

November 27, 2024

Ms. Mandy Epley, M.Ed.
Superintendent
Navarro Independent School District
6450 N. State Hwy 123
Seguin, Texas 78155

Re: Navarro ISD - New ES Platting, Permitting, & Infrastructure
PD Project No. 13643-01

Dear Ms. Epley:

We are pleased to present this proposal for providing civil engineering and surveying services in connection with the above-referenced project. Our proposed scope of services and associated fees are as follows:

I. PROJECT SUPPORT (TASK 501) Allowance: \$10,000

As Pape-Dawson was not involved in the initial project feasibility or scoping, several activities have or will be required to support the confirmation of scope items required to achieve the project. These tasks are intended to provide compensation for miscellaneous tasks required to support the overall project which are related to vetting of multiple options prior to proceeding with design (design and construction support associated with the final selection to be performed under separate contract with the architect). Example tasks include the following:

- Identification of potential offsite routes for public infrastructure and coordination with City staff to obtain buy-in for selected option;
- Preparation of easements/exhibits to communicate options and easement requirements for any offsite improvements;
- Assistance to communicate project information to offsite land owners;
- Development of schematics to gain approval of public roadway configuration from City staff prior to development of design documents;
- Other initial planning or scoping activities performed prior to identification of a final approach.

PLATTING AND PERMITTING

The following studies are separate from the design activities conducted under the architectural scope and are required for platting and/or permitting:

II. PLATTING (CITY OF SEGUIN) (TASK 216) \$15,000

Preparation of a subdivision plat. The Engineer to perform computations necessary to prepare a plat for submission to the City of Seguin for approval and recordation. The initial meeting with city staff indicated that this project would not need a concept plan or preliminary plat. This proposal assumes that this plat to be categorized as a major plat due to the required public improvements to service the subdivision. Major Plats are approved by the Planning and Zoning Commission. This task includes:

- Preparation of plat application.
- Prepare a subdivision plat of the property in accordance with the City's Unified Development Code.
- Submit the subdivision plat to the required agencies for review and approval.
- Calculation of easements and preparation of notes required by reviewing agencies.
- Monitor and review process and coordinate with appropriate departments to seek approval and recordation of the plat.
- Attend the Planning and Zoning Commission public meetings when the subdivision plat is on the agenda.
- Assist the client with the recordation of the subdivision plat.

Notes:

- Platting fees (provided by owner) to be included with plat application submittal (approximately \$1,500).*
- Boundary surveying costs are not included in this fee but were addressed under a separate proposal.*
- Design and permitting of offsite improvements included under separate contract with architect.*
- Other items that may be required for plat approval are included as separate tasks including:*
 - *Stormwater Management Plan (task presented in this proposal)*
 - *Traffic Impact Analysis (TIA) (performed under separate proposal to District)*

III. STORM WATER MANAGEMENT PLAN (TASK 223)

\$15,000

Compliance with the City of Seguin UDC requires the preparation of a report which outlines the effects of the impervious cover of this proposed development on the downstream drainage area. On-site stormwater detention is required for all new developments to offset increased runoff resulting from new developments.

- This scope of services consists of preparation of calculations and exhibits and submittal of a Stormwater Management Plan report to the City of Seguin.
- City of Seguin requires analysis of existing drainage infrastructure for a distance of 2,000 feet downstream from the proposed development. If any appreciable adverse impact still exists at that distance, the City Engineer may require that additional drainage facilities be constructed to mitigate adverse impacts.
- Because the site and surrounding area is extremely flat and no public infrastructure is available to discharge to, it is expected that design of an offsite drain extension through adjacent property may be required to avoid maintenance issues and impacts to adjacent properties. This task includes identification and analysis of an offsite solution; however, depending on the final outcome, additional scope and fee may be required to complete any unexpected analyses.

Notes:

- Additional survey and design tasks may be required if offsite drainage mitigations are required. Cost will be proposed when scope is confirmed.*
- Preparation of plans for construction of the analyzed improvements, including detention basin and public channel(s) will be paid by the Architect.*

IV. SITE DEVELOPMENT PERMITTING (TASK 390) \$10,000

The City of Seguin process requires separate submittals for permitting of the site activities (building permit submittals are made by the Architect). This process is typically led by the Civil Engineer and involves preparation of submittal packages, initial and follow-up conversations with City Staff, preparation and submittal of response packages to address City comments, and distribution of final approval documents. Since these activities are outside of actual design, the Owner typically contracts directly with the Engineer for these services.

V. PUBLIC INFRASTRUCTURE PERMITTING (TASK 391) \$15,000

In addition to the permitting described above, the City of Seguin process requires separate submittals for permitting of plans required for any public infrastructure. This process is led by the Civil Engineer and is part of the plat approval process. While the design and plan preparation for these packages will be performed under contract to the Architect, the permit submittal and processing activities are typically performed separately under contract to the Owner. At this time, four separate submittal packages are assumed to be required (water, sewer, roadway, and storm drainage). Submittals will include cost estimates and design plans; these improvements must either be constructed or bonded in order to gain plat approval.

SURVEY

VI. DESIGN SURVEY – OFFSITE WATER/SEWER (TASK 105) \$15,000

Survey of the project site has been addressed under a separate proposal; however, additional field survey is expected to be required to support design of offsite water/sewer infrastructure construction required to support the school facility. Coordination with City Staff is ongoing; however, the scope of work is currently anticipated to include the following areas:

- Offsite sewer – Sewer is expected to be connected to existing sewer main in the adjacent residential development. Survey of topography and improvements along the route from the school to the connection point will be required.
- Offsite water – The existing public water supply network has been modeled by the City and improvements are required to interconnect and/or upsize portions of the nearby systems to increase the pressure and flow capacity to levels required to support the school facility and meet fire code requirements. Two options are being explored: installation of a main across adjacent properties to the west of the school and installation of a main within existing public right-of-way to the south of the school. This proposal scope and fee is expected to accommodate survey for either option. If the budget is found to be insufficient once the requirement is confirmed, additional fee may be requested.

Notes:

- iii. Specific activities and assumptions noted in the overall design survey task above also apply to this offsite scope.*
- i. **Offsite drainage improvements are expected to be required; however, the scope of this work is still being determined.** Once the work area is defined, additional fee may be necessary to perform additional offsite survey work along the selected route.*

VII. SURVEY – EASEMENTS (TASK 109) Allowance: \$5,000

Installation of offsite public drains or utilities, where room is not available in an existing public easement or right-of-way, require preparation of easement exhibits and field notes by a

surveyor which are used as attachments to easement agreements. This task includes an allowance for preparation of survey easement documents – the scope and fee to be confirmed once the requirements are defined by any public utilities.

Note: This task is specific to survey activities; other assistance by engineering staff to support acquisition of any offsite easements, if required, will be addressed in a separate request.

SUMMARY OF SCOPE AND FEES

I.	Project Support	Task 501	Allowance	\$10,000
<u>PLATTING AND PERMITTING</u>				
II.	Platting	Task 216		\$15,000
III.	Stormwater Management Plan	Task 223		\$15,000
IV.	Site Development Permitting	Task 390		\$10,000
V.	Public Infrastructure Permitting	Task 391		\$15,000
<u>SURVEY</u>				
VI.	Design Survey – Offsite Water/Sewer	Task 105		\$15,000
VII.	Survey – Easements	Task 109	Allowance	\$5,000
			Total:	\$85,000

BASIS OF COMPENSATION

Pape-Dawson’s compensation is a lump sum in the amount of **\$85,000** for the services identified above. This budget figure does not include any Direct Expenses (defined below) nor applicable sales tax on services. If this budget figure is exceeded, Pape-Dawson may request modification of this Agreement.

Direct Expenses include reproduction, travel, express mail, special deliveries, and subcontractor expenses related to these services. Direct Expenses to be billed at cost.

AGREEMENT

The attached Terms and Conditions are incorporated into this Proposal by reference and become part of the agreement between the Client and Pape-Dawson by execution of this Proposal. If the terms of this Proposal are acceptable, please acknowledge such by signing below and returning the executed Proposal to us via e-mail or US Mail for our records. Receipt of the executed Proposal serves as authorization for us to proceed with the work.

The costs, fees, budget, and scope of work set out herein are valid for ninety (90) days from the date of this Proposal. If Pape-Dawson does not receive an executed Proposal from the Client within ninety (90) days from the date of this Proposal, the costs, fees, budget, and scope of work are subject to revision at Pape-Dawson’s sole discretion. Pape-Dawson will provide a revised Proposal with the modified costs, budget, and scope of work should revisions be made.

We appreciate the opportunity to work with you on this project.

Sincerely,
Pape-Dawson Consulting Engineers, LLC

Ivan Rodriguez

Ivan Rodriguez, P.E.
Project Manager

Stacey Weichert

Stacey Weichert, P.E.
Vice President

Attachments:

- Pape-Dawson Terms & Conditions

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NAVARRO INDEPENDENT SCHOOL DISTRICT

Signature: _____

Name: _____

Title: _____

Date: _____

**NAVARRO INDEPENDENT SCHOOL DISTRICT
ACCOUNTS PAYABLE CONTACT INFO**

Name: _____

Address: _____

Phone: _____

Email: _____

PAPE-DAWSON CONSULTING ENGINEERS, LLC
RE: NAVARRO ISD - NEW ES PLATTING, PERMITTING, & INFRASTRUCTURE (the "Project")
TERMS AND CONDITIONS

PAPE-DAWSON CONSULTING ENGINEERS, LLC, a Texas limited liability company, located at 2000 NW Loop 410, San Antonio, Texas, 78213-2251, hereinafter referred to as "Engineer", has agreed to provide Professional Services to NAVARRO INDEPENDENT SCHOOL DISTRICT, hereinafter referred to as "Client," pursuant to the terms set out in a "Proposal - Scope of Services and Compensation" (the "Proposal") executed by Client and these Terms and Conditions.

ARTICLE 1: SERVICES

Engineer agrees to perform Professional Services (the "Services") in conformance with the descriptions, definitions, terms and conditions as set forth herein and on the Proposal and any Exhibits, rate sheets, and Additional Services Requests subsequently attached hereto or incorporated hereto by reference. This description of Services is intended to be general in nature and is neither a complete description of Engineer's Services nor a limitation on the Services that Engineer is to provide under this Agreement.

ARTICLE 2: PROPOSAL AND ADDITIONAL SERVICES REQUESTS

2.1 These Terms and Conditions, the Proposal and any Exhibits, rate sheets, and Additional Services Requests for this Project are hereby incorporated by reference and are collectively referred to herein as the "Agreement."

2.2 The Proposal, as amended or modified by any Additional Services Requests, shall identify the specific Scope of Services to be performed and the amount and type of compensation for the specific services.

2.3 Client shall authorize and Engineer shall commence work set out in the Proposal and any Additional Services Requests upon Client's execution of the Proposal.

ARTICLE 3: CHANGES

3.1 The Client may at any time, by written Additional Service Request, make changes within the general scope of the Proposal relating to services to be performed for this Project. If such changes cause an increase or decrease in the Engineer's cost of, or time required for, performance of any services, an equitable adjustment shall be made and reflected in a properly executed Amendment.

3.2 The Engineer is not obligated to begin work on a change of scope or deliver that work product until a properly executed Additional Services Request is signed by the Client.

3.3 This Agreement is based on laws and regulations in effect as of the date of execution of this Agreement by Client. Changes after this date to these laws and regulations may be the basis for modifications to Engineer's scope of Services, times of performance, or compensation. In the event that there are modifications and/or additions to legal or regulatory requirements relating to the Services to be performed under this Agreement after the date of execution of this Proposal, the scope of Services, times of performance, and compensation provided for in these Terms and Conditions, the Proposal, and any subsequent Additional Services Requests shall be reflected in an appropriate Additional Services Request.

3.4 Should commencement of the individual tasks or services set out in the Proposal not be initiated within three (3) months of the date of execution of the Proposal by Client, Engineer reserves the right to revise the costs, fees, and scope of work for the tasks or services not yet initiated.

3.5 If after the commencement of work, Engineer's performance of the individual tasks or services is suspended at the instruction of client for a period of three (3) cumulative months, Engineer may at its sole discretion submit to client an invoice for all tasks and services performed prior to suspension, and Client shall pay that invoice within thirty (30) days after receipt. If Client fails to pay the invoice in full within thirty (30) days, Engineer may terminate this Agreement in accordance with the provisions of Article 7.1 herein.

ARTICLE 4: THE TERM

4.1 **Term.** Engineer shall be retained by Client as of the date Client executes the Proposal, Engineer shall complete its Services within a reasonable time, and this Agreement shall remain in effect until the Services have been fully performed or until the Engineer's Services are terminated under provisions of the Agreement.

ARTICLE 5: DUTIES

5.1 **Access.** Client will provide Engineer with access to the Property or to any other site as required by Engineer for performance of the Services.

5.2 **Client-furnished Data.** Client shall provide all criteria and full information as to Client's requirements for the Project; designate a person to act with authority on Client's behalf in respect to all aspects of the Project, examine and respond promptly to Engineer's submissions, and give prompt written notice to Engineer whenever he observes or otherwise becomes aware of any defect in the work.

Client shall also do the following and pay all costs incident thereto: Furnish to Engineer core borings, probings and subsurface exploration, hydrographic surveys, laboratory tests and inspections of samples, materials and equipment and similar data; appropriate professional interpretations of all of the foregoing; environmental assessment and impact statements, and any other information previously made available to the Client, which may be required by Engineer, all of which Engineer may rely upon in performing its services.

Provide such legal, accounting, independent cost estimating and insurance counseling services as may be required for the Project, any auditing service required in respect of constructor(s)' applications for payment, and any inspection services to determine if constructor(s) are performing the work legally.

5.3 **Other Information.** Engineer will rely upon commonly used sources of data, including database searches and agency contacts. Engineer does not warrant the accuracy of the information obtained from those sources and has not been requested to independently verify such information.

5.4 **Indemnity.** The Engineer agrees, to the fullest extent permitted by law, to indemnify and hold the Client harmless for damages and losses arising from the negligent acts, errors or omissions of the Engineer in the performance of the professional services under this Agreement, to the extent that the Engineer is responsible for such

damages and losses on a comparative basis of fault and responsibility between the Engineer and the Client. The Engineer is not obligated to indemnify the Client for the Client's own negligence.

Notwithstanding the foregoing, to the fullest extent permitted by law, engineer shall indemnify and hold the client harmless from and against all claims arising out of or resulting from bodily injury to, or sickness, disease or death of, any employee, agent or representative of engineer or any of its subcontractors.

To the fullest extent permitted by law, Client and Engineer waive against each other, and the other's employees, officers, directors, members, agents, insurers, partners, and consultants or subconsultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to the Project.

5.5 Ownership of Documents. All designs, drawings, specifications, documents, and other work products of the Engineer, whether in hard copy or in electronic form, are instruments of service for the Services, whether Services are completed or not. Reuse, change or alteration by the Client or by others acting through or on behalf of the Client of any such instruments or service without the written permission of the Engineer will be at the Client's sole risk. Client agrees to indemnify the Engineer, its officers, partners, employees, and subcontractors from all claims, damages, losses, and costs, including, but not limited to, litigation expenses and attorney's fees, arising out of or related to such unauthorized reuse, change or alteration.

5.6 Reporting Obligations. Client has responsibility for complying with all legal reporting obligations. Nothing in the Agreement precludes Engineer from providing any notices or reports that it may be required by law to give to governmental entities.

5.7 Laboratory Services. In performing environmental services, Engineer may make use of an independent testing laboratory. Engineer will not, and Client shall not rely upon Engineer to, check the quality or accuracy of the testing laboratory's services.

5.8 Changed Conditions. The Client shall rely on the Engineer's judgment as to the continued adequacy of the Agreement in light of occurrences or discoveries that were not originally contemplated by or known to the Engineer, including but not limited to suspension of Engineer's work as set out in Article 3.5 herein. Should Engineer call for contract renegotiation due to such changed conditions, the Engineer shall identify the changed conditions necessitating renegotiation and the Engineer and the Client shall promptly and in good faith enter into renegotiation of this Agreement. If terms cannot be agreed to, the parties agree that either party has the right to terminate the Agreement.

5.9 Opinions of Cost. Should Engineer provide any cost opinions, it is understood that those opinions are based on the experience and judgment of Engineer and are merely opinions. Engineer does not warrant that actual costs will not vary from those opinions because, among other things, Engineer has no control over market conditions.

5.10 Construction Observation. If construction phase services are included in the basic services, the Engineer shall visit the project at appropriate intervals during construction to become generally familiar with the progress and quality of the contractors' work and to determine if the work is proceeding in general accordance with the Contract Documents. The Client has not retained the Engineer to make detailed inspections or to provide exhaustive or continuous project review and observation services. The Engineer does not

guarantee the performance of, and shall have no responsibility for, the acts or omissions of any contractor, subcontractor, supplier or any other entity furnishing materials or performing any work on the project. Engineer shall not be responsible for the means, methods, techniques, sequences or procedures of construction selected by Contractor(s) or the safety precautions and programs incident to the work of Contractor(s).

5.11 Subconsultants. Engineer may employ such Subconsultants as Engineer deems necessary to assist in the performance or furnishing of the Services, subject to reasonable, timely, and substantive objections by Client.

ARTICLE 6: COMPENSATION OF SERVICES

6.1 Compensation of Services. Engineer's compensation for services shall be set forth in the Proposal and any subsequent Additional Services Requests.

Compensation. Client agrees to pay Engineer for Professional Services in accordance with the descriptions, definitions, terms and conditions as set forth herein and in the Proposal and any Additional Services Requests, or Amendments subsequently attached hereto or incorporated herein by reference. Expenses directly related to these services, including reproduction, travel, long distance telephone bill, express mail, special deliveries and subcontractor expenses shall include a 10% markup on cost.

Engineer reserves the right to adjust the hourly billing rates set out in the Proposal, Additional Service Requests, and/or Amendments thereto on an annual basis. Engineer shall notify Client of any hourly billing rate adjustments when they go into effect.

Payments. Engineer will invoice Client monthly in accordance with the terms and conditions of this Agreement, the Proposal, and any subsequent Additional Services Requests for Services and reimbursables. Client agrees to promptly pay Engineer at his office at 2000 NW Loop 410, San Antonio, Texas 78213-2251, the full amount of each such invoice upon receipt. In no event shall Engineer's failure to bill monthly constitute default under the terms and conditions of this Agreement.

6.2 Sales and Use Tax. Effective July 1, 1990, a State, City and MTA Sales Tax must be collected on Surveying Fees for the establishment of Real Property Boundaries and determining the location of structures or improvements in relation to the boundaries. Charges for prints and reproductions are also subject to a Sales Tax. Client agrees to pay Engineer the applicable Sales Tax on services and said tax is not considered a part of Engineer's compensation for services. In the event subsequent taxes are levied by Federal, State or Local authorities, relating to the services in writing and such modifications as are required shall be made a part of this Agreement.

6.3 Right to Stop Performance. If Client does not pay any amount due to Engineer within thirty (30) days after the invoice date, Engineer may, upon three (3) additional days' verbal or written notice to Client, stop performance of the Services until payment of the amount owed has been received.

6.4 Interest. Payments due and unpaid to Engineer under the Agreement shall bear interest at the rate of twelve percent (12%) per annum, or lesser if required by law, calculated from the date of the invoice, if the payment is not made within thirty (30) days of the date of the invoice.

6.5 **Attorney's Fees:** In the event Engineers' invoices for services are given to an attorney for collection, or if suit is brought for collection, or if they are collected through probate, bankruptcy, or other judicial proceeding, then Client shall pay Engineer all costs of collection, including the maximum attorney's fees allowed by Law and court costs, in addition to other amounts due.

ARTICLE 7: TERMINATION OF SERVICES

7.1 **Termination.** This Agreement may be terminated without cause at any time prior to completion of Engineer's services, either by Client or by Engineer, upon written notice to the other at the address of record. Upon receipt of written notice from Client to discontinue work, the Engineer shall discontinue work under this Agreement immediately. In the event Client terminates the Agreement based on Client's reasonable opinion the Engineer has failed or refused to prosecute the work efficiently, promptly or with diligence, the Engineer shall have ten (10) days, from the receipt of written notification by Client, to cure such failure to perform in accordance with the terms of this Agreement.

7.2 **Compensation in Event of Termination.** On termination, by either Client or Engineer, Client shall pay Engineer with respect to all contracted services rendered and expenses incurred before termination an amount fixed by applying the Engineer's Standard Hourly Rates, in force at the time of termination, to all services performed to date, in addition to termination settlement costs the Engineer reasonably incurs relating to commitments which had become firm before the termination.

ARTICLE 8: RELATIONSHIP OF PARTIES

8.1 **Independent Contractor:** It is understood that the relationship of Engineer to Client shall be that of an independent contractor. Neither Engineer nor employees of Engineer shall be deemed to be employees of Client.

ARTICLE 9. LIMITATION OF LIABILITY

9.1 **Limitation of Liability.** To the fullest extent permitted by law, the total liability of Engineer and its subconsultants and subcontractors to Client for any and all injuries, claims, losses, expenses, or damages whatsoever from any cause or causes, including, but not limited to, strict liability, breach of contract, breach of warranty, negligence, or errors or omissions (collectively "Claims") shall not exceed the Engineer's total fee. In no event will Engineer, its subconsultants or subcontractors be liable for punitive, special, incidental, or consequential damages.

9.2 **No Certification.** Engineer shall not be required to sign any documents, no matter by whom requested, that would result in Engineer having to certify, guarantee, or warrant the existence of conditions whose existence Engineer cannot ascertain. The Client also agrees not to make resolution of any dispute with Engineer or payments of any amount due to Engineer in any way contingent upon Engineer's signing any such certification.

9.3 **Execution of Documents.** The Engineer shall not be required to execute any documents subsequent to the signing of this Agreement that in any way might, in the sole judgment of the Engineer, increase the Engineer's risk or the availability or cost of its professional or general liability insurance.

9.4 **No Supervision of Contractors.** Engineer shall not at any time supervise, direct, control, or have authority over any contractor

work, nor shall Engineer have authority over or be responsible for the means, methods, techniques, sequences, or procedures of construction selected or used by any contractor, or the safety precautions and programs incident thereto, for security or safety at the Project site, nor for any failure of a contractor to comply with laws and regulations applicable to such contractor's furnishing and performing of its work.

9.5 Engineer shall not be responsible for the acts or omissions of any contractor, subcontractor, or supplier, or of any of their agents or employees or of any other persons (except Engineer's own agents, employees, and Subconsultants) at the Project site or otherwise furnishing or performing any work for the Project.

ARTICLE 10: MISCELLANEOUS

10.1 **Entire Agreement.** The Agreement (including any exhibits) contains the entire agreement between Engineer and Client, and no oral statements or prior written matter shall be of any force or effect. The Agreement may be modified only by a written document executed by both parties.

10.2 **Governing Law.** The Agreement shall be governed by and construed in accordance with the laws of the State of Texas.

10.3 **Venue.** Venue of any action under the Agreement shall be exclusively in Bexar County, Texas.

10.4 **Severability.** If any provision of the Agreement is held to be illegal, invalid or unenforceable under present or future laws, such provision shall be fully severable and the Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision is not a part hereof, and the remaining provisions shall remain in full force and effect. In lieu of any illegal, invalid or unenforceable provision, there shall be added automatically as a part of the Agreement, a provision as similar in its terms to such illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable.

10.5 **Construction of Agreement.** The parties acknowledge that each party and, if it so chooses, its counsel have reviewed and revised the Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of the Agreement or any amendments or exhibits.

10.6 **Successor and Assigns: Third Party Beneficiary.** The Agreement shall be binding upon Engineer, Client and their respective legal representatives, successors and permitted assigns. Neither Engineer nor Client may assign the Agreement nor any right or obligation under it without the prior written consent of the other party. Nothing in the Agreement restricts Engineer's ability to hire subcontractors in connection with the Services. The Services and any report prepared under this Agreement are for the sole benefit and sole use of Client and are not for the use of any other person. Only Client may rely upon the Agreement and the Services, unless Engineer gives Client prior and specific written approval.

10.7 **Dispute Resolution.** Any claim, dispute or other matter in question arising out of or related to the Agreement of the Services provided thereunder shall be subject to arbitration. Prior to arbitration, the parties shall endeavor to resolve disputes by mediation. Claims, disputes and other matters in question between the parties that are not resolved by mediation shall be decided by arbitration which, unless the parties mutually agree otherwise, shall be in accordance with the

Construction Industry Arbitration Rules of the American Arbitration Association currently in effect. The demand for arbitration shall be filed in writing with the other Party to this Agreement and with the American Arbitration Association. No arbitration arising out of or relating to the Agreement shall include, by consolidation or joinder or in any other manner, an additional person or entity not a party to this Agreement. The foregoing agreement to arbitration shall be specifically enforceable in accordance with applicable law in any court having jurisdiction. The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction.

10.8 **Mediation:** Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to non-binding mediation as a condition precedent to the institution of legal proceedings by either party. If such matter relates to or is the subject of a lien arising out of the Engineer's services, the Engineer may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or other legal proceedings.

Each party agrees to include a similar mediation provision in all agreements with independent contractors and consultants retained for the Project and to require all independent contractors and consultants also to include a similar mediation provision in all agreements with their respective subcontractors, suppliers, and subconsultants, thereby providing for mediation as the initial method for dispute resolution between the parties to all those agreements.

The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the county 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.

10.9 **No Warranty.** Engineer makes no warranty, either expressed or implied, as to Engineer's findings, recommendations, plans, specifications, or professional advice. Engineer has endeavored to perform its services in accordance with generally accepted standards of practice by recognized professional firms in performing services of a similar nature in the same locality, under similar circumstances. Client recognizes that neither Engineer nor any of Engineer's subconsultants or subcontractors owes any fiduciary responsibility to Client.

10.10 **Survival of Provisions.** Termination of the Services for any reason whatsoever shall not affect (a) any right or obligation of any party that is accrued or vested prior to such termination, and any provision of the Agreement relating to any such right or obligation shall be deemed to survive the termination of the Services or (b) any continuing obligation, liability or responsibility of Engineer and of Client which would otherwise Survive termination of the Services.

10.11 Complaints regarding surveying may be filed with the Texas Board of Professional Land Surveying, Building A, Suite 156, 12100 Park 35 Circle, Austin, TX 78753.