO's monthly invoices (requests for payment) certified by the G-PISD designated representative for the Project shall be paid by Owner within 30 days from Owner receipt of invoice.

The Construction Manager will exercise due care and diligence in monitoring the not-to-exceed total fee for construction management services to be provided under this Contract. Further, the Construction Manager shall notify Owner in advance if the construction manager recommends additional services beyond the scope of the required services under this Contract, and shall not proceed with additional services without prior written approval from Owner.

#### **5. Independent Contractor Relationship.**

In the performance of the services hereby contemplated, the Construction Manager is an independent contractor, and neither the Construction Manager nor the principals, partners, employees or subcontractors of the Construction Manager shall be deemed employees of the Owner. Nothing herein shall be construed to create a partnership, joint venture or employment arrangement between the Owner and Construction Manager.

#### **6. Termination of Contract.**

The Owner may terminate this Contract at any time, with or without cause. In such event, and after all plans and other documents and material provided by the Owner are returned to the Owner, and after Construction Manager has provided Owner copies of all drawings, plans, reports and other deliverables relating to services performed prior to termination, the Consultant shall be compensated for the services performed prior to the date of termination.

#### **7. Dispute Resolution.**

In the event that the Owner or the Construction Manager shall contend that the other has committed a material breach of this Agreement, the party alleging such breach shall, as a condition precedent to filing any lawsuit, notify the breaching party describing the breach and demanding corrective action. The breaching party has five business days from its receipt of the notice to correct the breach. If the breach cannot be corrected within five business days, either party may initiate legal action in a court of law, unless the parties mutually agree to undertake mediation as a form of dispute resolution.

**8. Propriety Information.**

It is understood between the Parties hereto that during the term of this Agreement, Construction Manager may be dealing with confidential information and processes which are the property of Owner used in the course of its business. Construction Manager agrees that Construction Manager will not disclose, directly or indirectly, any such matters, or use them other than in the course of work under this Agreement unless withholding such information would violate the law or create the risk of significant harm to the public.

**9. Assignment.**

Neither this Agreement nor any duties or obligations hereunder shall be assignable by the Construction Manager or Owner without prior written consent of the other. In the event of an assignment by the Construction Manager to which the Owner has consented, the assignee or its legal representative shall agree in writing with the Owner to personally assume, perform and be bound by the covenants, obligations, and agreements contained herein.

**10. Ownership of Documents.**

Upon the completion of each of the Projects (or upon termination prior to completion) the Construction Manager shall furnish to G-PISD a hard copy and an electronic copy of all documents in Construction Manager's possession relating to the work, including all reports, designs and drawings, specifications, change orders, construction change directives, addendum items, warranties and instructions manuals. G-PISD shall be the owner of such documents.

**11. Successors and Assigns.**

Subject to the provisions regarding assignment, this Agreement shall be binding on the heirs, executors, administrators, legal representatives, successors, and assigns of the respective Parties.

**12. Governing Law and Venue.**

The validity of this Agreement and of its terms or provisions, as well as the rights and duties of the Parties hereunder, shall be governed by the laws of the State of Texas. Any legal action brought in state court shall have venue in San Patricio County, Texas.

**13. Entire Agreement.**

This Agreement constitutes the entire agreement between the Parties and supersedes any and all other agreements, either oral or written, between the Parties hereto with respect to the subject matter hereof, and no other agreement, statement, or promise relating to the subject matter that is not contained herein shall be valid or binding.

**14. Amendment.**

This Agreement may be amended only by the mutual agreement of the Parties hereto in writing and incorporated into this Agreement. The duly appointed representative of each party must sign any such amendment.

**15. Indemnification.**

To the fullest extent permitted by law, the Construction Manager shall indemnify and hold harmless the Owner, its employees, officers, directors and partners from and against damages arising from third party claims for bodily injury or property damage and reasonable attorneys' fees incurred by the Owner but only to the extent caused by the negligent act, error or omission of the Construction Manager, or the Construction Manager's consultants, in performance of services under this Agreement.

**16. Notices.**

All written notices provided to the Parties pursuant to this Agreement shall be forwarded to each party at the address indicated below. Such notices shall be considered duly and properly given when delivered in person or actually deposited by either party via U.S. mail or any other delivery service.

**17. Appropriations.**

Notwithstanding any provision contained herein, the financial obligations of the Owner contained herein are subject to and contingent upon appropriations by the Owner of such funds or other revenues being available, received and appropriated by the Owner in amounts sufficient to satisfy said obligations. In no event shall this instrument be construed to be a debt of the Owner.

**18. Governmental Immunity.**

Nothing in this Agreement shall be deemed to waive, modify or amend any legal defense available at law or in equity to either the Owner or its officers and employees. Neither the Owner, nor its officers and employees waives, modifies or alters to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Texas.

**19. Severability.**

If any provision of this Agreement shall be held to be invalid or unenforceable for any reason, the remaining provisions shall continue to be valid and enforceable. If a court finds that any provision of this Agreement is invalid or unenforceable, but that by limiting such provision it would become valid and enforceable, then such provision shall be deemed to be written, construed, and enforced as so limited.

**20. No Waiver of Any Contractual Right.**

The failure of either party to enforce any provision of this Agreement shall not be construed as a waiver or limitation of that party's right to subsequently enforce and compel strict compliance with every provision of this Agreement.


**21. No Third Party Beneficiary.**


This Agreement inures to the benefit of and obligates only the Parties executing it. No term or provision of this Agreement shall benefit or obligate any person or entity not a party to it. The Parties hereto shall cooperate fully in opposing any attempt by any third person or entity to claim any benefit, protection, release or other consideration under this Agreement.

**WHEREAS**, the Parties hereto agree to the terms of this Agreement as set forth above, the duly designated representatives of the **Gregory Portland Independent School District** and **PROCEDEO LLC**, hereby execute this Agreement. The Parties hereto acknowledge that they have read this Agreement, understand its contents, and agree to be legally bound by the terms and conditions of this Agreement.

Executed and Dated as of the **15** day of **November**, 2023.


ATTEST: **GREGORY-PORTLAND INDEPENDENT SCHOOL DISTRICT (OWNER)**

Signature:   
Name: Tim Flinn  
Title: President, Board of Trustees

Signature:   
Name: Dr. Michelle Cavazos  
Title: Superintendent

Address: 1200 Broadway Blvd.  
Portland, Texas 78374

**PROCEDEO, LLC (Construction Manager)**

Signature:   
Name: Brian Johnson, LEED AP  
Title: Vice-President

Address: 200 Bailey Ave  
Suite 201 Fort Worth  
Texas, 76107

# PROCEDEO

EXHIBIT A

September 28, 2023

Dr. Ismael Gonzalez III  
Assistant Superintendent of Business-Finance & Operations  
Gregory-Portland Independent School District  
igonzalez@g-pisd.org

RE: Project Management Services for Gregory-Portland Independent School District

Dear, Dr. Gonzalez,

PROCEDEO is pleased to offer the following Project Management Services for GREGORY-PORTLAND INDEPENDENT SCHOOL DISTRICT for the All-Purpose Practice Facility, Baseball-Softball Field Replacements, Family Resource Center, M&O Facility. To the best of our ability, we have described the services that will be provided.

PROCEDEO fee to provide Professional Services of Seven Hundred Fifty Thousand Dollars (\$750,000) is based on the projects listed above.

The compensation may be adjusted by agreement of the parties on scope of work and fee if additional projects are added to the scope of services or if the Owner requests Additional Services.

Descriptions below will describe services provided by PROCEDEO every step of the way throughout the design, construction, and post construction phase.

PROCEDEO's culture is to provide the district collaboration without worry of hourly rates.

Our goal is to be a confidant to the superintendent and/or their designees as may be determined. We will utilize our team of experts to address specific areas of need as the process progresses.

Should you have any questions regarding this proposal, please do not hesitate to reach out to us. We hope that this offer meets with your satisfaction, and we look forward to collaborating with you soon.

Best regards,



Brian Johnson, Vice President  
PROCEDEO  
817.726.3664 - Phone  
brianjohnson@procedeogroup.com

200 Bailey St,  
Suite 201 Fort Worth, Tx 76107

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## Preconstruction Phase

- o Assist with status and review of GPISD supplied consultants.
- o Review Budgets
- o Review, in detail, all Drawings and Specifications to ensure compliance with GPISD design standards and technical requirements.
- o Provide oversight of the contractor including coordination of interfaces with GPISD personnel. The nature of this oversight is to make sure that budget, schedule, and document coordination and quality are achieved; and that necessary integration with contractor processes occur in a high-value manner.
- o Review and evaluate contractor cost through each submittal.
- o Oversee and manage GMP Development.

## Construction Phase

- o Provide advice on construction feasibility, availability of materials and labor, and procurement and time requirements for installation and construction. Assist in negotiating or carrying out any changes with other relevant parties towards successful completion of the All-Purpose Practice Facility, Baseball-Softball Field Replacements, Family Resource Center, M&O Facility projects.
- o Project schedule review and analysis.
- o Provide a Project Manager to perform the services, with appropriate administrative support during the project.
- o Attend OAC meetings.
- o Participate in pre-construction meetings with the GPISD, Architect, CMAR Contractor, and all other key members of the Project delivery team. Ensure lines of communication and construction administration procedures such as for the processing of submittals, shop drawings, Requests for Information, Change Requests, etc.
- o Manage and maintain all Project documents and files and ensure as-built drawings are kept current by Contractor.
- o Monitor contractor to facilitate timely completion of all permitting requirements.
- o Payment Application Review.
- o Changes in the work
- o Track all Project Contingency and submit to GPISD for authorization.
- o Gather all necessary documents needed to execute contracts including bonds, insurance, etc.
- o Change Order Evaluation.
- o Provide periodic reports for Staff.
- o Conduct site observations.
- o Oversee and manage project Substantial Completion process.
- o Assist with close-outs for All-Purpose Practice Facility, Baseball-Softball Field Replacements, Family Resource Center, M&O Facility projects.
- o Oversee and manage CMAR Contractor Final Completion process.

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- o Gather, verify, and organize all information essential to complete financial closeouts for all vendors for the All-Purpose Practice Facility, Baseball-Softball Field Replacements, Family Resource Center, M&O Facility projects.
- o Review of the contract documents to familiarize the team with the commitments of the contract and the scope which was incorporated therein. Utilizing electronic format, the documents will be reviewed, and pertinent content will be noted, and compliance reviewed.

## **Post Construction**

- o Oversee and manage warranty process for the All-Purpose Practice Facility, Baseball-Softball Field Replacements, Family Resource Center, M&O Facility projects.
- o Act as liaison between GPISD and the CMAR contractor during the warranty period.

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## EXHIBIT B

### PERSONNEL TITLES AND HOURLY RATES; NAMES OF REGIONAL DIRECTOR AND VICE PRESIDENT

**PROCEDEO**

Regional Director: Bob Cervi  
Project Team Manager: Brian Johnson, LEED AP - Vice President

### CONSULTANTS AND HOURLY RATES

**Management:**

Regional Director \$170.00  
Program Director \$190.00  
Vice President \$260.00

**Design:**

Senior Design Manager \$165.00  
Design Manager \$150.00  
Clerical \$65.00

**Construction:**

Senior Construction Manager \$150.00  
Construction Manager \$140.00  
Owners Representative \$134.00  
Clerical \$65.00

**Cost Estimating:**

Senior Estimator \$130.00  
Estimator \$100.00

**Procurement:**

Procurement Manager \$105.00  
Procurement Specialist \$90.00  
Clerical \$65.00

**Post Construction:**

Closeout Manager \$80.00  
Closeout Specialist \$70.00  
Document Controls \$65.00

Direct Expenses: Cost Plus 15%