



Agreement for Structural Engineering Services

Project:	GISD H.O. Whitehurst Canopy Additions	Agreement Date:	May 8, 2026
Client:	Groesbeck ISD	Agreement Number:	26-00141
Address:	Groesbeck ISD, Groesbeck, Texas	Owner:	Groesbeck ISD

Dudley Engineering LLC dba DUDLEY, hereinafter referred to as **DUDLEY** is pleased to propose the following Agreement for providing structural engineering services on this Project(s). This agreement will remain open for acceptance for **30** day(s) from the Agreement Date.

Project Description:

DUDLEY will provide structural design services only for the proposed walkway canopy improvements at H.O. Whitehurst in Groesbeck, Texas. The project consists of structural design for a new covered walkway canopy generally described in the design development package prepared by WRA Architects dated January 28, 2026 for 25144 H.O. Whitehurst Renovations. The canopy is understood to be a steel framed structure with HSS columns and beams supporting light-gauge Z- or C-purlins and a standing seam metal roof. The roof is assumed to be a monoslope shed configuration draining to a gutter at the backside of the cover.



The DD package indicates a canopy approximately 22 feet wide in section with a 14 foot minimum bottom of structure, a curved plan alignment matching the existing curb radius, columns aligned with the back of curb, and canopy work adjacent to existing sidewalks, existing school construction, light poles, fencing, and an existing fire hydrant.

It is DUDLEY's understanding that the design package provided by WRA Architects has been approved by the Owner for design intent. DUDLEY has further assumed WRA Architects will provide CAD exports in .dwg format of the Enlarged Site Plan - Canopy and Reflected Ceiling Plan - Canopy for use as structural design backgrounds.

Foundation design is included in DUDLEY's structural design scope. Foundations are anticipated to be drilled piers; however, final foundation type, bearing, lateral, uplift, and constructability assumptions shall be based on the project geotechnical report.

DUDLEY requires a geotechnical report with foundation recommendations applicable to the proposed walkway canopy before final foundation design can be completed. If a project-specific geotechnical report is not provided, DUDLEY may rely on assumptions or request additional authorization for limited-scope geotechnical coordination, and foundation recommendations may need to be revised once project-specific information is available.

Flatwork, sidewalks, paving, site grading, drainage, curb modifications, gutter discharge, utility coordination, and civil engineering design are excluded from DUDLEY's scope and are assumed to be provided by the civil engineer or others. DUDLEY assumes no existing utilities conflict with the proposed column or foundation locations. If utilities, fire protection infrastructure, storm piping, electrical conduits, or other below-grade obstructions conflict with proposed foundation locations, redesign or specialized foundation detailing shall be provided as Additional Services.

Given that WRA Architects has indicated that final design and engineering are to be provided by others and that WRA Architects is not involved in the final design, DUDLEY has assumed the total construction cost for the proposed canopy work will not exceed \$100,000, which is understood to be the threshold for a Texas public building project above which a licensed Texas architect is required. If this assumption is not correct, DUDLEY shall be notified before proceeding, and



additional coordination, scope, and fee may be required.

The proposed work is adjacent to existing sidewalks, existing school construction, existing fencing, existing light posts, and an existing fire hydrant shown in the DD package. DUDLEY's services are limited to structural design of the new canopy structure and foundations. Evaluation, repair, modification, demolition, relocation, or protection of existing construction, utilities, light poles, fencing, hydrants, sidewalks, paving, or other site elements is excluded unless specifically added by written authorization. Field verification of existing conditions and identification of concealed conditions shall be by the Client, Contractor, civil engineer, architect, or others.

Our proposal is based on the Project as described. If our understanding of the Project scope is inaccurate or the Project scope materially changes, we understand that our compensation will be equitably adjusted. We understand that this is not a Fast-Track Project, nor will it entail Multiple Bid Packages, nor will it be located within a flood plain.

Scope of Services:

The structural scope items included and not included for this Project comprise but are not limited to those listed in the table below [reference Exhibit A & B for additional information]:

Included	Not Included (Deferred or Provided by Civil/Arch)
Foundations for canopy structure	Anything not explicitly indicates as Included.
Superstructure for canopy structure	

The Engineering Services to be provided are described in this section & in the Summary of Services (Exhibit A) and Terms and Conditions (Exhibit B). Additional Services (Exhibit B, Paragraph 3.1.1 and 3.1.2) which are included are specifically noted in Exhibit A. Unless specifically indicated otherwise, DUDLEY has not included scope for serving as the Registered Design Professional in Responsible Charge (RDPIRC) for this Project.

Engineering Compensation - Total: \$9,800.00.

Design Development (DD)	50%
Construction Documents (CD) – Sealed Set	50%

Engineering Compensation - Construction Administration (CA) Phase:

Construction Administration services are not included in the Basic Scope of Services or the lump sum design fee. If requested by the Client, CA services may be provided as Additional Services on an hourly basis in accordance with DUDLEY's standard hourly rate schedule, or as an hourly not-to-exceed estimate if requested. Any CA estimate will depend on contractor, schedule, submittal quantity and quality, RFI volume, site visit needs, and other factors outside DUDLEY's control.

Additional Services:

DUDLEY proposes to provide Additional Services not included in the Scope of Services as approved by the Client. Additional Services shall be provided without invalidating this Agreement. Additional services shall be compensated on an hourly fee based on the schedule below.

- Principal: \$295/Hour
- Project Manager: \$245/Hour
- Project Engineer: \$220/Hour
- Technician / Drafter: \$190/Hour
- Clerical: \$140/Hour

Reimbursable Expenses: Reimbursable Expenses, as described in the Terms and Conditions, shall be billed at a multiple of **1.10** times the cost incurred.

Project Schedule:

The Client is responsible for developing the Project Schedule. DUDLEY can begin structural design after receipt of the required information listed below, including CAD background files and the project geotechnical report.

DUDLEY's schedule assumes timely receipt of complete background information, timely responses to questions, and no material changes to the Owner-approved design intent package. If the scope, construction budget, architectural involvement, background files, geotechnical recommendations, or site constraints change, DUDLEY's schedule and fee may need to be adjusted.



Required Information:

DUDLEY's compensation and schedule are contingent on timely receipt of the following information:

1. CAD exports in .dwg format of the Enlarged Site Plan - Canopy and Reflected Ceiling Plan - Canopy from WRA Architects.
2. The project geotechnical report with foundation design recommendations for the proposed walkway canopy.
3. Any available construction documents, background drawings, survey information, civil drawings, utility information, or site constraints applicable to the proposed canopy.
4. Written confirmation that the design intent package has been approved by the Owner.
5. Confirmation of final canopy geometry, roof slope and drainage direction, column layout, clear heights, roof material, cladding or fascia requirements, lighting coordination requirements, and any Owner-specific requirements.

Client's Responsibilities:

The Client shall provide overall management and coordination of the design of the Project. DUDLEY agrees to participate in the coordination effort, to be led by the Client, in order that our portion of the Project is coordinated with the design and deliverables of other members of the Project design team. The Client shall provide to DUDLEY in a timely manner full information of which the Client is aware regarding any special conditions, design criteria, reports, or special services needed, and to make available any existing data or drawings concerning the Project and Project Site. DUDLEY shall be entitled to rely upon the accuracy and completeness of any such information provided. The Client shall also provide DUDLEY with written communication of changes to the design that affect structure for all transmission of CAD/Revit files. For Projects in which the Client utilizes BIM360, the client shall publish updated models as necessary and indicate in writing to DUDLEY changes that affect structure. **Changes to the design that affect structure after Design Development are outside the Scope of Service and are subject to Additional Services.**

The structural drawings and specifications to be prepared by the Engineer are intended to define the scope and design intent of the Project and are not intended to serve as an instruction manual showing the contractor how to construct the work. The contractor will remain solely responsible for determining the means, methods, sequencing, and coordination necessary to execute the construction in a safe and code-compliant manner.

Because structural design documents cannot reasonably anticipate every field condition, coordination issue, or minor refinement required to achieve the intended structural performance, reasonable material allowances will be included by the Engineer within the structural drawings. These allowances are intended to account for normal coordination items, constructability considerations, minor clarifications, and adjustments required during construction to fully achieve the design intent.

The Client acknowledges and agrees that such allowances will be incorporated into the structural drawings as part of the Engineer's standard documentation practice. These allowances are not indicative of incomplete or defective design, but are an accepted professional approach to managing normal coordination and construction variability. The inclusion of allowances does not relieve the contractor of its obligation to provide a complete, code-compliant, and fully coordinated scope of structural work in accordance with the contract documents.

Project Restart Fee:

Should the progress of the Project be halted for **60** days or more at any time by the Client or Owner, for any reason, the Client shall be responsible for a Project Restart Fee. This fee, intended to offset the substantial costs incurred by DUDLEY for the disruption and resumption of work, will be the greater of 10% of the total project fee or \$500. The Project Restart Fee shall become due and payable immediately upon the resumption of work.

Sealed Drawings:

DUDLEY shall not be liable for any drawings or specifications produced under this agreement until such deliverables are sealed by a qualified employee of DUDLEY and approved by all relevant Authorities Having Jurisdiction. Furthermore, DUDLEY reserves the right to withhold deliverables until all invoices issued up to that point in the project have been paid in full.

Structural Building Information Model - Level of Development (LOD):

The final deliverable, constituting the instrument of service, shall be sealed PDF documents. We strive to develop the structural building information model (BIM) to a sufficient level of development to facilitate effective coordination and collaboration among design disciplines, including structural, architectural, and MEP systems, but it is not part of our deliverable. DUDLEY's standard modeling level of development for common structural systems are outlined below. If higher levels of development are required beyond LOD 300, DUDLEY must be notified prior to the beginning of the project, as Additional Services may apply.

	Level of Development
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Material	LOD 100	LOD 200	LOD 300
Concrete	Reinforcement, embedded angles, ledges, slopes, recesses, thickened slabs at drains, drops, etc.	(Note 1) Grade beams, piers, walls, footings	Tilt-up panels
Steel	Deck edge angles, baseplates, embed plates, anchor rods bottom flange bracing, framing for small openings or for mechanical equipment, connections, etc.		Columns, beams, joists, vertical braces
CMU	Connections	Wall reinforcing, wall geometry	
Wood	Stud walls, floor and roof framing	Engineered beams and posts	
CFMF	Stud walls, floor and roof framing		
Notes:			
1. Elements such as grade beams, footings and drilled piers are developed to LOD 200. As an example, drilled piers are modeled with precise diameters and top-of-pier elevations specified in the model, however bearing depths, which depend on existing grade elevations, are approximated. Similarly, exterior grade beams are modeled with approximate embedment depths below existing or final grade, particularly where slopes exist across the building pad.			

LOD Definitions

- **LOD 100 Conceptual:** The model elements may be graphically represented in the Model with a symbol or other generic representation but does not satisfy the requirements for LOD 200. These elements are represented using detail lines, symbols and/or details
- **LOD 200 Approximate Geometry:** The Model Element is generically and graphically represented within the Model with approximate quantity, size, shape, location and orientation.
- **LOD 300 Precise Geometry:** The Model Element is graphically represented within the Model as a specific system, object or assembly in terms of quantity, size, shape, location, and orientation.
- **LOD 350 Precise Geometry with Connections:** The Model Element is graphically represented within the Model as a specific system, object, or assembly in terms of quantity, size, shape, location, orientation, and interfaces with other building systems
- **LOD 400 Fabrication Ready Geometry:** The Model Element is graphically represented within the Model with detail sufficient for fabrication, assembly, and installation.
- **LOD 500 Operational / As-Built Model:** The Model Element is a graphic representation of an existing or as-constructed condition developed through a combination of observation, field verification, or interpolation. The level of accuracy shall be noted or attached to the Model Element.

Attachments:

The following attachments are incorporated by reference as if set forth at length. In the event of a direct conflict between this Authorization and the content of any of the attachments, this Authorization shall govern.

Exhibit A – Summary of Services

Exhibit B – Terms and Conditions

Additional Provisions:

This Agreement, and Exhibits A & B hereto, constitute the entire Agreement between the parties. An electronic copy of the Agreement has been provided. Please examine these documents, sign the Signature Sheet, initial each Page and return it to DUDLEY (along with the retainer, if applicable). Retain a copy for your records. If this Agreement is appended to the Client's Agreement, then any terms or conditions included in this Agreement shall apply. Any modifications or amendments to the agreement must be in writing and signed by both parties.



Signature Sheet

Anna Dudley *Drew Dudley* *Rick Robertson*

Anna Dudley, P.E. Licensed Texas Engineer No. 124952
Drew Dudley, P.E. Licensed Texas Engineer No. 123798
Rick Robertson, P.E. Licensed Texas Engineer No. 56375

Dudley Engineering LLC dba DUDLEY
Texas Engineering Firm Registration 18677
Principal Place of Business Address: 40 Pamela Ln College Station, TX 77845

Accepted: Groesbeck ISD

By: _____
(Groesbeck ISD Authorized Agent)

Title: _____

Date: _____

Invoices will be sent to Groesbeck ISD via email. Invoices shall be forwarded to:

Name: _____

Email: _____

For the purpose of sending notices (if required), the mailing address to use for Groesbeck ISD is:

Mailing Address: _____



EXHIBIT A - Summary of Services

This is an exhibit attached to and made part of the Agreement dated May 8, 2026, between

Groesbeck ISD
Client

&

DUDLEY
Structural Engineer of Record (SER)

The services of the Structural Engineer of Record (SER) are summarized below. See Exhibit B-Terms and Conditions, for further details.

The basic services shown above are an abbreviated form of these services shown in the *National Practice Guidelines for the Structural Engineer of Record*, prepared, and published by the Council of American Structural Engineers.

SCOPE OF BASIC SERVICES

Services	Included		Remarks	
	Yes	No		
PROJECT DEVELOPMENT PHASE				
1	Assist in Development of Schedule	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Can provide structural capacity for target dates
2	Assist in Determining Channels of Communication	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Client responsible
3	Assist in Determining Responsibility for Dimensions	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Client responsible
4	Assist in Determining Drawing Standards and Specification Format	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Client responsible
5	Assist in Determining Number of Meetings and Number of Site Visits	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
6	Fees and Payment Schedule	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
7	Execute Agreement	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
SCHEMATIC DESIGN (SD) PHASE				
1	Attend Meetings	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
2	Establish Structural Design Criteria	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
3	Prepare Studies of Alternative Structural Systems	<input type="checkbox"/>	<input checked="" type="checkbox"/>	To be serviced per Additional Services
4	Assist in Selection of Structural System(s) for the Project	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
5	Provide Structural Criteria for Geotechnical Engineer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	When requested, we will provide.
6	Assist in Determining Need for Special Studies	<input checked="" type="checkbox"/>	<input type="checkbox"/>	E.g., additional borings, groundwater / settlement study
7	Consult with Public Agencies	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
8	Assist Preparing Preliminary Opinion of Probable Construction Cost (OPCC)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
9	Suggest Possible Changes to Affect Savings	<input checked="" type="checkbox"/>	<input type="checkbox"/>	When requested, we will provide.
10	Review of SD documents with Owner/CM (page turn)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
DESIGN DEVELOPMENT (DD) PHASE				
1	Attend Meetings	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
2	Prepare Preliminary Structural Design Calculations	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
3	Prepare Preliminary Foundation Drawings	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
4	Prepare Preliminary Framing Layout Drawings	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
5	Prepare Typical Detail Sheets	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
6	Prepare or Edit Outline Specifications for Structural Items	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
7	Identify Pre-Engineered Structural Elements	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
8	Review Results of Special Studies	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
9	Coordinate Structural Design with Special Design Criteria	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
10	Review of DD documents with Owner/CM (page turn)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
CONSTRUCTION DOCUMENTS (CD) PHASE				
1	Prepare Structural Design of Primary Structural System	<input type="checkbox"/>	<input type="checkbox"/>	Reference Scope of Services table.
2	Designate Elements to be Deferred Submittals	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Reference Scope of Services table.



Services		Included		Remarks
		Yes	No	
3	Review Effect of Secondary or Non-Structural Elements Attached to Primary Structural System	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
4	Attend Meeting(s)	<input checked="" type="checkbox"/>	<input type="checkbox"/>	(1).- Video conference

CONSTRUCTION DOCUMENTS (CD) PHASE - Continued

5	Assist in Coordination with Building Officials	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
6	Finalize Structural Calculations Package for submission to AHJ	<input type="checkbox"/>	<input checked="" type="checkbox"/>	If required by AHJ can be provided per Additional Services
7	Finalize Structural Drawings	<input checked="" type="checkbox"/>	<input type="checkbox"/>	
8	Prepare or Edit Specifications for the Primary Structural System	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Short form specifications provided within structural General Notes sheet. We will review the Client's full form specifications section that are relevant to structural, if required at no additional service fee.
9	Assist in Establishing Testing and Inspection Requirements	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Will include Structural Statement of Special Inspections for incorporation by the RDPIRC
10	Perform Checking and Coordination of the other consultants' documents with Structural Documents	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
11	Participate in Coordination of the Structural Documents with those of Other Disciplines.	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Coordination to be led by the Client.
12	Assist in Determining which, if any, Construction Procedures Shall be Submitted for Review	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
13	Assist in Preparing Opinion of Probable Construction Cost (OPCC)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
14	Assist in Preparing Schedule of Bid Items / Quantities List	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
15	Assist in Filing Construction Documents for Approval by Building Official	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
16	Respond to Structural Comments & Revise Construction Documents as Required by Building Official	<input checked="" type="checkbox"/>	<input type="checkbox"/>	Revisions to the structural construction documents caused by comments on other disciplines other than structural are not included in the Scope of Basic Services, but can be serviced as Additional Services.
17	Revise Construction Documents as Required by Peer Review	<input type="checkbox"/>	<input checked="" type="checkbox"/>	We are accepting to peer review; however, it does require additional effort and is dependent upon many factors (peer reviewing, scope of peer review, etc.). We can provide response to comments as an additional service.
18	Review of final CD's with Owner/CM (page turn)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	

CONSTRUCTION ADMINISTRATION (CA) PHASE

For Items marked (Not Included), DUDLEY recommends & can be requested to provide these services under the Additional Services hourly rates.				
1	Bidding and Award	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
	a. Assist in Evaluating Bidders' Qualifications	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
	b. Provide Structural Addenda and Clarifications	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
	c. Attend Pre-Bid Conference (If required)	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
	d. Assist in Bid Evaluation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
2	Value Engineering	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
3	Pre-Construction Services	<input type="checkbox"/>	<input checked="" type="checkbox"/>	We recommend that we are engaged to provide pre-construction services as it will benefit the Owner and Project, however this is not part of our basis services. If requested, we can provide them on an hourly basis.
	a. Attend Meetings	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
	b. Assist in Establishing Procedures for Testing and Inspections	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Review of the Submittal Schedule for compliance with structural requirements is included.
	c. Assist in Confirming Submittal Procedures	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
	d. Assist in Selection of Testing Agency	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
4	Submittal Review / Response to Structural RFI's (RFI's regarding corrective repair or non-conforming work are considered Additional Services) Submittal Review Time – Minimum (10) business days. RFI Review Time – Minimum (5) business days	<input type="checkbox"/>	<input checked="" type="checkbox"/>	2 reviews of each structural submittal included. A Submittal Schedule must have been submitted and approved by the RDPIRC and DUDLEY. If the contractor does not provide a Submittal Schedule then the SER will review with reasonable promptness while allowing sufficient time, in the SER's professional judgment, to permit adequate review. The inability of a contractor to produce a Submittal Schedule usually indicates that the contractor has not planned and scheduled the sequence of submittals. It is the RDPIRC's responsibility to request that the contractor submits a Submittal Schedule and if the contractor fails to do so to document the event by sending correspondence to the owner noting the issue and advising that all previously agreed upon review times are suspended until an acceptable Submittal Schedule is provided. Requests for expedited reviews that do not adhere to an approved Submittal Schedule will be serviced per our hourly rates as an additional service.
5	Construction Observation	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
	a. Make Site Visits at Intervals Appropriate to the Stage of Construction when notified/requested by the Client.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Included on a per site visit basis.
	b. Prepare Site Visit Reports	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
6	Materials Testing and Inspection	<input type="checkbox"/>	<input checked="" type="checkbox"/>	To be provided by Owner's Approved Agency. DUDLEY can be engaged to provide this service.
	a. Review of Structural Testing and Inspection Reports	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Limited to Reports submitted to and identified as including Non-Conforming Work related to the SER's Scope of Work.
	b. Initiate Appropriate Action to Testing and Inspection Reports	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Corrective repair / remedial work is serviced on an hourly basis as an Additional Service.



7	Review of Structural Construction Documents	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
	a. Assist in Reviewing Change Orders Relating to Structural Work	<input type="checkbox"/>	<input checked="" type="checkbox"/>	
	b. Assist in Determining if Non-Conforming Structural Work Shall be Rejected	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Services associated with assessing non-conforming work and/or corrective repair will be serviced per our Hourly Rates.
	c. Compliance Letters, Final Report of Special Inspections...	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Typically handled by RDPIRC.
8	Prepare "Record" drawings from contractor's marked-up record drawings, submittals, and other information furnished to the SER.	<input type="checkbox"/>	<input checked="" type="checkbox"/>	Can prepare per the hourly rates, Engineer must be actively involved in CA to adequately prepare "Record" Drawings. "Record" Drawings will <u>not</u> be "Sealed".



EXHIBIT B - Terms and Conditions

This is an exhibit attached to and made part of the Agreement dated May 8, 2026, between

Groesbeck ISD
Client

&

DUDLEY
Structural Engineer of Record (SER)

Section 1 - General

1.1 This Agreement

- 1.1.1 These Terms and Conditions, along with the signed Agreement, and Exhibit A - Summary of Services, form the Agreement as if they were part of one and the same document.
- 1.1.2 The Agreement and Exhibit A may limit or negate the applicability of these Terms and Conditions. Such limitation shall take precedence over provisions of this Exhibit.
- 1.1.3 If a Prime Design Professional is also engaged by the Client to participate in this Project, then that Prime Design Professional shall be responsible for determining and interpreting the needs of the Client, and for coordinating the work of the SER and other members of the design team. If the Client intends for DUDLEY to be the Prime Design Professional, then they must notify us in writing prior to the submission of our proposal or agreement.

1.2 General Obligations of the SER

- 1.2.1 The SER shall perform those professional structural engineering services as specified in the Scope of Services, Exhibit A and detailed in these Terms and Conditions. In rendering these services, the SER shall apply the skill and care ordinarily exercised by structural engineers at the time and place the services are rendered. The SER makes no warranties, express or implied, under this Agreement or otherwise, in conjunction with the SER's services.
- 1.2.2 The SER shall recommend that the Client provide those geotechnical investigations, property surveys, reports, and other data necessary for performance of the SER's services.
- 1.2.3 The SER shall designate a person to act with authority on behalf of the SER with respect to all aspects of the Project. Unless noted otherwise in Exhibit A, this person is the SER's Project Manager.
- 1.2.4 The SER shall submit or coordinate with the Prime Design Professional to submit a schedule for the performance of the SER's services to the Client. This schedule shall include requirements for information to be furnished by the Client.
- 1.2.5 The SER shall be entitled to rely on the accuracy and completeness of all information supplied by the Client.
- 1.2.6 The purpose of drawings and specifications provided under this agreement are not to serve as an instruction manual showing the contractor how to assemble a structure, but instead define Project scope and design intent. The contractor's work plan for the means-and-methods of construction (i.e. shop drawings, schedules, subcontracts, etc.) must define when and how the structure will be constructed.
- 1.2.7 For any change in the Project caused by the SER, the SER shall not be responsible for costs associated with the change if those costs would have been incurred by the Owner regardless of the SER's act or omission.
- 1.2.8 The SER is not responsible for changes in the building code or regulations that take effect after this agreement has been signed, unforeseen site conditions, delays caused by the Client or other consultants, or permitting delays beyond the control of the SER and is entitled to additional services for changes required to the structural design as a result of circumstances outside the SER's control. Any services required as a result of such changes shall constitute Additional Services.
- 1.2.9 The SER shall have no control over or responsibility for construction means, methods, techniques, sequences, procedures, or for safety precautions and programs in connection with the Work. These responsibilities are solely those of the Contractor or other parties performing the Work. The SER shall not be responsible for the Contractor's failure to perform the Work in accordance with the Contract Documents.
- 1.2.10 The SER shall be entitled to rely upon the accuracy and completeness of geotechnical reports, surveys, testing data, and other information furnished by the Client or by others retained by the Client. The SER shall have no responsibility for the adequacy or accuracy of such information.

1.3 General Obligations of the Client

- 1.3.1 By accepting this agreement, the Client verifies that the contemplated Project will be financed adequately, including provisions for contingencies (allowances), to accomplish the stated and desired goals and commitments.
- 1.3.2 The Client shall provide all criteria and full information regarding his or her requirements for the Project. This shall include, but not be limited to, an accurate building information model, review and approval of design issues in the schematic design phase, design development phase, and contract documents phase. These approvals shall include a written authorization to proceed to the next phase.
- 1.3.3 The Client shall designate, in writing, a representative authorized to act on behalf of the Client with respect to the Project, along with key personnel responsible for performing the Client's services. This designation, including the names, roles, and contact information of the representative and key personnel, shall be provided to the SER within 10 business days of the execution of this Agreement. If the Client intends to replace its designated representative or key personnel, the Client shall notify the SER in writing at least 5 business days prior to the change, unless exigent circumstances require a shorter notice period. The written notification shall include the name, qualifications, and contact information of the proposed replacement. The Client shall ensure that the replacement is adequately briefed and provided with all necessary project information to maintain continuity. The SER may request a transition plan to mitigate potential disruptions, which the Client shall provide within 3 business days of the request. Changes to the designated representative or key personnel may result in Additional Services, the costs of which shall be borne by the Client, to address potential ramifications, including but not limited to: (a) project delays due to lack of continuity in decision-making or communication; (b) increased costs arising from inefficiencies or rework; (c) miscommunication or errors in project execution due to inadequate knowledge transfer; or (d) disputes between the Client and the SER regarding project responsibilities. The scope and cost of such Additional Services shall be mutually agreed upon in writing before implementation, unless immediate action is required to prevent material harm to the Project, in which case the SER shall notify the Client promptly. Failure to provide the required written notification of a change, repeated unapproved changes, or poorly managed transitions that materially disrupt the Project may, at the SER's reasonable discretion, constitute grounds for termination of this Agreement.



- 1.3.4 The Client or Owner shall retain a qualified geotechnical engineer to perform a site-specific geotechnical investigation and provide a written geotechnical report for use in the structural design. The geotechnical engineer shall be responsible for determining the appropriate scope and extent of the subsurface exploration, including but not limited to the number and location of borings, depth of borings, selection of drilling equipment, field testing, laboratory testing, and evaluation methods necessary to support foundation design and site preparation recommendations. The SER, if requested, can provide the geotechnical engineer with relevant project information, including proposed structure location, anticipated loading conditions, preliminary foundation concepts, and column/grid layouts to aid in tailoring the investigation. However, the determination of boring scope, placement, and testing protocols shall remain the sole responsibility of the geotechnical engineer based on their professional judgment and applicable codes, standards, and site conditions. The geotechnical report shall be provided to the structural engineer in a timely manner and shall contain sufficient information to support the structural foundation design. Any deficiencies or omissions in the geotechnical report that affect design, construction, or performance shall be the responsibility of the geotechnical engineer.
- 1.3.5 The Client shall coordinate the services of the design team to minimize conflicts or misunderstandings.

1.4 Definitions

- 1.4.1 **Agreement** is this written contract for professional services between Client and SER, including all exhibits and any duly executed amendments.
- 1.4.2 **Architect of Record** is a registered design professional who is registered to practice architecture. The Architect of Record is typically also the Prime Design Professional.
- 1.4.3 **Building Information Model** is a digital representation of the Project, or a portion of the Project which graphically represents the quantity, size, location, and orientation of the Project and its individual elements. Non-graphic information may also be included. At a minimum, the level of development (LOD) must be LOD 350 in accordance with AIA-G202
- 1.4.4 **Contract Documents** are those items designated in the Construction Contract, including the Drawings, Specifications, construction agreement, and general and supplementary conditions. Only the original PDF of the items listed in the Construction Contract are Contract Documents. Shop Drawings, other Contractor submittals, and the reports and drawings of subsurface and physical conditions are not Contract Documents.
- 1.4.5 **Construction Contract** is the entire and integrated written agreement between Owner and Contractor concerning the Work.
- 1.4.6 **Construction Cost** is the amount paid by Client for construction of the building(s) and everything within five feet of the building perimeter(s), excluding furniture, fixtures, and equipment.
- 1.4.7 **Corrective Repair** refers to action required by the engineering design team to address project related structural issues from defective materials or workmanship, construction errors, damage to components, design or specification deviations, incorrect installation or sequencing issues, occurring during or post-construction, which require a field correction by the contractor and engagement of the engineering team to determine a viable solution to restore the system to its original functionality.
- 1.4.8 **Deferred Submittals** are portions of the design that are not submitted at the time of the application for permit and that are to be submitted to the building official within a specified period. The registered design professional in responsible charge (RDPiRC) shall be responsible for reviewing and coordinating submittal documents prepared by the Contractor, including phased and deferred submittal items, for compatibility with the design of the building. The Contractor is responsible for retaining a licensed design professional to design the deferred item. Deferral of any submittal items shall have the prior approval of the building official. The registered design professional in responsible charge (RDPiRC) shall list the deferred submittals on the construction documents for review by the building official. Documents for deferred submittal items shall be submitted to the registered design professional in responsible charge (RDPiRC) who shall review them and forward them to the building official with a notation indicating that the deferred submittal documents have been reviewed and found to be in general conformance to the design of the building. The deferred submittal items shall not be installed until the deferred submittal documents have been approved by the building official.
- 1.4.9 **Fast Track Projects** are Projects in which any portion of the contract documents are released for pricing/bid/fabrication, or are submitted for building permit, prior to such issuance of full design team documents.
- 1.4.10 **Multiple Bid Packages** are bid documents which are submitted for phased construction of portions of the Project under separate trade contracts.
- 1.4.11 **Non-Structural Elements** are elements of a building that are not Primary or Secondary Structural Elements. Items in this category could include curtain walls and cladding, non-bearing partitions, stair railings, etc.
- 1.4.12 **Owner** is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner is the same individual or entity that will enter into any Construction Contracts concerning the Project. The term "Owner" means the Owner or the Owner's authorized representative.
- 1.4.13 **Pre-Engineered Structural Elements** are structural elements in which the performance criteria are specified by the SER but are to be designed by a Specialty Engineer. These elements are normally fabricated off-site, may require specialized equipment not usually available at the job site or may require a proprietary process. The SER shall specify the design criteria, including the incorporation of the Pre-Engineered Structural Elements into the structure. Examples of Pre-Engineered Structural Elements may include but are not limited to the following:

1) <i>Open web steel joists and joist girders</i>	<i>Precast concrete elements</i>
2) <i>Metal plate connected wood trusses</i>	<i>Prefabricated wood or metal buildings</i>
3) <i>Combination wood and metal joists, and plywood joists</i>	<i>Metal stairs, guardrails, handrails</i>
- 1.4.14 **Primary Structural System** is the completed combination of elements which serve to support the building's self-weight, the applicable live load which is based upon the occupancy and use of the spaces, and the environmental loads such as wind, seismic, and thermal. Curtain wall members, non-load bearing walls and exterior facade are examples of items which are not part of the Primary Structural System.
- 1.4.15 **Prime Design Professional** is the leader of the design team charged with the design of a facility, either an architect or an engineer. The Prime Design Professional is responsible for determining and interpreting the needs of the Client and for coordinating the work of the other members of the design team. Prime Design Professional is also the Registered Design Professional in Responsible Charge (RDPiRC) and must fulfill the duties outlined as such in the building code adopted by the relevant Authority Having



Jurisdiction.

- 1.4.16 **Project** is the total construction of which the Work to be performed under the Contract Documents may be the whole, or a part.
- 1.4.17 **Record Drawings** are prepared by the SER, utilizing Contractor input, to provide a formal record of what was completed on-site by the Contractor, including any changes made in the field by the Contractor and deviations from the original construction documents, based on provided information from the contractor's marked-up as-built drawings, submittals, and testing / inspection reports. Record drawings will typically show locations and dimensions of installed elements, changes due to field conditions, RFI's, change orders or contractor adjustments, elevations or material substitutions, and features which were added, omitted or relocated.
- 1.4.18 **Registered Design Professional** is an individual who is registered or licensed to practice their respective design profession as defined by the statutory requirements of the professional registration laws of the state or jurisdiction in which the Project is to be constructed.
- 1.4.19 **Registered Design Professional in Responsible Charge (RDPiRC)** or Prime Design Professional working directly for the Owner who is responsible for ensuring the Project construction documents comply with the applicable requirements of any governing building authorities. Responsible for reviewing and coordinating submittal documents prepared by others, including phased and deferred submittal items, for compatibility with the design of the building. DUDLEY is not the RDPiRC. Typically, this is the architect-of-record or civil engineer-of-record.
- 1.4.20 **Reimbursable Expenses** are expenses incurred directly or indirectly in connection with the Project such as, but not limited to, transportation, meals or lodging for travel, overnight deliveries, courier services, professional service sales taxes, the cost of reproductions beyond those normally required for coordination and information purposes, and the cost of outside professional services. Reproductions normally required include 11x17 and/or 8½x11 printouts. Any documentation required for internal use by DUDLEY is not considered a reimbursable expense.
- 1.4.1 **Review for general conformance** means a limited review performed by the SER to determine whether the proposed materials, systems, and details generally appear consistent with the design intent and requirements indicated in the structural contract documents. This review may include verification that the proposed structural system is consistent with the structural design shown in the contract documents, that structural members generally match the specified types, sizes, and configurations, that loads and design criteria appear consistent with those specified in the structural contract documents, that connections generally reflect the intended load paths and structural concept, and that elements supported by the primary structural system appear compatible with the structural design. Review for general conformance does not include verification of dimensions, quantities, fabrication details, shop fabrication methods, field measurements, existing conditions, installation procedures, coordination with other trades, construction sequencing, temporary works, or compliance with the contractor's means and methods, all of which remain the responsibility of the contractor.
- 1.4.2 **Schedule of Bid Items (Bid Schedule / Bid Quantities List)** is document listing work items, estimated quantities, and units of measure for use in bidding/estimating the Project.
- 1.4.3 **Secondary Structural Elements** are elements that are structurally significant for the function they serve but do not contribute to the strength or stability of the Primary Structure. Examples may include but are not limited to: support beams above the primary roof structure which carry a chiller or other equipment, exterior non-load bearing walls or cladding systems, stairs, elevator support rails and beams, retaining walls independent of the primary building, and flagpole or light pole foundations.
- 1.4.4 **Services** are engineering services provided by the SER in connection with the Project. Such services consist of both Basic Services and Additional Services as described in this Agreement. It is clearly understood the SER is providing professional services only and is not providing any product(s).
- 1.4.5 **Special Inspection** is an inspection performed by a qualified person, approved by the building official, for the types of work requiring inspection per the governing codes and contract documents.
- 1.4.6 **Specialty Engineer** is a licensed professional engineer, not the SER, who is legally responsible for sealing plans and designs for Pre-Engineered Structural Elements which are necessary for the structure to be completed. The Specialty Engineer is usually retained by a supplier or subcontractor who is responsible for the design, fabrication and (sometimes) installation of engineered elements or by the General Contractor or Subcontractor(s) responsible for construction related services.
- 1.4.7 **Statement of Special Inspections** the registered design professional in responsible charge (RDPiRC) shall prepare a statement of special inspections in accordance with the building code for submittal by the applicant in accordance with the building code.
- 1.4.8 **Structural Engineer of Record (SER)** is the Structural Engineer who is legally eligible to seal the Structural Documents for a Building Project. This seal acknowledges that he or she has performed or supervised the analysis, design, and document preparation for the building structure and has knowledge of the requirements for the load carrying structural system. The SER is responsible for the design of the Primary Structural System.
- 1.4.9 **Structural Observations** when required by the project, the Owner or authorized agent shall employ a Registered Design Professional to conduct a visual observation of the representative structural systems, details and load paths for general conformance to the approved construction documents; it does not include or waive the responsibility of inspections and testing. In-person Structural Observations are required for Risk III/IV structures, high-rises, Seismic E greater than 2-stories above grade, or when required per the Construction Documents or per the AHJ. Observations do not include continuous inspection, verification of concealed conditions, measurement verifications, or responsibility of construction means and methods.
- 1.4.10 **Submittal Schedule** is a document prepared by the Contractor that outlines the timing and sequencing of all required submittals, including shop drawings, product data, samples, and other information that must be reviewed and approved by the Prime Design Professional and other relevant design professionals before fabrication and installation. The schedule shall list all required submittals, provide submission and review timeframes and be updated throughout the project to reflect any changes.
- 1.4.11 **Value Engineering** is a process by which the contractor, engineer, and/or architect offer cost saving suggestions, and alternates to the Owner of a Project in an effort to reduce the cost.
- 1.4.12 **Work** is the entire construction or the various separately identifiable parts thereof required to be provided under the Contract Documents. Work includes and is the result of performing or providing all labor, services, and documentation necessary to produce such construction, and furnishing, installing, and incorporating all materials and equipment into such construction, all as required by the Contract Documents.



Section 2 - Basic Services

2.1 General – The Basic Services of the SER shall include the following:

- 2.1.1 **Primary Structural System Design:** Analysis, design, and preparation of construction documents for the Primary Structural System, as designated in the Scope of Services and Exhibit A.
- 2.1.2 **Structural Criteria for Pre-Engineered Structural Elements:** Provision of structural criteria for Pre-Engineered Structural Elements when required by Exhibit A. Such criteria may include the type of element, position within the structure, connection requirements to the Primary Structural System, applicable loading and deflection criteria, and required shop drawing and calculation submittal requirements.
- 2.1.3 **Secondary and Non-Structural Elements:** Review of the effect of Secondary and Non-Structural Elements on the Primary Structural System and design of the Primary Structural System to accept and support such elements. Submittals reviewed for this purpose shall be indicated as "Reviewed for Impact to Structure." The Contract Documents shall provide information regarding the supporting capability and physical attachment limitations of the Primary Structural System. Where Exhibit A requires secondary or non-structural elements to be reviewed by the SER, the SER shall be entitled to rely on the accuracy and completeness of information furnished by the Client and/or the Prime Design Professional.
- 2.1.4 **Submittal Review**
- 1) **Submittal Review Scope and Transmittal:** The SER's review responsibilities apply only to structural submittals identified in the Structural Contract Documents or Structural General Notes as requiring review by the Structural Engineer of Record. The SER shall review only those submittals transmitted to the SER by the Client, Architect, or Contractor in accordance with the Contract Documents. The SER shall have no responsibility to seek out, request, track, or enforce the submission of submittals, nor to determine whether all required submittals have been provided. The Contractor remains solely responsible for preparing, coordinating, and transmitting all required submittals in accordance with the Contract Documents. Submittals not identified in the Structural Contract Documents as requiring structural review are outside the SER's scope of services unless specifically requested for evaluation of impact to the Primary Structural System. Such submittals may be returned without review or marked "For Information / Record Only" or "Not Reviewed – Not in SER Scope." Transmission of a submittal to the SER shall not expand the SER's scope of services beyond the review responsibilities defined in this Agreement.
 - 2) **Submittal Review Limits:** The SER's Basic Services for review of the Contractor's submittals shall be limited to review of the initial submittal and one (1) resubmittal for each required submittal. Review of additional resubmittals beyond the first resubmittal shall constitute an Additional Service and shall be compensated in accordance with the SER's standard hourly rates.
 - 3) **Submittal Review Time:** The SER shall have a minimum review period of ten (10) business days for submittals and five (5) business days for Requests for Information (RFIs), on average. The review period shall restart upon receipt of any resubmittal.
 - a) If a Submittal Schedule is not provided by the Contractor, the SER will review submittals with reasonable promptness while allowing sufficient time, in the SER's professional judgment, to perform an adequate review.
 - b) If the Contractor fails to provide an acceptable Submittal Schedule, the SER may notify the Client and/or the Registered Design Professional in Responsible Charge (RDP/IRC) in writing that agreed review periods are suspended until such schedule is provided.
 - c) Requests for expedited review that do not conform to an approved Submittal Schedule shall be considered Additional Services and shall be compensated at the SER's standard hourly rates.
 - 4) **Scope and Purpose of Submittal Review:** The SER shall review specified submittals after they have been reviewed and approved by the Contractor and others as required by the Contract Documents. The SER's review of submittals is for the limited purpose of evaluating general conformance with the design intent and the requirements of the Contract Documents. Beyond a review for general conformance, the engineer's review is limited to items identified by the contractor as deviations from the contract documents or requests for clarification. The SER shall not be responsible for reviewing portions of submittals that are not specifically identified for review by the Contractor. Such review shall not be conducted for the purpose of determining the accuracy or completeness of other information including, but not limited to, dimensions, quantities, fabrication details, installation procedures, field conditions, coordination with other trades, or performance of equipment or systems. These items remain the sole responsibility of the Contractor. The SER's review shall not be interpreted as a comprehensive review of the entire submittal.
 - a) The Contractor shall identify, by means of a clearly visible revision cloud and written explanation, any portion of a submittal that deviates from the requirements of the Contract Documents or for which clarification of design intent is required. The SER's review shall be limited to those items specifically identified for review within the submittal. Items not clearly identified shall be presumed to conform to the Contract Documents and shall not be considered reviewed by the SER.
 - b) Submittals shall not be used to modify, substitute, or redesign the structural systems indicated in the Contract Documents unless such deviation is clearly identified as a proposed design change. Any proposed change affecting the structural design, loading, load path, or connection design shall be submitted as a formal request for design modification and shall not be implemented unless approved in writing by the SER.
 - c) Failure by the Contractor to clearly identify deviations or items requiring clarification shall not constitute approval by the SER. The absence of comment shall not relieve the Contractor of responsibility for compliance with the Contract Documents.
 - d) The SER's review shall not constitute approval of safety precautions, construction means, methods, techniques, sequences, procedures, or temporary works, including the stability of partially completed structures, all of which remain the Contractor's responsibility.
 - e) If the SER does not provide a response to an item clearly identified by revision cloud and written explanation within the submittal, such omission shall not be interpreted as approval. The Contractor shall request written clarification from the SER before proceeding with the work associated with that item.
 - f) Review or comment on an individual component shall not constitute approval of an entire assembly or system of which that component may be a part.
 - 5) **Deviations from Contract Documents:** Deviations from the Contract Documents that are not clearly identified by revision cloud and written explanation within the submittal shall be deemed to conform to the Contract Documents and shall not be considered reviewed or approved by the SER. The SER shall have no responsibility to search submittals for unidentified deviations.



- 6) **Incomplete or Improper Submittals:** Submittals that are incomplete, improperly prepared, or that have not been reviewed and approved by the Contractor as required by the Contract Documents may be returned without review.
- a) Submittals shall include the Contractor's review stamp indicating that the Contractor has verified field measurements, quantities, fabrication requirements, and coordination with other trades.
 - b) Submittals returned without review due to incompleteness, lack of the Contractor's review stamp, or failure to comply with the Contract Documents shall not be considered reviewed, and any resubmission shall be treated as a new submittal. Review of such resubmittals may be considered an Additional Service if excessive or repetitive submissions occur.
- 7) **Fragmented or Partial Submittals:** Submittals shall be transmitted in complete packages that allow the SER to perform a coordinated review. The SER shall not be responsible for reviewing fragmented, partial, or piecemeal submittals that do not contain all information necessary to evaluate the system or assembly. Where fragmented submittals are submitted, the SER may defer review until sufficient information is provided. Additional review time resulting from fragmented submissions may constitute an Additional Service.
- 2.1.5 **Pre-Engineered Structural Elements / Specialty Engineer Design:** Review of submittals pertaining to Pre-Engineered Structural Elements specified by the SER and designed by Specialty Engineers shall occur after such submittals have been reviewed and approved by others as required by the Contract Documents. The SER shall determine whether such submittals bear the signature and professional seal of the Specialty Engineer responsible for the design where required by the Contract Documents. Review of Pre-Engineered Structural Elements shall be limited to verification of: the type of element, position within the structure, connection to the Primary Structural System, design criteria and loads used for their design. Submittals reviewed for this purpose shall be indicated as "Reviewed for Impact to Structure".
- 2.1.6 **Temporary Stability and Construction Means:** The SER shall not have responsibility for construction means, methods, techniques, sequences, procedures, or safety precautions in connection with the Work. The Contractor shall be solely responsible for the temporary stability of the structure during construction, including but not limited to temporary bracing, shoring, erection procedures, sequencing of construction, and temporary supports. The Contract Documents depict the completed structure and are not intended to indicate the sequence of construction or the method by which the structure is to be erected. Where required for the safe execution of the Work, the Contractor shall retain a qualified licensed professional engineer to design temporary works, erection procedures, and bracing systems. The SER shall have no responsibility for the adequacy of temporary works, erection engineering, or construction sequencing.
- 2.1.7 **Structural Observation:** Site visits at intervals appropriate to the stage of construction, as defined by the Scope of Services and Exhibit A, to observe and become generally familiar with the progress and quality of construction related to the Primary Structural System. The SER shall prepare construction observation reports documenting such visits. The SER shall be provided a minimum of 48 hours' notice of scheduled construction activities involving the Primary Structural System.
- 2.1.8 **No Construction Phase Services:** If the SER prepares documents for construction but is not retained to perform construction-phase services, including site visits, review of submittals, and responses to Requests for Information (RFIs), the Client assumes full responsibility for construction observation and interpretation and implementation of the Contract Documents. The Client acknowledges that Contract Documents are not intended to serve as step-by-step instructions for construction and may require professional interpretation of the design intent during construction. When the SER is not retained to provide construction-phase services, the risk of misinterpretation of the Contract Documents and the design intent increases.
- 1) The Client acknowledges that failure to retain the SER for construction-phase services increases the likelihood that the Contract Documents may be incorrectly interpreted during construction.
 - 2) Accordingly, the Client agrees to release, defend, indemnify, and hold harmless the SER from any claims, damages, costs, or expenses arising from errors in interpretation, implementation, or construction of the Work where such issues could reasonably have been addressed through construction-phase services provided by the SER.

Section 3 - Additional Services

3.1 General

- 3.1.1 Services beyond those outlined under Basic Services may be requested. These services shall be provided as Additional Services by the SER under terms mutually agreed upon by the Client and the SER. If numerous or significant scope changes materially impair the SER's ability to perform its obligations, create unreasonable financial or operational burdens, or render the Project fundamentally different from its original intent, the SER may terminate this Agreement. Prior to termination, the SER shall: (a) provide written notice to the Client specifying the grounds for termination and the impact of the scope changes; and (b) allow the Client 10 business days to cure the issue by withdrawing or modifying the proposed changes to align with the original Project scope or agreeing to reasonable adjustments. If the Client fails to cure the issue within the specified period, the SER may terminate the Agreement by providing 5 business days written notice of termination. Upon termination, the Client shall compensate the SER for all services performed, costs incurred, and any Additional Services provided up to the termination date.
- 3.1.2 **Special Services** are services which may or may not be foreseen at the beginning of design [Reference Scope of Services table for Included items], and which are not normally included as Basic Services. Examples include, but are not limited to:
- 1) Services related to **Non-Structural Elements** and their attachments, including:
 - a) Flatwork (sidewalk, pavement, stoops, etc.) adjacent to the structure. These elements shall be within the civil engineer scope of services unless noted otherwise in writing to the SER.
 - b) Exterior cladding systems (e.g. masonry veneer, curtainwall, storefront, rainscreen, etc.)
 - c) Concealed lintels for masonry veneer.
 - d) Interior architectural systems (e.g. partition walls including those comprised of CMU, operable partitions, counters, shelves, etc.)
 - e) Window washing systems and tie downs.
 - f) Antennas and flagpoles.
 - g) Support for MEP equipment, pipes and utilities, storage tanks, cooling towers and underground vaults.
 - h) Mechanisms and guide systems for elevators, escalators, other conveyor systems and associated operating equipment.
 - i) Ladders, handrails, railings, grills, screens, and signs.
 - 2) Services related to **Secondary Structural Elements** and their attachments, including:



- a) Site-work elements not part of the Primary Structural System, such as retaining walls, culverts, bridges, etc; as well as support for landscape furnishing such as flagpoles, lighting poles, benches, fountains, pools, signs, bollards, traffic barriers, etc.
 - b) Stairs, guardrails, handrails, roof access ladders, etc.
 - c) Non-load bearing cold-formed steel framing
 - d) Awnings, canopies, louvers, etc.
- 3) Tenant-related design services.
 - 4) Services related to special seismic analyses such as non-linear "pushover" analysis or spectrum or time-history dynamic analysis
 - 5) Services related to special dynamic analyses, such as effects or floor-response analysis for footfall or vibratory equipment.
 - 6) Services related to special wind analyses, such as wind-tunnel tests, etc.
 - 7) Services related to "seismic risk" analysis.
 - 8) Preparation of demolition documents.
 - 9) Field Investigation of existing buildings and structures, including surveys of existing construction.
 - 10) Services connected with the preparation of documents for alternate bids or for segregated agreements for phased or FastTrack construction.
 - 11) Continuous and/or detailed inspections of construction.
 - 12) Design and field observation of shoring and bracing for excavations and buildings or underpinning of adjacent structures.
 - 13) Load checks for construction equipment and/or materials to be placed on the structure.
 - 14) Design and review related to Contractor's construction-related equipment, e.g., cranes, lifts, hoists, etc.
 - 15) Design of swimming pools.
 - 16) Design for future expansion.
 - 17) Filing application for and obtaining a building permit.
 - 18) Preparation of a record set of drawings.
 - 19) Preparation of shop or fabrication drawings, such as tilt-up wall panel drawings, reinforcing and structural steel detailing, etc.
 - 20) Review and determination of structural fire resistance requirements.
 - 21) Roof drainage analysis including but not limited analysis of secondary scupper and/or drain sizes to keep static + hydraulic head of rainwater below 15 psf. The architects and/or plumbing engineer are responsible for ensuring the maximum rainwater depth on the roof does not exceed the loading indicated on the structural drawings or 20 pounds per square foot whichever is less.
 - 22) Design, specification, installation, or performance of protection / preservation measures for exposed framing. Responsibility for the selection of protective treatments, coatings, detailing, and maintenance lies with the architect, wood preservation specialist, and/or contractor.

3.1.3 Additional Services are services which arise as a result of unforeseen circumstances during the design or construction process.

Examples include, but are not limited to:

- 1) Services resulting from changes in scope or magnitude of the Project as described and agreed to under the Basic Services Agreement, including but not limited to the following:
 - a) Changes that affect column locations, lateral force-resisting systems, foundation type, or member sizing after DD phase review and approval shall constitute a change in scope.
 - b) Structural coordination is limited to the Architectural, MEP, Civil backgrounds issued and provided to the SER at the time of design. Structural design is based on information provided by others. The Structural Engineer is not responsible for verifying the accuracy or completeness of such information. Re-coordination due to background changes after drawing approvals shall be considered Additional Services.
- 2) Services resulting from changes necessary because of a construction cost over-run which is outside the control of the SER. Often this is referred to as Value Engineering. Changes that affect the structural design that are made after the Design Development phase are considered additional services.
- 3) Services resulting from revisions which are inconsistent with approvals or instructions previously given by the Client.
- 4) Services resulting from revisions due to the enactment or revision of codes, laws, or regulations subsequent to the execution of this Agreement.
- 5) Services resulting from Change Orders.
- 6) Services resulting from corrections or revisions required because of errors or omissions in construction by the building contractor or in design by consultants other than the SER.
- 7) Providing recommendations regarding claims, disputes, or other matters relating to execution or progress of the work.
- 8) Services resulting from construction procedures over which the SER has no control.
- 9) Services due to extended design or construction time schedules.
- 10) Service in connection with any public hearing, arbitration, or legal proceeding with respect to the Project, including assisting in preparation for litigation or arbitration as witnesses or consultants.
- 11) Services resulting from damage as the result of fire, man-made disasters, or acts of God.
- 12) Review and design of alternate or substitute systems.
- 13) Review of additional shop drawing submittals when occasioned by improper or incomplete submittals, see Exhibit A for included number of reviews.
- 14) Attendance at construction progress meetings.
- 15) Overtime work required by the Client.
- 16) Services required to make changes resulting from value-engineering review or Project peer review.
- 17) Services rendered for special foundations when the discovery of unexpected soil conditions is made after execution of this Agreement. Examples include, but are not limited to deep foundations, mat foundations, structural slabs on voids, etc.

Section 4 - Fees and Payments

4.1 Fees and Other Compensation

4.1.1 Fees for Basic Services, Additional Services and Compensation for Reimbursable Expenses are set forth in the Agreement.

4.2 Payments on Account



- 4.2.1 Invoices for the SER's services shall be submitted, at the SER's option, either upon completion of any phase of service or on a monthly basis. Invoices shall be payable when rendered and shall be considered past due if not paid within 30 days after the invoice date.
- 4.2.2 Retainers, if applicable to this Project, shall be credited to the final invoice(s).
- 4.2.3 Any inquiry or question concerning the substance or content of an invoice shall be made to the SER, in writing, within 10 days of receipt of the invoice. A failure to notify the SER within this period shall constitute an acknowledgement that the service has been provided and payment is due.

4.3 Late Payments

- 4.3.1 A service charge will be charged at the rate of 1.5% (18% true annual rate) per month or the maximum allowable by law on the then outstanding balance of past due accounts. In the event any portion of an account remains unpaid 90 days after billing, the Client shall pay all costs of collection, including reasonable attorney's fees. Payments on account will be credited first to any service charge and then to any outstanding balances.
- 4.3.2 In the event that any portion of an account remains unpaid 30 days after billing, the SER may, without waiving any claim or right against the Client, and without liability whatsoever to the Client, suspend or terminate the performance of all services and in that event, SER will in no way be responsible for any resultant delay.

Section 5 - Insurance, Indemnification & Risk Allocation

5.1 Insurance

- 5.1.1 The SER shall secure and endeavor to maintain professional liability insurance, commercial general liability insurance, and automobile liability insurance to protect the SER from claims for negligence, bodily injury, death or property damage which may arise out of the performance of the SER's services under this Agreement. The SER shall also carry Worker's Compensation Insurance. The SER shall, if requested in writing, provide certificates of insurance to the Client.
- 5.1.2 The Owner shall require Contractor to purchase and maintain policies of insurance covering workers' compensation, general liability, property damage (other than to the Work itself), motor vehicle damage and injuries, and other insurance necessary to protect Owner's and SER's interests in the Project. Owner shall require Contractor to cause SER to be listed as additional insureds with respect to such liability and other insurance purchased and maintained by Contractor for the Project.

5.2 Indemnification

- 5.2.1 The SER shall indemnify and hold harmless the Client and its officers, members, directors, partners, and employees against any and all claims, damages, losses and expenses to the extent they are caused by the negligent acts, errors, or omissions of the SER and its officers, members, directors, partners, agents, employees, and subconsultants in the performance of its services under this Agreement, subject to the Risk Allocation provisions. The Client shall indemnify and hold harmless the SER and its officers, members, directors, partners, agents, employees and subconsultants from and against any and all claims, damages, losses and expenses arising out of or resulting from the performance of the services, provided that any such claims, damage, loss or expense is caused in whole or in part by the negligent act or omission and/or strict liability of the Client, anyone directly or indirectly employed by the Client (except the SER) or anyone for whose acts any of them may be liable. This indemnification shall include any claim, damage or loss due to the presence of hazardous materials. Neither party shall have any obligation to defend or pay for the defense costs of the other party until such time as there is a determination of fault of the parties and in that event, the party found at fault shall only be obligated to reimburse the other party for its reasonable defense costs on a percentage basis in direct proportion, as determined by the court, to the percentage of fault of the party who was found at fault.
- 5.2.2 For third party claims, to the fullest extent permitted by law, the Client hereby agrees to indemnify, hold harmless and defend the SER, including its officers, members, directors, partners, agents, employees, and subconsultants from and against all third party claims, including bodily injury, property damage, products liability, demands, damages and losses, causes of actions, judgments, fines, penalties and claims expense including attorney fees, caused by or alleged to have been caused by anything other than negligent performance by the SER of services under the agreement related to this Project. Said indemnification shall also apply to any deductible that the SER may be obligated to pay under its Professional Liability Policy resulting therefrom.
- 5.2.3 The Client shall indemnify and hold harmless the SER, agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, which arise as a result of inaccurate or incomplete documentation or information furnished by the Client.
- 5.2.4 The SER shall be indemnified by the Contractor and shall be made an additional insured under the Contractor's general liability insurance policies.

5.3 Risk Allocation (Limitation of Liability)

- 5.3.1 IN RECOGNITION OF THE RELATIVE RISKS, REWARDS AND BENEFITS OF THE PROJECT TO BOTH THE CLIENT AND THE SER, THE RISKS HAVE BEEN ALLOCATED SUCH THAT THE CLIENT AGREES THAT, TO THE FULLEST EXTENT PERMITTED BY LAW, THE SER'S TOTAL LIABILITY TO THE CLIENT AND ANY THIRD PARTIES FOR ANY AND ALL INJURIES, CLAIMS, LOSSES, EXPENSES, DAMAGES OR CLAIM EXPENSES ARISING OUT OF THIS AGREEMENT, FROM ANY CAUSE OR CAUSES, INCLUSIVE OF ALL COSTS INCLUDING ATTORNEY AND EXPERT FEES SHALL NOT EXCEED THE AMOUNT OF THE SER'S FEES. SUCH CAUSE OR CAUSES INCLUDE, BUT ARE NOT LIMITED TO, THE SER'S NEGLIGENT ACTS, ERRORS, OMISSIONS, STRICT LIABILITY, BREACH OF CONTRACT, BREACH OF EXPRESSED OR IMPLIED WARRANTY, OR ANY OTHER THEORY OF LEGAL LIABILITY. THIS LIMITATION OF LIABILITY SHALL APPLY TO THE SER AND ITS OFFICERS, MEMBERS, DIRECTORS, PARTNERS, AGENTS, EMPLOYEES, AND SUBCONSULTANTS. IF CLIENT DESIRES HIGHER LIMITS ON PROFESSIONAL LIABILITY, THE LIMITS CAN BE INCREASED PER THE TABLE BELOW UPON CLIENT'S WRITTEN REQUEST AT THE TIME OF ACCEPTING OUR AGREEMENT PROVIDED THAT CLIENT AGREES TO PAY ADDITIONAL FEE (RISK PREMIUM). THE ADDITIONAL CHARGE FOR THE HIGHER LIABILITY LIMITS IS DUE TO THE GREATER RISK ASSUMED AND IS NOT A CHARGE FOR ADDITIONAL PROFESSIONAL LIABILITY INSURANCE. THE SER'S SERVICES ARE PERFORMED SOLELY FOR THE BENEFIT OF THE CLIENT AND NO OTHER PARTY SHALL HAVE ANY RIGHT TO RELY UPON OR CLAIM DAMAGES ARISING FROM THE SER'S SERVICES. IN NO EVENT SHALL ANY CLAIM AGAINST THE SER BE BROUGHT MORE THAN TEN (10) YEARS AFTER SUBSTANTIAL COMPLETION OF THE PROJECT. TO THE FULLEST EXTENT PERMITTED BY LAW, THE CLIENT AND SER WAIVE ALL RIGHTS AGAINST EACH OTHER FOR DAMAGES COVERED BY PROPERTY



INSURANCE CARRIED FOR THE PROJECT.

Limitation of Liability	Risk Premium
1x SER Fee	Base Fee
\$50,000	Base Fee x 1.05 (5%)
\$100,000	Base Fee x 1.10 (10%)
\$250,000	Base Fee x 1.15 (15%)
\$500,000+	To be negotiated for specific Project.

5.4 Client's Consultants

- 5.4.1 The Client may retain other consultants to provide services for the Project. The Engineer shall have no responsibility or liability for any portion of the Project designed, specified, or otherwise provided by consultants retained directly by the Client or by Special Consultants engaged for the Client's convenience. The Engineer shall not be required to review, check, or verify the accuracy, completeness, or compliance of documents, reports, or designs prepared by such consultants and shall be entitled to rely upon them. Responsibility for the adequacy of such documents and their compliance with applicable laws, codes, statutes, ordinances, and regulations shall remain solely with the consultant that prepared them.
- 5.4.2 Insurance of Other Consultants – The Client represents and warrants that all consultants and design professionals engaged by the Client for the Project shall maintain professional liability insurance and commercial general liability insurance with minimum limits of \$2,000,000 per claim and \$4,000,000 annual aggregate, with coverage applying on a per-project basis where available. Such insurance shall be maintained for the duration of the Project and for any applicable statute of repose or limitations period following completion of services.
- 5.4.3 To the fullest extent permitted by law, the Client shall indemnify and hold harmless the Engineer from and against claims, damages, losses, liabilities, or expenses to the extent caused by the acts, errors, or omissions of consultants retained by the Client, including any failure of such consultants to maintain the insurance required herein. Nothing in this provision shall be construed to require indemnification of the Engineer for the Engineer's own negligence.

5.5 Exclusion of Special, Incidental, Indirect, and Consequential Damages:

- 5.5.1 To the fullest extent permitted by law, and notwithstanding any other provision in the Agreement, the SER and SER's officers, directors, members, partners, agents, Consultants, and employees shall not be liable to Client or Owner or anyone claiming by, through, or under Client or Owner for any special, incidental, indirect, or consequential damages whatsoever arising out of, resulting from, or in any way related to the Project or the Agreement from any cause or causes, including but not limited to any such damages caused by the negligence, professional errors or omissions, strict liability, breach of contract, indemnity obligations, or warranty express or implied of SER or SER's officers, directors, members, partners, agents, or employees.

5.6 Interpretation

- 5.6.1 LIMITATIONS ON LIABILITY, WAIVERS AND INDEMNITIES FOR THIS AGREEMENT ARE BUSINESS UNDERSTANDINGS BETWEEN THE PARTIES AND SHALL APPLY TO ALL LEGAL THEORIES OF RECOVERY, INCLUDING BREACH OF CONTRACT OR WARRANTY, BREACH OF FIDUCIARY DUTY, TORT (INCLUDING NEGLIGENCE), STRICT OR STATUTORY LIABILITY, OR ANY OTHER CAUSE OF ACTION, PROVIDED THAT NOTHING IN THE LIMITATION OF LIABILITY, WAIVER, OR INDEMNITY PROVISIONS OF THIS AGREEMENT SHALL BE CONSTRUED TO LIMIT LIABILITY FOR THE SER'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT WHERE SUCH LIMITATION IS PROHIBITED BY LAW.
- 5.6.2 The Parties also agree that the Client will not seek damages in excess of the contractually agreed-upon limitations directly or indirectly through suits against other parties who may join the SER as a third-party defendant. The term "Parties", for purposes of this Paragraph only, means the Client and the SER, and their officers, directors, partners, employees, subcontractors, and subconsultants.

5.7 Betterment

- 5.7.1 If the omission of a required item or component from the Contract documents is not due to the SER's negligence, the SER shall not be responsible for paying the cost required to add such item or component to the extent that such item or component would have been required and included in the original Contract Documents. In no event will the SER be responsible for any cost or expense that provides betterment or upgrades or enhances the value of the Project

5.8 Agreement Not to Claim for Cost of Certain Change Orders:

- 5.8.1 Owner and Client recognize and expect that certain Change Orders may be required to be issued as the result in whole or part of imprecision, incompleteness, errors, omissions, ambiguities, or inconsistencies in the Drawings, Specifications, and other design documentation furnished by SER or in the other professional services performed or furnished by SER under this Agreement. Accordingly, Owner and Client agrees not to sue or to make any claim directly or indirectly against SER on the basis of professional negligence, breach of contract, or otherwise with respect to the costs of approved Covered Change Orders unless the costs of such approved Covered Change Orders exceed 5 % of Construction Cost, and then only for an amount in excess of such percentage. Any responsibility of SER for the costs of Covered Change Orders in excess of such percentage will be determined on the basis of applicable contractual obligations and professional liability standards. For purposes of this paragraph, the cost of Covered Change Orders will not include any costs that Owner would have incurred if the Covered Change Order work had been included originally without any imprecision, incompleteness, error, omission, ambiguity, or inconsistency in the Contract Documents and without any other error or omission of SER related thereto. Nothing in this provision creates a presumption that, or changes the professional liability standard for determining if, SER is liable for the cost of Covered Change Orders in excess of the percentage of Construction Cost stated above or for any other Change Order. Wherever used in this paragraph, the term SER includes SER's officers, directors, members, partners, agents, employees, and Consultants.



Section 6 - Miscellaneous Provisions

6.1 Reuse of Documents

- 6.1.1 All documents including calculations, computer files, drawings, and specifications prepared by the SER pursuant to this Agreement are instruments of professional service intended for one-time use in construction of this Project. They are and shall remain the property of the SER. Any reuse without written approval or adaptation by the SER is prohibited and releases the SER from all liability associated with such reuse.
- 6.1.2 Drawings, specifications, reports, calculations, and other instruments of professional service prepared by the SER are intended solely for use on the Project and solely for the benefit of the Client. No other party may rely upon such documents without the express written consent of the SER.
- 6.1.3 The structural design prepared by the SER is based on the Project conditions, loading assumptions, and building configuration existing at the time of design. Any modification to the structure, including alterations, additions, equipment installation, changes in occupancy, removal of structural elements, or modifications to load paths, may adversely affect structural performance. The SER shall have no responsibility or liability for damages resulting from modifications made after completion of the Project unless the SER has reviewed and approved such modifications in writing.
- 6.1.4 No Third-Party Reliance - No contractor, subcontractor, supplier, lender, purchaser, tenant, or other third party may rely upon the SER's instruments of service unless the SER has issued a written reliance authorization signed by the SER. Any unauthorized reliance is at the relying party's sole risk, and the SER shall have no liability to any such party.

6.2 Opinion of Probable Construction Cost (OPCC)

- 6.2.1 The SER's opinion of probable structural construction cost, if rendered as a service under this Agreement, is based on assumed labor costs and approximate quantities of material and equipment, and therefore is of a conditional character. The SER cannot guarantee the cost of work to be performed by others since market or bidding conditions can change at any time and changes in the scope or quality of the Project may affect estimates. If the Client needs construction cost estimates they can rely upon, they shall engage a professional construction cost estimator or contractor. The SER does not warrant or represent that bids or negotiated construction costs will not vary from such opinions of probable construction cost.

6.3 Hidden Conditions and Hazardous Materials

- 6.3.1 A structural condition is hidden if it is concealed by existing finishes or if it cannot be investigated by reasonable visual observation. If the SER has reason to believe that a structurally deficient condition may exist, the SER shall notify the Client who shall authorize and pay for all costs associated with the investigation of such a condition and, if necessary, all costs necessary to correct said condition. If (1) the Client fails to authorize such investigation or correction after due notification, or (2) the SER has no reason to believe that such a condition exists, the Client is responsible for all risks associated with this condition, and the SER shall not be responsible for the existing condition nor any resulting damages to persons or property. The SER shall have no responsibility for the discovery, presence, handling, removal, disposal or exposure of persons to hazardous materials of any form. The SER shall not be responsible for testing, monitoring, abatement, or remediation of hazardous materials.

6.4 Review of Contractor's Work

- 6.4.1 The SER will not supervise, direct, or have control over the Contractor's work. The SER shall not be responsible for the Contractor's means, methods, procedures, techniques, or sequences of construction, nor for safety programs or procedures employed by the Contractor on the job site. The SER shall not be responsible for the Contractor's failure to carry out work in accordance with the Contract Documents, OSHA regulations and standard industry practice.
- 6.4.2 The SER's structural design assumes that the completed structure will achieve stability and load resistance only after all structural elements have been installed in accordance with the Contract Documents. The Contractor is solely responsible for the design, adequacy, and implementation of temporary bracing, shoring, erection procedures, and construction sequencing necessary to maintain structural stability during construction.
- 6.4.3 The SER shall have no responsibility for the stability of the structure or any portion thereof during construction, or for the design, adequacy, or safety of temporary structures, temporary bracing, shoring, formwork, scaffolding, erection procedures, or construction sequencing, unless the SER is specifically retained in writing to perform such services under a written amendment to this Agreement.
- 6.4.4 The structural design services provided by the SER do not include long-term monitoring, inspection, or maintenance of the structure after completion of construction. The Owner is responsible for implementing an appropriate maintenance program and periodic inspections of the building structure to identify deterioration, damage, or other conditions that may affect structural performance. Failure by the Owner to properly maintain the structure or to address deterioration, corrosion, water intrusion, or other damaging conditions may impair structural performance. The SER shall not be responsible for damages resulting from inadequate maintenance or failure to perform periodic inspections.

6.5 Termination, Successors and Assigns

- 6.5.1 This Agreement may be terminated upon 10 days written notice by either party should the other fail to perform its obligations hereunder. In the event of termination, the Client shall pay the SER for all services rendered to the date of termination, all reimbursable expenses, and reasonable termination expenses.
- 6.5.2 The Client and the SER each binds himself or herself, partners, successors, executors, administrators, assigns and legal representatives to the other party of this Agreement and to the partners, successors, executors, administrators, assigns, and legal representatives of such other party in respect to all covenants, agreements, and obligations of this Agreement.
- 6.5.3 Neither the Client nor the SER shall assign, sublet or transfer any rights under or interest in (including but without limitations, monies that may be due or monies that are due) this Agreement, without the written consent of the other, except as stated in the paragraph above, and except to the extent that the effect of this limitation may be restricted by law. Unless specifically stated to the contrary in any written consent to an assignment, no assignment will release or discharge the assignor from any duty or responsibility under this Agreement. Nothing contained in this paragraph shall prevent the SER from employing such independent consultants, associates and subcontractors as he or she may deem appropriate to assist in the performance of services hereunder.
- 6.5.4 The SER and Client agree that the services performed by the SER pursuant to this Agreement are solely for the benefit of the Client and are not intended by either the SER or the Client to benefit any other person or entity. To the extent that any other person or



entity, including but not limited to the Contractor and/or any of its Subcontractors and other Design Professionals, is benefited by the services performed by the SER pursuant to this Agreement, such benefit is purely incidental and such other person or entity shall not be deemed a third-party beneficiary to this Agreement.

6.6 Dispute Resolution

- 6.6.1 The SER and Client agree to negotiate any claim(s) or dispute(s) arising out of or related to the agreement between them in good faith prior to exercising any other provision of this Agreement.
- 6.6.2 If a claim or dispute between the SER and Client cannot be settled within 30 days by good faith negotiations, the SER and Client agree to submit it to mediation as a condition precedent to the method of binding dispute resolution set forth below. Mediation shall be administered in accordance with the Construction Rules of the American Arbitration Association. The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution, but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings. In no event shall a claim or dispute be made or sustained if it would be barred by the applicable statute of limitations.
- 6.6.3 Any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration as binding dispute resolution. Unless the parties mutually agree otherwise, arbitration shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration. A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.
- 6.6.4 If the SER and Client 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, the dispute will be resolved in a court of competent jurisdiction.
- 6.6.5 No Personal Liability - Client and SER agree the representations and undertakings set forth in this Agreements are not made or intended as personal by their respective shareholders, officers, directors, members, managers, employees, and no personal liability is assumed by, nor may at any time be asserted against, any of them personally, all such liability, if any, being expressly waived or released by the Parties. The Parties agree claims, if any, will be brought against the business entities that are the Parties to this Agreement.
- 6.6.6 Any claim must be submitted in writing to the director of the SER. A claim is defined as any written notice or demand for monetary, non-monetary, or injunctive relief; any written request to toll or waive the statute of limitations; any notice of suit; and any arbitration or mediation proceeding which seeks to hold the SER responsible for any actual or alleged negligent act, error, omission, misstatement, misleading statement or breach of duty by the SER in the rendering of or failure to render professional services as outlined in this agreement.
- 6.6.7 Client shall provide written notice to the SER of any claim, dispute, or alleged error, omission, or deficiency within thirty (30) days after Client becomes aware, or reasonably should have become aware, of the facts giving rise to such claim. Failure to provide such notice within this time period shall relieve the SER of responsibility to the extent the SER's ability to investigate and mitigate the claim has been prejudiced.

6.7 Governing Laws

- 6.7.1 This Agreement shall be governed by the laws of the State of Texas.

6.8 Information Supplied by Others

- 6.8.1 In the performance of our services, the SER relies upon the accuracy, completeness, and appropriateness of client-provided and/or third-party information. It is not the SER's responsibility to verify the accuracy or relevance of the information supplied by the Client, or other parties. Additionally, failure to receive the information on schedule may delay the completion of the SER's scope of services in which case no penalty shall be applied to the SER.

6.9 Claim Validation (Certificate of Merit)

- 6.9.1 The Client shall make no claim for professional negligence, either directly or by way of a cross complaint against the SER unless the Client has first provided the SER with a written certification executed by an independent consultant currently practicing in the same discipline and locale as the SER and licensed in the state where the project is located. This certification shall: a) contain the name and license number of the certifier; b) specify the acts or omissions that the certifier contends are not in conformance with the standard of care for a consultant performing professional services under similar circumstances; and c) state in detail the basis for the certifier's opinion that such acts or omissions do not conform to the standard of care. This certificate shall be an express condition precedent to initiation of any claim by mediation, arbitration or litigation and shall be provided to the SE not less than thirty (30) calendar days prior to the presentation of any claim or the institution of any arbitration or judicial proceeding. Failure to comply with this claim validation shall constitute a waiver of any such claims and entitle the SER to recover its reasonable attorney's fees and costs.

6.10 Force Majeure

- 6.10.1 Neither party shall hold the other responsible for damages or delay in performance caused by acts of God, fires, riots, natural disasters, strikes, lockouts, or other labor disputes (whether or not relating to either party's workforce), accidents, governmental actions, war, invasions or hostilities (whether war is or not), terrorist threats or acts, or other civil unrest, national emergencies, revolutions, insurrections, epidemics, or restraints or delays affecting carriers, telecommunication breakdowns or power outages or any other events beyond the reasonable control of the other party, its employees or agents.



6.11 Severability

6.11.1 In the event any provision of this Agreement shall be held to be invalid or unenforceable, that provision shall be struck, and the remaining provisions shall be valid and binding upon the parties.

6.11.2 The provisions of this Agreement relating to limitation of liability, indemnification, dispute resolution, reuse of documents, waiver of damages, and risk allocation shall survive completion of the services and termination of this Agreement.

6.12 Electronic Documents Disclaimer

6.12.1 Electronic files or documents transmitted by the SER are provided for convenience only. In the event of any discrepancy between electronic files and the signed and sealed construction documents, the signed and sealed documents shall govern. The SER shall not be responsible for unauthorized modifications to electronic files made by others.

