



AIA® Document B101® – 2017

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the Twenty Fifth day of February in the year Two Thousand Twenty Five
(In words, indicate day, month and year.)

BETWEEN the Architect’s client identified as the Owner:
(Name, legal status, address and other information)

Westbrook Independent School District
102 N. Bertner
Westbrook, Texas 79565

and the Architect:
(Name, legal status, address and other information)

Jacob | Martin
3465 Curry Lane
Abilene, Texas 79606

for the following Project:
(Name, location and detailed description)

Security Vestibule

The Owner and Architect agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

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

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ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project:

(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

As determined by the Owner's Board of Trustees, with the assistance of the Architect.

§ 1.1.2 The Project's physical characteristics:

(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)

As determined by the Owner's Board of Trustees, with the assistance of the Architect.

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1:

(Provide total and, if known, a line item breakdown.)

To be determined

§ 1.1.4 The Owner’s anticipated design and construction milestone dates:

.1 Design phase milestone dates, if any:

To be determined

.2 Construction commencement date:

To be determined

.3 Substantial Completion date or dates:

To be determined

.4 Other milestone dates:

N/A

Time is of the essence of this Agreement. The inclusion or exclusion of any milestone date in this section does not relieve the Architect of its obligation to perform its duties in a timely manner.

§ 1.1.5 The Owner intends the following procurement and delivery method for the Project:

(Identify method such as competitive bid or negotiated contract, as well as any requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction.)

Any method allowed by law and chosen by the Owner’s Board of Trustees.

(Paragraphs deleted)

§ 1.1.7 The Owner identifies the following representative in accordance with Section 5.3:

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

Board of Trustees

§ 1.1.8 The persons or entities, in addition to the Owner’s representative, who are required to review the Architect’s submittals to the Owner are as follows:

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

Owner’s Superintendent, and any other person that Owner may so designate.

§ 1.1.9 The Owner shall retain the following consultants and contractors:

(List name, legal status, address, and other contact information.)

(Paragraphs deleted)

§ 1.1.10 The Architect identifies the following representative in accordance with Section 2.3:

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

William Duncan, AIA, NCARB
Jacob | Martin
3465 Curry Lane
Abilene, Texas 79606
Telephone: 325-695-1070
Email: wduncan@jacobmartin.com

§ 1.1.11 The Architect shall retain the consultants identified in Sections 1.1.11.1 and 1.1.11.2:

(List name, legal status, address, and other contact information.)

§ 1.1.11.1 Consultants retained under Basic Services:

(Paragraphs deleted)

All those necessary for the Project unless specifically identified in section 1.1.9 above.

§ 1.1.11.2 Consultants retained under Supplementary/Additional Services:

Geotechnical Engineer

§ 1.1.12 Other Initial Information on which the Agreement is based:

None

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect may appropriately adjust, by mutual written agreement, the Architect's services, schedule for the Architect's services, and the Architect's compensation.

(Paragraphs deleted)

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide professional services as set forth in this Agreement. The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals. The Architect certifies that it is a registered professional architect or engineer licensed to practice in the State of Texas. Pursuant to the Texas Occupations Code, any structural, mechanical, or electrical plans, specifications, or opinions of probable cost for construction must be prepared by a registered professional engineer or a registered architect, whichever is appropriate, and who is licensed to practice in the State of Texas. Architect agrees to notify Owner should Architect's license or registration status change. Architect certifies that Architect and Architect's employees and agents are eligible to work under federal, state, and local immigration laws and regulations.

§ 2.1.1 The Architect acknowledges that the Owner may retain the services of a Program Manager, Contractor or Construction Manager. The Architect shall cooperate with the Program Manager, Contractor or Construction Manager, and the Owner, in the fulfillment of the Architect's and Program Manager's, Contractor's or Construction Manager's responsibilities under their respective agreements with the Owner.

§ 2.2 Time is of the essence of this Agreement. The Architect shall commence services under this Agreement within five business days of its execution hereof.

§ 2.2.1 The Architect warrants that it shall prepare all plans and designs, and otherwise perform all services under this Agreement, consistent with the applicable standard of care and in accordance with all legal requirements, including but not limited to, the Texas Education Code, the Texas Government Code, the rules concerning school facilities promulgated by the Texas Commissioner of Education, and the Texas Accessibility Standards, each as effective as of the date of this Agreement. In accordance with Texas Local Government Code Section 271.904(d), the Architect shall perform its services with the professional skill and care ordinarily provided by competent architects/engineers practicing under the same or similar circumstances and professional license; and as expeditiously as is prudent considering the ordinary professional skill and care of a competent architect/engineer. In compliance with 19 Texas Administrative Code ("TAC") Section 61.1040, the Architect shall certify that he/she has reviewed the standards contained in the regulation and used the best professional judgment and reasonable care consistent with the practice of architecture and/or engineering in the State of Texas in executing the construction documents. The Architect's or Engineer's seal and signature on the Construction Documents shall indicate certification of compliance with this section. "Certify" means that the Architect has reviewed the standards contained in Texas Education Agency rules and used the best professional judgment and reasonable care consistent with the practice of architecture or engineering in the State of Texas in executing the Construction Documents.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project. The representative shall be a registered professional architect licensed to practice in the state of Texas. The Architect or the Architect's designated representative shall render decisions in a timely manner pertaining to

documents submitted by the Owner, the Contractor, and other authorized representatives, in order to avoid unreasonable delay in the orderly and sequential progress of the Project.

§ 2.4 The Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.5 The Architect shall maintain the following insurance for the time periods stated in Section 2.5.1. The following insurance shall be required of the Architect and shall be written by an insurance company having an A minus rating or better by A.M. Best and shall be written in limits for not less than the minimum required by law or the following.

(Paragraphs deleted)

§ 2.5.1 Prior to performing Architect's services under this Agreement, Architect shall procure, maintain and provide insurance certificates, policies and endorsements, in at least the following amounts, to protect Architect and Owner from claims arising out of the performance of the Architect's services under this Agreement and caused by any error, omission, negligent act or omission, or design defect by Architect, such insurance to be in a form approved by the Owner, with an effective date prior to the beginning date of design. Such insurance shall be written on an occurrence basis, if available, and on a claims-made basis, if occurrence basis insurance is not available. So long as commercially available, Architect shall maintain its insurance in full force and effect during the term of this Agreement and after the completion of services under this Agreement until the expiration of any applicable statute of limitations, such period to be not less than one year from Final Completion of all construction of this Project as to workers' compensation, two years from the Final Completion of all construction of this Project as to comprehensive general liability, and comprehensive automobile liability, and not less than ten (10) years from the Final Completion of all construction of this Project (or twelve (12) years, as allowed by Texas Civil Practice and Remedies Code § 16.008), as to errors and omissions insurance. Architect shall furnish to Owner insurance certificates, policies, and endorsements upon request at any time. Architect shall name Owner as an additional insured under his policies for comprehensive general liability and comprehensive automotive liability. Insurance shall be obtained from companies licensed to do business in the State of Texas by the Texas Department of Insurance. The policies shall include a waiver of subrogation in favor of the Owner. Any deviation from these requirements can only be approved by Owner's Board of Trustees. Any nonconformity may be grounds for termination or modification of the Contract. To the extent that Architect is unable to procure the insurance designated herein because the insurance is not reasonably available or is cost-prohibitive, then Architect shall provide written notice to Owner's Board of Trustees. Said lack of insurance may then be grounds for termination or modification of this Agreement.

1. Workers' Compensation:
 - a. State: Statutory
 - b. Applicable Federal: Statutory
 - c. Employer's Liability: \$1,000,000 per Accident
\$1,000,000 Disease, Policy Limit
\$1,000,000 Disease, Each Employee

2. Comprehensive or Commercial General Liability:
 - a. Bodily Injury: \$1,000,000 Each Occurrence
\$2,000,000 Aggregate
 - b. Property Damage: \$1,000,000 Each Occurrence
\$2,000,000 Aggregate
 - c. Products and Completed Operations Coverage: \$2,000,000 Aggregate

3. Automobile Liability for Bodily Injury and Property Damage:
 - a. Combined Single Limit: \$2,000,000 per Accident

4. Architect's and Engineer's Professional Liability: \$1,000,000 per Claim
\$2,000,000 Aggregate

5. Umbrella Excess Liability: \$2,000,000 per Occurrence
\$2,000,000 Aggregate

6. Contract and Insurance Requirement:

Hold Harmless Agreement

Contractual Coverage

Waiver of Subrogation

Owner named as additional insured on coverages, except as to professional liability and workers' compensation

The Owner shall be entitled, upon request and without expense, to receive copies of the policies and all endorsements thereto as they apply to the limits required by the Owner, and may make a reasonable request for deletion, revision, or modification of particular policy terms, conditions, limitations, or exclusions (except where policy provisions and established by law or regulation binding upon either of the parties hereto or the underwriter of any such policies). Upon such request by the Owner, the Architect shall exercise reasonable efforts to accomplish such changes in policy coverage, and shall pay the cost thereof.

§ 2.5.5 The Architect shall maintain all forms of insurance required by law in the State of Texas, including insurance coverage for comprehensive general liability, automobile liability, and workers' compensation, provided by carriers who shall be licensed to provide such coverage in the State of Texas in forms and amounts not less than as required by law. The Architect shall use its best professional efforts to require that any and all Consultants engaged or employed by the Architect carry and maintain similar insurance. The Architect and his Consultants shall submit proof of such insurance to the Owner before submittal of the first invoice to the Owner, at the anniversary date(s) of the submittal, and at any time when a material change in coverage, carriers, or underwriters occurs. The maintenance in full current force and effect of such coverage shall be a condition precedent to the Owner's obligation to pay under this Agreement. The insurance policies shall incorporate a provision requiring written notice to the Owner at least thirty (30) days prior to any cancellation or nonrenewal of the policies.

(Paragraph deleted)

§ 2.5.7 Additional Insured Obligations. To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 2.5.8 Architect shall comply with all applicable requirements of 28 TAC 110.110, including, but not limited to, 110.110(e). By signing this contract or providing or causing to be provided a certificate of coverage, the person signing this contract is representing to the governmental entity that all employees of the person signing this contract who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the division. Providing false or misleading information may subject the Architect to administrative penalties, criminal penalties, civil penalties, or other civil actions.

§ 2.6 INDEMNITY Approval of any Construction Documents by Owner shall not constitute and shall not be deemed to be a release of the responsibility and liability of Architect, its agents, employees, and subcontractors, for Construction Documents which are sufficient for Owner to complete the construction of the Project, nor shall such approval be deemed to be an assumption of such responsibility and liability by Owner for any defect in the Construction Documents prepared by Architect, its agents, employees, subcontractors, or consultants, it being the intent of the parties that the approval by Owner signifies Owner's approval of only the general design concept of the improvements to be constructed.

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE ARCHITECT SHALL AND DOES AGREE TO INDEMNIFY, PROTECT, AND HOLD HARMLESS THE OWNER, ITS TRUSTEES, OFFICERS, DIRECTORS, OFFICIALS, VOLUNTEERS, EMPLOYEES, SUCCESSORS AND ASSIGNEES, AND THE PROGRAM MANAGERS (COLLECTIVELY, "THE INDEMNIFIED PARTIES") OF, FROM AND AGAINST ALL CLAIMS, DAMAGES, LOSSES, LIABILITIES, LIENS, CAUSES OF ACTION, SUITS, JUDGMENTS, PENALTIES, AND EXPENSES, INCLUDING ATTORNEY FEES AND COURT COSTS, OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON OR ENTITY, TO THE

EXTENT CAUSED BY ANY NEGLIGENT, WRONGFUL OR TORTIOUS ACT OR OMISSION OF THE ARCHITECT. IN THE EVENT OF FAILURE BY THE ARCHITECT TO FULLY PERFORM IN ACCORDANCE WITH THIS INDEMNIFICATION PARAGRAPH, EACH OF THE INDEMNIFIED PARTIES MAY, AT ITS OPTION, AND WITHOUT RELIEVING ARCHITECT OF ITS OBLIGATIONS HEREUNDER, SO PERFORM, BUT ALL COSTS AND EXPENSES SO INCURRED BY ANY OF THE INDEMNIFIED PARTIES IN THAT EVENT SHALL BE REIMBURSED BY ARCHITECT TO THE INDEMNIFIED PARTIES, AND ANY COST AND EXPENSES SO INCURRED BY INDEMNIFIED PARTIES, OR ANY OF THEM SHALL BEAR INTEREST UNTIL REIMBURSED BY ARCHITECT, AT THE RATE OF INTEREST PROVIDED TO BE PAID ON JUDGMENTS UNDER THE LAWS OF THE STATE OF TEXAS. THIS INDEMNIFICATION PARAGRAPH SHALL NOT BE LIMITED TO DAMAGES, COMPENSATION, OR BENEFITS PAYABLE UNDER INSURANCE POLICIES, WORKERS' COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEE BENEFIT ACTS.

ARCHITECT SHALL PROTECT AND INDEMNIFY THE OWNER FROM AND AGAINST ALL CLAIMS, DAMAGES, JUDGMENTS AND LOSS ARISING FROM INFRINGEMENT OR ALLEGED INFRINGEMENT OF ANY UNITED STATES PATENT, OR COPYRIGHT, ARISING BY OR OUT OF ANY OF THE SERVICES PERFORMED HEREUNDER OR THE USE BY ARCHITECT, OR BY OWNER AT THE DIRECTION OF ARCHITECT, OF ANY ARTICLE OR MATERIAL, PROVIDED THAT UPON BECOMING AWARE OF A SUIT OR THREAT OF SUIT FOR PATENT OR COPYRIGHT INFRINGEMENT, OWNER SHALL PROMPTLY NOTIFY ARCHITECT AND ARCHITECT SHALL BE GIVEN FULL OPPORTUNITY TO NEGOTIATE A SETTLEMENT.

It is agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of these indemnification obligations, such legal limitations are made part of the indemnification obligation and shall operate to amend the indemnification obligation to the minimum extent necessary to bring the provision into conformity with the requirements of such limitations, and so modified, the indemnification obligations shall continue in full force and effect.

It is understood and agreed that this section is subject to, and expressly limited by, the terms and conditions of the Texas Civ. Prac. & Rem. Code Ann. Sec 130.001 to 130.005, as amended.

The indemnities contained herein shall survive the termination of this Agreement for any reason whatsoever. The indemnities contained herein shall remain in effect for not less than ten (10) years from final completion of all construction under this Agreement.

§ 2.7 The Architect shall review, and be responsible for compliance with laws, codes, and regulations applicable to the Architect's services, including, without limitation, school facility standards found in applicable regulations and state law, including, but not limited to, 19 TAC Section 61.1040. The Architect shall respond in the design of the Project to requirements imposed by governmental authorities having jurisdiction over the Project. The Architect shall comply with all policies, regulations, and rules of the Owner, including, but not limited to, those related to employee conduct (such as prohibitions against alcohol, weapons, drugs, fraternization, harassment, and tobacco on school property), and fraud and financial impropriety. Architect shall provide all necessary certifications and use the best professional judgment and reasonable care consistent with the practice of architecture and/or engineering in the State of Texas in developing the Construction Documents. Architect shall also certify that the Construction Documents conform to the provisions of applicable laws and regulations. Architect's signature and seal on the Construction Documents shall certify compliance. Architect shall perform a building code search under applicable regulations that may influence the Project, and shall certify that the design has been researched before it is final. Architect shall also certify that the facilities have been designed according to the provisions of 19 TAC Section 61.1040, based on the long-range school facility plan, educational specifications, building code specifications, and all documented changes to the Construction Documents provided by the Owner.

§ 2.8 Architect shall complete the Texas Education Agency's Certification of Project Compliance. In executing the certifications required under the provisions of this section, Architect shall exercise his/her reasonable professional judgment and care consistent with the practice of architecture/engineering in the State of Texas and applicable law. Architect shall design the Project in such a manner that the Project or each part of the Project is readily accessible to

and usable by individuals with disabilities, in compliance with the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, federal regulations interpreting the Americans with Disabilities Act and Section 504, Texas Government Code Chapter 469, the Texas Accessibility Standards, all applicable requirements or standards of the Texas Department of Licensing and Regulation, and all applicable requirements or standards of the American National Standards Institute. It shall be the responsibility of the Architect to address revisions or amendments to applicable codes or standards which become effective prior to the date of issuance of permit.

§ 2.10 The Architect shall, in accordance with generally accepted standards of professional care, design the Project and develop construction documents in compliance with applicable national, federal, state, and local laws, including regulations, codes, ordinances, orders, rules and policies of any governmental entity having jurisdiction over the Project. Without limiting the generality of the foregoing, Architect shall comply with the School Facilities Standards set forth in 19 TAC §61.1040 regarding Architect's and Engineer's seals on the drawings, specifications and other documents prepared by Architect and Architect's Consultants.

§ 2.12 When this Agreement, or the scope of the Project(s) in this Agreement, requires an action by the Architect that is not considered the practice of architecture/engineering in the State of Texas, the Architect shall retain those consultants necessary to complete the required action on behalf of the Architect.

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in Article 3 and include usual and customary architectural services, structural, mechanical, plumbing, fire protection and electrical engineering services; architectural interior design; site feasibility design, scope of work verification for renovations of existing schools; basic cost estimating, electronic record drawings; and internal auditing and accounting services necessary for Architect to fulfill Architect's responsibilities under this Agreement. Architect shall provide all plans and specifications for all site development necessary for the Project, which shall include locating any building on-site, and developing all plans and specifications for site drainage, parking, landscaping, walkways, and irrigation. All architectural plans, specifications or estimates shall be prepared by a registered professional architect, as required by Texas Occupations Code Chapter 1051. Any structural, mechanical, plumbing, fire protection, and electrical engineering plans, specifications or estimates must be prepared by a registered professional engineer, as required by Texas Occupations Code Chapter 1001. The Owner reserves the right, in its sole discretion, to reject the employment by Architect of any consultant for the Project which the Owner has an objection. Architect, however, shall not be required to contract with any consultant to which it has a reasonable objection.

§ 3.1.1 The Architect shall manage the Architect's services and administer the Project in accordance with this Agreement and applicable provisions of the Agreement between Owner and Contractor or between Owner and Construction Manager. The Architect shall consult with the Owner and the Owner's Contractor or Construction Manager, research applicable design criteria, attend Project meetings, communicate with members of the Project team and issue reports as reasonably requested by the Owner. The Architect shall coordinate the services provided by the Architect and the Architect's consultants with those services provided by the Owner, the Owner's consultants and the Contractor or Construction Manager.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall, to the extent allowed by its standard of care, be entitled to rely on the accuracy and completeness of services and information furnished by the Owner, including, but not limited to, in accordance with 19 TAC Section 61.1040. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission or inconsistency in such services or information. Architect shall also promptly respond in writing to notices from Owner regarding Owner's discovery of errors, omissions, or inconsistencies in the Architect's services or documentation, and, if requested, shall promptly meet with Owner regarding same. Owner's notice or lack of notice shall not relieve Architect of any responsibility or liability for performance of Architect's contracted services.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services in compliance with the Owner's Initial Information, including the detailed tasks/activities for the design phase in conformance with the overall project schedule and with dates of Architect's design services and completion of documentation required by the Architect. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion and Final Completion

of the Work as set forth in the Initial Information. The schedule shall also achieve Owner's proposed dates of Substantial and Final Completion as stated in this Agreement, and within Owner's budget, once identified. The schedule shall include allowances for periods of time required for the Owner's and Contractor's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's prior written approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction. Architect shall provide Contractor and Construction Manager at Risk all documentation reasonably requested for the preparation and periodic update of the Project schedule developed and maintained by the Contractor or Construction Manager at Risk.

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work made or given without the Architect's written approval, but only if the Architect, with respect to a known directive, substitution, or acceptance as described in this section, has provided written notice to the Owner specifically identifying both (1) the directive, substitution, or non-conforming Work, and (2) an explanation of the Architect's reasons for disapproving of such direction, substitution, or acceptance of non-conforming Work.

§ 3.1.5 The Architect shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities. The Architect shall exercise usual and customary professional care in its efforts to comply with all laws, codes, and regulations in effect as of the date of execution of this Agreement.

§ 3.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project. The Architect shall be responsible, with the assistance of the Owner, for preparation and timely submittal of documents required for approval or recording by all governmental agencies having jurisdiction over the Project. The Architect shall be responsible for making such changes in the Construction Documents as may be required by existing written standards promulgated by said governmental agencies at no additional charge to the Owner. The Architect shall document all meetings and decisions made throughout the course of the Project and shall provide copies to the Owner, Contractor or Construction Manager, and the governmental entity involved.

§ 3.1.7 The Architect shall submit documents during the design process, at intervals indicated in this Agreement, for evaluation and approval by the Owner.

- .1 The Architect shall incorporate into the plans, drawings, and specifications such revisions, as are necessary to satisfy the review comments from the Owner, or designated party, any of which may be appealed in writing for good cause.
- .2 The Owner shall have the right, but not the obligation, to reject any portion of the Architect's services that are deemed inadequate or incomplete. The lack of rejection by the Owner shall not constitute a defense to inadequate or incomplete design or professional services.
- .3 In giving approvals the Owner does not assume any responsibility for the design or professional services provided by the Architect, and such approval shall not constitute a defense to inadequate or incomplete design or professional services.

§ 3.1.8 The Architect shall prepare interior/exterior finish selections in the form of a color board for review and approval by the Owner.

§ 3.1.9 The Architect shall comply, and shall assist the Owner in complying, with the Texas Education Agency's School Facilities Standards, codified at 19 T.A.C. 61.1040, (the "Standards") both by performing its services and designing the Project in accordance with the Standards, and by assisting the Owner in identifying and complying with requirements the Standards impose upon the Owner, including, but not limited to, the following:

- .1 Prior to commencing Schematic Design, the Architect shall request from the Owner the Long-Range Plan and Educational Specifications required by the Standards. The Architect shall not proceed with Schematic Design unless it has either (1) received the Long-Range Plan and

Educational Specifications, or (2) consulted with the Owner regarding the need for those documents and received written notice from the Owner that, based on the Architect's advice, the documents are not required.

- .2 When engaging another design professional as a subconsultant, the Architect shall procure professional design services based on the qualification-based selection process established in Texas Government Code Chapter 2254.
- .3 The Architect shall ensure that the Owner obtains confirmation from a local or state building official or a third-party code compliance officer as provided in the Standards that all required inspections, testing, or permits required by the Standards have been performed in accordance with contractual terms and in accordance with all applicable building code specifications.
- .4 The Architect shall coordinate and prepare a proposed statement of any special inspections or testing required in accordance with the required construction codes, customizing the proposed statement based on knowledge about the Project regardless of whether the statement requires testing and inspection to be less than the default requirements of the required construction codes, including materials testing, Project-specific requirements for special inspections and testing, specific wind and seismic requirements, frequency of the special inspections, or tests to be performed in accordance with the referenced standard defining the inspection.
- .5 The Architect shall prepare Construction Documents that are of sufficient clarity to indicate the timing, location, nature, and extent of specific inspections and tests required to be performed by the Owner through the local authority having jurisdiction, the third-party code compliance officer, any third-party special inspector or inspection agency, or the prime design professional if qualified as a special inspector and specified as a contractual term.
- .6 The Architect shall ensure that all known Owner-accepted nonconforming work is properly documented.
- .7 The Architect shall provide all certifications required of the Architect by the Standards, and shall ensure and coordinate the necessary certifications by the Owner and by the Contractor.
- .8 If the Project involves an instructional facility as that term is defined in the Standards, before commencing with the Design Development phase, the Architect shall advise the Owner of the need for Owner's governing body to select either the quantitative method for compliance under subsection (h) of the Standards or the qualitative method for compliance under subsection (i) of the Standards. The Architect shall explain to the Owner how these methods of compliance apply to the Project and make recommendations to the Owner about which method of compliance the Architect views as the most appropriate for the Project. The Architect shall not commence with the Design Development phase prior to Owner's governing body making that selection.
- .9 The Architect shall submit to the Owner a report identifying any construction code requirements that the Architect believes, to the best of its knowledge after performing research, will not be enforced by a state or local authority having jurisdiction. The Architect shall advise the Owner of any requirement that the Owner contract with a third-party code compliance officer.
- .10 At the completion of the Design Development phase, and prior to commencing with the Construction Documents phase, the Architect shall advise the Owner of the need to approve a Project construction budget under subsection (k)(2) of the Standards. The Architect shall assist the Owner in developing a budget that meets the requirements of the Standards, including, but not limited to, the requirement to identify how many of the additional safety and security standards are required. The Architect shall not proceed with the Construction Documents phase until it has requested and received from the Owner written documentation of the approved safety and security standards.

§ 3.2 Schematic Design Phase Services

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services and the Project.

§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, the proposed procurement and delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner in writing of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project, and Architect shall review any additional information provided pursuant to Architect's request.

§ 3.2.2.1 The Architect shall visit the Owner's Project site and shall provide to Owner a preliminary evaluation of the feasibility of the Owner's site for the Project based on site conditions, and the Owner's program, schedule, and budget for the Cost of the Work. The Architect shall include, in the preliminary evaluation, an identification and evaluation of the location, availability, adequacy, capacity, and sufficiency of all utilities necessary to serve the completed Project. The Architect shall also address with Owner any existing easements or rights-of-way which may interfere with Owner's Project. As soon as practicable after execution of this Agreement and, if possible, before Owner's Board of Trustees designates a method of construction contract procurement, the Architect shall review the Owner's proposed method of contracting for construction services and shall notify the Owner in writing of anticipated impacts that such method may have on the Owner's program, financial and time requirements, and the scope of the Project.

- .1 For renovation projects, the Architect shall visually determine the existing conditions of the Project site and/or facility and compare to the information provided by the Owner. The existing conditions include those areas affected by the scope of work, which are able to be viewed during a walk-through with the moving of furniture, or by limited investigation of accessible concealed conditions via coordination with and the assistance of the Owner's on-site staff, without destructive testing. This includes, but is not limited to, spaces above lay-in ceilings, crawl spaces, pipe chases and mezzanines.
- .2 For addition projects, the Architect shall visually determine the existing conditions of the Project site and/or facility and compare to the information provided by the Owner. The existing conditions include those areas affected by the scope of work, which are able to be viewed during a walk-through with the moving of furniture, or by limited investigation of accessible concealed conditions via coordination with and the assistance of the Owner's on-site staff, without destructive testing. This includes, but is not limited to, connections between new and existing buildings, and existing rooms or spaces that may need to be modified due to the placement of the addition.
- .3 For new construction projects, the Architect shall visually determine the existing conditions of the Project site and compare to the information provided by the Owner. The existing conditions include those areas affected by the scope of work which are able to be viewed during a site visit. This includes, but is not limited to, evaluation of the surrounding neighborhoods and natural features to be preserved.
- .4 For all projects, the Architect and the Architect's consultants shall, at the completion of the site visit, prepare a field report including photographs, analysis and recommendations documenting the process.
- .5 For all projects, the Architect shall conduct a scope to budget validation process and prepare a Scope-to-Budget report. The Scope-to-Budget shall include as appropriate: the validated scope of work, confirmed construction costs and updated project milestones.

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner in writing and shall discuss with the Owner alternative approaches to design and construction of the Project, including the feasibility of incorporating environmentally responsible design approaches. The Architect shall reach a written understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project requirements agreed upon in writing with the Owner, the Architect shall prepare and present, for the Owner's approval, a written preliminary design illustrating the scale and relationship of the Project components, including the field report and scope to budget validation report.

§ 3.2.5 Based on the Owner's written approval of the preliminary design and validation of Owner's schedule and budget for the Work, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall establish the conceptual design of the Project and illustrate the scale and relationship of the Project components and consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections, and elevations; and at the Owner's direction, the Schematic Design Documents may include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing. A preliminary code search, indicating the anticipated code requirements governing building, fire, life safety, accessibility, and health, and a statement as to the Architect's and Architect's Consultants' approach to accommodate these requirements shall be included.

(Paragraphs deleted)

§ 3.2.6 The Architect shall submit to the Owner a written estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.2.7 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's written approval. The Architect shall not proceed to the Design Development Document Phase without the written approval of the Owner; provided, however, this approval shall not relieve the Architect of Architect's responsibility and liability. Architect shall bear full responsibility and all resulting excess costs incurred by Architect in proceeding without proper approval.

§ 3.3 Design Development Phase Services

§ 3.3.1 Based on the Owner's written approval of the Schematic Design Documents, and on the Owner's written authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical, and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels.

§ 3.3.2 The Architect shall provide a written update of the estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's written approval. Architect shall not proceed to the Construction Documents Phase without the written approval of Owner; provided, however, this approval shall not relieve Architect of Architect's responsibility and liability to provide documents which are sufficient for Owner to complete the construction of the Project. Architect shall bear full responsibility for, and all resulting excess costs incurred by Architect in, proceeding without Owner's approval.

§ 3.3.4 The Owner's decisions on matters relating to aesthetic effect shall be final.

§ 3.4 Construction Documents Phase Services

§ 3.4.1 Based on the Owner's written approval of the Design Development Documents, and on the Owner's written authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.4.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents. As required by Texas Education Agency Rule 19 TAC Section 61.1040, Architect shall perform a building code search under applicable regulations that may influence the Project. The Architect's or Engineer's seal and signature on the Construction Documents shall indicate certification of compliance with this section. "Certify" means that the Architect has reviewed the standards contained in Texas Education Agency rules and used the best professional judgment and reasonable care consistent with the practice of architecture or engineering in the State of Texas in executing the Construction Documents. If any of the standards, rules, guidelines, laws, and similar items referenced in sections 3.4.2.1 through 3.4.2.4, or elsewhere in this Agreement, have been updated, repealed, or modified in any way, the Architect shall notify the Owner in writing and provide appropriate recommendations in writing.

§ 3.4.2.1 As required by law, all bid or proposal documents and contracts shall include, if applicable, all required information related to trench excavation safety. Texas Health and Safety Code Section 756.021 *et seq.*

§ 3.4.2.2 All playground equipment designed by Architect, if any, shall comply with each applicable provision of ASTM Standard F1487-07ae1, "Consumer Safety Performance Specifications for Playground Equipment for Public Use", published by ASTM International; have no unshielded horizontal bare metal platforms; and be accessible to individuals with disabilities in accordance with the Americans with Disabilities Act Accessibility Guidelines. All playground surfacing designed by Architect shall comply with each applicable provision of ASTM Standard F2223-04e1, "Standard Guide for ASTM Standards on Playground Surfacing" published by ASTM International, and paths shall be designed for accessibility by individuals with disabilities. Texas Health and Safety Code Section 756.061 *et seq.*

§ 3.4.2.3 All outdoor lighting fixtures designed by Architect, if any, shall meet the statutory energy conservation and light pollution standards established by the Texas Department of State Health Services, Texas Health and Safety Code - Chapter 425.

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms that conform to legal requirements; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary, and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include bidding requirements and sample forms. The Architect shall not include the form of agreement between the Owner and Contractor nor any General, Supplementary, or other Conditions of the Contract in the bidding documents or the project manual for the Project without first giving the Owner sufficient time to review the documents and receiving the Owner's written authorization to include the documents in the bidding documents for the Project.

§ 3.4.3.2 The Architect's bid specifications and any subsequent contract shall not deny or diminish the right of a person to work, because of the person's membership or other relationship status with respect to any organization. Texas Education Code Section 44.043.

§ 3.4.4 The Architect shall provide a written opinion of the probable Cost of the Work prepared in accordance with Section 6.3.

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's written approval. Architect shall not proceed to the Procurement Phase without the written approval of Owner; provided, however, this approval shall not relieve Architect of Architect's responsibility and liability to provide documents which are sufficient for Owner to complete the construction of the Project. Architect shall bear full responsibility for, and all resulting excess costs incurred by Architect in, proceeding without Owner's approval.

§ 3.4.6 The Owner's decisions on matters relating to aesthetic effect shall be final.

§ 3.5 Procurement Phase Services

§ 3.5.1 General

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's written approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction. Such assistance shall include, if necessary, testifying in any bid or proposal dispute. Architect shall disclose in writing to Owner any prior or current relationships which Architect may have had with any bidders or proposers, which may reasonably present a potential conflict of interest. The Architect shall cooperate with the Owner's legal counsel in the preparation of all Contract Documents and the General Conditions of the Contract for Construction, as amended or supplemented for the Project, to be used in the bidding or proposal documents. Architect shall ensure that the Supplementary or other Conditions of the Contract created for the Project, if any, shall not contradict the provisions of Owner's approved construction contracts except with Owner's prior written consent.

§ 3.5.1.1 The Architect shall include in all requests for proposals and specifications manuals the following language:

By submitting a bid/proposal, each bidder/proposer agrees to waive any claim it has or may have against the Owner (the school district), the Engineer, the Architect, and their respective employees and officers, arising out of or in connection with the administration, evaluation, or recommendation of any bid/proposal; waiver of any requirements under the Bid/Proposal Documents or the Contract Documents; acceptance or rejection of any bids/proposals; and award of the Contract.

By submitting a bid/proposal, each bidder/proposer agrees to exhaust its administrative remedies under District Policy or the Disputes Clause of any resulting contract before seeking judicial relief of any type in connection with any matter related to this solicitation, the award of any contract, and any dispute under any resulting contract.

§ 3.5.2 Competitive Sealed Proposals or Other Delivery Methods

§ 3.5.2.1 Bidding or Proposal Documents shall consist of bidding requirements and proposed Contract Documents. The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Owner/Contractor Agreement) and consist of the Owner/Contractor Agreement, Conditions of the Contract (General, Supplementary and other Conditions), all sections of the Project Manual, including Drawings, Specifications, and Addenda issued prior to execution of the Contract, other documents listed in the Owner/Contractor Agreement and Modifications issued after execution of the Contract Documents.

§ 3.5.2.2 The Architect shall assist the Owner in procuring the Project by:

- .1 facilitating the reproduction and distribution of Bidding or Proposal Documents to prospective bidders or proposers and requesting their return upon completion of the negotiation process;
- .2 organizing and conducting a pre-bid/proposal conference for prospective bidders/proposers;
- .3 preparing responses to questions from prospective bidders/proposers and providing clarifications and interpretations of the Bidding/Proposal Documents to the prospective bidders/proposers in the form of addenda;
- .4 organizing and conducting the opening of the bids/proposals, and subsequently documenting and distributing the bidding/proposal results, as directed by the Owner;
- .5 evaluating the bids/proposals based on the approved criteria;
- .6 organizing and participating in selection interviews with prospective contractors;
- .7 participating in negotiations with prospective contractors and subsequently preparing a summary report of the negotiations results, as directed by the Owner; and
- .8 reviewing, in conjunction with the Owner, the Owner's representative, if appropriate, and the Construction Manager at Risk or Contractor, alternative approaches to design and construction of the Project in order to preserve the Scope of the Work, and the quality of the construction within Owner's overall budget for the Project.

§ 3.5.2.3 The Architect shall consider requests for substitutions, if the Bidding Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective bidders.

§ 3.5.3 The Architect shall produce "Issued For Construction" documents that include Construction Documents updated to include all revisions and modifications made to the design after the design phase, including, but not limited to, value engineering decisions, Addenda, and city-permitting revisions. These documents are to be provided for the use of the Contractor for construction. The Front page of each set of these documents is to be stamped "ISSUED FOR CONSTRUCTION."

(Paragraphs deleted)

§ 3.6 Construction Phase Services

§ 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in the applicable AIA Document A201–2017, General Conditions of the Contract for Construction, as amended. All references in this Agreement to AIA Document A201 are references to the amended version of that document that is applicable to the Project. Upon written request by the Architect, the Owner shall provide a copy of the A201 General Conditions to be used for the Architect's prior review. The Architect shall provide written notice of any objections to the proposed A201 General Conditions within seven (7) days of receipt, which written notice shall identify the specific sections of the contract that are objectionable and also include reasonable alternatives to the proposed terms. If the Owner and Contractor modify the applicable A201 General Conditions without the Architect's agreement as to the objectionable terms that the Architect identified in accordance with the preceding sentence, then the Architect shall provide the reasonable alternative services described in its written objections. The Architect acknowledges that Owner is relying on architect to propose and provide reasonable alternatives as described in this section that will serve the Owner's best interest and adequately protect the Owner. If at any time the Architect intends to provide the reasonable alternative services referenced herein instead of the services described in the applicable A201 that is effective between the Owner and Contractor, the Architect shall, prior to providing those services, provide written notice to the Owner identifying the alternative services to be provided.

- .1 The Architect shall organize and participate in a pre-proposal conference with the Contractor or Construction Manager and major sub-contractors, prior to commencing construction activities on site. The campus representative shall be informed of the general plan for construction activities, highlighting any activities that may impact their normal operations of the school. Construction will not proceed until the campus representative has acknowledged the safety plan, construction phasing and barrier plan, staging area, etc.

§ 3.6.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work. Any services by Architect made necessary by Architect's design errors or omissions shall be at no additional cost to Owner.

§ 3.6.1.3 The Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates one year after the Architect issues the Final Certificate for Payment. The Architect shall consult with the Owner prior to issuing on the above certificate.

§ 3.6.1.4 The Architect shall review requests by the Contractor or Construction Manager for additional information about the Contract Documents and respond appropriately in a timely manner.

§ 3.6.1.5 If deemed appropriate by the Architect or requested by the Owner, the Architect shall reproduce and distribute supplemental drawings and specifications in response to requests for information by the Construction Manager or Contractor.

§ 3.6.1.7 Upon request of the Owner, and prior to the expiration of six (6) months from the date of Substantial Completion and , again, prior to the expiration of ten (10) months from the date of Substantial Completion, the Architect shall, without additional compensation, conduct post-occupancy evaluation meetings with the Owner to

review the facility operations and performance for purposes of identifying defects, warranty issues, and proposed corrections related to the Project; and advise Owner in writing regarding the need for correction of the Work.

§ 3.6.1.8 During the year after the Architect issues the Final Certificate for Payment, the Architect shall visit the site and/or assist the Owner with resolution of any issues about the Project or the Work installed under this Agreement.

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect's authorized representative and/or each engineer's authorized representative, shall visit the site at least once per week (or more per week when reasonably deemed necessary by the Owner or when reasonably necessary to endeavor to protect Owner's interest), and at other intervals appropriate to the stage of construction, (1) to observe the progress, quantity and quality of the Work completed, (2) to reject any observed non-conforming Work, (3) to become familiar with the progress and quality of the portion of the Work completed, (4) to endeavor to guard the Owner against defects and deficiencies in the Work, (5) to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract, and (6) to document progress of the Work, in written and photographic form. Furthermore, a minimum of two Owner/Architect/Contractor job site meetings per month from commencement of construction through Substantial Completion will be initiated by the Architect. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. Attendees will include Owner's representatives, Owner's Program Manager, if appropriate, the Contractor or Construction Manager's project manager and superintendent, Architect's project representative and engineer's representatives appropriate to the stage of the Work. Architect's authorized representative or appropriate engineer will provide on-site observations prior to and during all concrete pours that contribute to the structural integrity of the building, including all pours of concrete piers, footings, grade beams, floor slabs, and concrete superstructure components, if applicable. In addition, Architect's authorized representative or appropriate engineer will provide on-site observations prior to covering up or closing up of portions of the construction which, if covered, would conceal problems with the structural integrity, the mechanical, plumbing, electrical and other critical systems of the Project. Architect will advise Owner of the need for any third-party laboratory or testing services to assist the Architect, and will assist Owner in the development of Requests for Proposals or other solicitations for any required testing services approved by Owner. On the basis of the site visits and observations by the Architect, the Architect shall keep the Owner informed about the progress and quality of the portion of the Work completed, and shall promptly orally report to the Owner and Contractor (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work, which notice shall be followed by notice from the Architect in writing of defects and nonconforming Work noted and corrective actions taken or recommended. Any services by Architect made necessary by Architect's design errors or omissions shall be at no additional cost to Owner.

§ 3.6.2.2 The Architect shall reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed, or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work. Architect shall promptly notify Owner and Contractor, orally and in writing, of any observed fault or defect in the Project or nonconformance with Construction Documents or Contract Documents, upon discovery of the defect or nonconformance, and shall notify Owner of all corrective actions taken or recommended. The testing or inspections required by this section are subject to the requirements of Chapter 44 of the Texas Education Code and Chapter 2269 of the Texas Government Code.

§ 3.6.2.3 The Architect shall interpret and make recommendations to Owner regarding matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 3.6.2.4 Interpretations and recommendations of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and recommendations, the Architect use its best professional efforts to secure faithful performance by both Owner and Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.

§ 3.6.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201–2017, as amended, the Architect shall promptly within the time frame established in AIA A201 render initial decisions, written recommendations, or interpretations on Claims between the Owner and Contractor as provided in the Contract Documents.

§ 3.6.2.6 Nothing contained in this Agreement shall prohibit the Owner from communicating directly with its Construction Manager or Contractor.

§ 3.6.3 Certificates for Payment to Contractor

§ 3.6.3.1 The Architect shall observe the progress of the Work, and, consistent with the standard of care, evaluate, review and certify the amounts due the Contractor and sign and issue certificates if such amounts are valid, correct and deemed due and owing, in Architect’s professional opinion, within seven (7) days of receipt of Contractor’s application for payment. The Architect’s certification for payment shall constitute a representation to the Owner, based on the Architect’s observations and evaluations of the Work as provided in Section 3.6.2 and on the data comprising the Contractor’s Application for Payment, that in Architect’s professional opinion and, to the best of the Architect’s knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the work is in accordance with the Construction Documents and the Contract Documents and that the Architect has evaluated and certified that the amounts requested in the Application for Payment are valid and correct, in the Architect’s professional opinion. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the Architect in writing to Owner.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor’s right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

§ 3.6.4 Submittals

§ 3.6.4.1 The Architect shall review the Contractor’s submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect’s action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect’s professional judgment, to permit adequate review. The Owner reserves the right to implement a project management controls system and require the Architect to perform this and other duties to satisfy the requirements of the system.

§ 3.6.4.2 The Architect shall review and approve, or take other appropriate action upon, the Contractor’s submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor’s responsibility. The Architect’s review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences, or procedures. The Architect’s approval of a specific item shall not indicate approval of an assembly of which the item is a component. If it is determined that any submittal does not comply with the requirements of the Contract Documents, then Architect shall require Contractor to come into compliance. The Architect shall promptly report in writing to the Contractor and Owner any errors, inconsistencies and omissions discovered by the Architect in the Shop Drawings, Product Data and Samples. The Architect is not authorized to approve changes involving major systems such as HVAC, roof, foundation, outward appearance, color schemes, floor plans, building materials, or mechanical equipment without Owner’s prior written consent.

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The Architect's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

§ 3.6.4.4 The Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

§ 3.6.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents. The Owner reserves the right, but not the obligation, to provide an approved submittal log form for use by the Architect.

§ 3.6.5 Changes in the Work

§ 3.6.5.1 The Architect shall timely review, prepare and make recommendations to Owner regarding all Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents, accompanied by all supporting documentation. With prior written notice to the Owner, the Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. If necessary, the Architect shall prepare, reproduce, and distribute Drawings and Specifications to describe Work to be added, deleted, or modified. The Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

- .1** The Architect shall accept requests by the Owner, and shall review properly- prepared, timely requests by the Contractor or Construction Manager for changes in the Work, including adjustments to the Contract Sum or Contract Time. A properly prepared request for a change in the Work by the Contractor shall be accompanied by sufficient supporting data and information to permit the Architect to make a reasonable determination. If the Architect determines that requested changes in the Work are not materially different from the requirements of the Contract Documents or Construction Documents and do not change the Contract Sum or Contract Time, then the Architect may issue an order for a minor change in the Work, with prior written notice to the Owner, or recommend to the Owner that the requested change be denied.
- .2** If the Architect determines that implementation of the requested changes would result in a material change to the Contract that may cause an adjustment in the Contract Time or Contract Sum, then the Architect shall make a recommendation to approve or deny the requested change to the Owner. Based upon information furnished by the Contractor, if any, the Architect shall estimate the additional cost and time that might result from such change, including any additional costs attributable to Additional Services of the Architect. If the Architect recommends approval, then the Architect shall incorporate those estimates into a proposed Change Order or other appropriate documentation for the Owner's Board of Trustees' approval and execution.

§ 3.6.5.2 The Architect shall maintain all records relative to changes in the Work. The Owner reserves the right, but not the obligation, to provide an approved Change Management Log Form for use by the Architect.

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall:

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- .1 conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;
- .2 issue Certificates of Substantial Completion;
- .3 forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and
- .4 issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents, as well as a Certification of Project Compliance as described herein. The Architect shall consult with the Owner prior to issuing the above certificate.

§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

§ 3.6.6.3 When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work. When the Work is found finally complete, the Architect shall inform the Owner in writing about the balance of the Contract Sum remaining to be paid to the Contractor as final payment.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of claims, liens, or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

§ 3.7 Without limiting any other part of this Agreement, the Architect's Basic Services include the following:

- .1 Programming
- .2 Multiple preliminary designs
- .8 Civil engineering (on-site)

§ 3.8.1 The Architect shall produce record drawings in reproducible hard copy and in electronic format acceptable to the Owner for the Owner's records once the Project receives a building permit. The drawings shall include all revisions related to permitting, addenda, value engineering, or otherwise.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

§ 4.1.1 Except where noted, the services listed below are not included in Basic Services but may be required for the Project. Items designed as "Architect, as a Basic Service" are required and shall be provided by the Architect. The Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project.

(Designate the Architect's Supplemental Services and the Owner's Supplemental Services required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.)

Supplemental Services	Responsibility <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.1 Programming	Architect, as a Basic Service (see § 3.7)
§ 4.1.1.2 Multiple preliminary designs	Architect, as a Basic Service (see § 3.7)

Supplemental Services	Responsibility <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.3 Measured drawings	Not Provided
§ 4.1.1.4 Existing facilities surveys	Not Provided
§ 4.1.1.5 Site evaluation and planning	Not Provided
§ 4.1.1.6 Building Information Model management responsibilities	Not Provided
§ 4.1.1.7 Development of Building Information Models for post construction use	Not Provided
§ 4.1.1.8 Civil engineering (off-site)	Not Provided
§ 4.1.1.9 Landscape design	Not Provided
§ 4.1.1.10 Architectural interior design	Not Provided
§ 4.1.1.11 Value analysis	Not Provided
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	Not Provided
§ 4.1.1.13 On-site project representation	Not Provided
§ 4.1.1.14 Conformed documents for construction	Not Provided
§ 4.1.1.15 As-designed record drawings	Not Provided
§ 4.1.1.16 As-constructed record drawings	Not Provided
§ 4.1.1.17 Post-occupancy evaluation	Not Provided
§ 4.1.1.18 Facility support services	Not Provided
§ 4.1.1.19 Tenant-related services	Not Provided
§ 4.1.1.20 Architect's coordination of the Owner's consultants	Not Provided
§ 4.1.1.21 Telecommunications/data design	Not Provided
§ 4.1.1.22 Security evaluation and planning	Not Provided
§ 4.1.1.23 Commissioning	Not Provided
§ 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3	Not Provided
§ 4.1.1.25 Fast-track design services	Not Provided
§ 4.1.1.26 Multiple bid packages	Not Provided
§ 4.1.1.27 Historic preservation	Not Provided
§ 4.1.1.28 Furniture, furnishings, and equipment design	Not Provided
§ 4.1.1.29 Other services provided by specialty Consultants	Not Provided
§ 4.1.1.30 Other Supplemental Services	Not Provided
§ 4.1.1.31 Surveys	Architect
§ 4.1.1.32 Food Service	Architect
§ 4.1.1.33 Acoustic	Architect
§ 4.1.1.34 Roofing Consultant	Architect
§ 4.1.1.35 Traffic Engineer	Architect
§ 4.1.1.36 Environmental	Architect
§ 4.1.1.37 Wayfinding	Architect
§ 4.1.1.38 Geotechnical Engineer	Architect

§ 4.1.2 Description of Supplemental Services

§ 4.1.2.1 A description of each Supplemental Service identified in Section 4.1.1 as the Architect’s responsibility is provided below.

(Describe in detail the Architect’s Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit. The AIA publishes a number of Standard Form of Architect’s Services documents that can be included as an exhibit to describe the Architect’s Supplemental Services.)

To be provided by Architect when obtaining pre-approval from Owner.

§ 4.1.2.2 A description of each Supplemental Service identified in Section 4.1.1 as the Owner’s responsibility is provided below.

(Describe in detail the Owner’s Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit.)

To be determined by Owner with the Architect’s advice.

(Paragraph deleted)

§ 4.2 Architect’s Additional Services

Upon written agreement with the Owner, the Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to the compensation and schedule adjustment specified in the written agreement authorizing the Additional Services.

§ 4.2.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following Additional Services until the Architect receives the Owner’s written authorization:

- .1 Services necessitated by a substantial change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner’s schedule or budget for Cost of the Work, or procurement or delivery method, except when said changes are due to Architect’s or Architect’s consultants’ errors or omissions;
- .2 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;
- .3 Changing or editing previously prepared Construction Documents necessitated by official interpretations of applicable codes, laws or regulations after the building permit has been issued;
- .4 Preparing digital models or other design documentation for transmission to the Owner’s consultants and contractors, or to other Owner-authorized recipients;

(Paragraphs deleted)

- .5 Consultation concerning replacement of Work resulting from fire or other cause during construction.

(Paragraphs deleted)

§ 4.2.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services, provided that, when the limits below are reached, the Architect shall notify the Owner and obtain Owner’s written agreement to proceed and any added costs related thereto:

- .1 Two (2) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor;
- .2 Weekly visits to the site by the Architect during construction;
- .3 Three (3) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents;
- .4 Two (2) inspections for any portion of the Work to determine final completion.

(Paragraphs deleted)

ARTICLE 5 OWNER’S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program, which shall set forth the

Owner's objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility; expandability; special equipment; systems; and site requirements, but only to the extent required by 19 Texas Administrative Code Section 61.1040. The Owner hereby refers Architect to any applicable authority to obtain building code and requirements.

§ 5.2 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect may thereafter agree in writing to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner, by legal and formal action of its governing body, acting as a body corporate, may identify a representative, other than Owner's governing body, authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services. In no event may the Owner's Designated Representative exceed the authority granted to him/her under District Policy and state law. It is understood that the Owner's Designated Representative does not have the authority to make any changes to the scope, budget, or cost of the Work, and that only the Owner's Board of Trustees, acting as a body corporate, can make such changes.

§ 5.4 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions, and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a project benchmark.

§ 5.5 If necessary for the Project, the Owner, upon the Architect's written request, shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

(Paragraphs deleted)

§ 5.8 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated as the responsibility of the Architect in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 5.9 Except as otherwise provided in the Contract Documents, the Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

(Paragraph deleted)

§ 5.11 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project that Owner reasonably believes is not known to the Architect or its representatives on the Project, including errors, omissions, or inconsistencies in the Architect's Instruments of Service. Any failure to provide notice required by this section does not absolve Architect of any responsibility for any such fault, defect, error, omission, or inconsistency. Architect acknowledges that he is the leader of the design team and is responsible for the design of the Project. Therefore, Owner shall be entitled to rely on the Construction Documents, services, and information furnished

by the Architect. This section shall not relieve Architect of any responsibility or liability for the performance of Architect's contracted services on the Project.

§ 5.12 The Owner shall endeavor to include the Architect in all communications with the Contractor that relate to or affect the Architect's services or professional responsibilities. The Owner shall endeavor to promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

§ 5.13 Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the applicable General Conditions of the Contract for Construction.

§ 5.14 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

(Paragraph deleted)

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of the Architect's compensation, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include, without limitation, contractors' general conditions costs, overhead and profit. The Cost of the Work does not include the compensation of the Architect, the costs of the land, rights-of-way, financing, or other costs that are the responsibility of the Owner. For purposes of the Architect's compensation, the Cost of the Work shall not include the fee for management and supervision of construction or installation provided by a separate Owner representative. For purposes of the Architect's compensation, the Cost of the Work shall include the Owner's cost of labor and materials furnished by the Owner in constructing portions of the Project, if the Work is designed by Architect. For purposes of the Architect's compensation, the Cost of the Work shall also include the Owner's cost of fixtures, furnishing and equipment designed by the Architect, at the request of the Owner.

§ 6.1.1 In CMAR projects the Architect shall provide information to the Construction Manager that is reasonably necessary for the Construction Manager to prepare a preliminary estimate of the Cost of the Work. This estimate may be based on current area, volume or similar conceptual estimating techniques combined with information provided by the Construction Manager. As the design process progresses through the end of the preparation of the Construction Documents, the Architect shall provide additional information reasonably requested by the Construction Manager in updating and refining the preliminary estimate of the Cost of Work. The Architect shall cooperate with the Owner and its Construction Manager in developing and designing the Project that satisfies the Owner's budgetary constraints. If the preliminary estimate of the construction costs or any revised estimates exceed the amount budgeted the Architect shall not proceed without the Owner's approval.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and may be adjusted throughout the Project at Owner's discretion. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work, prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials, or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market, or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Architect. If Architect's design is determined to exceed Owner's budget, then Architect agrees to redesign the Project, at Architect's expense and as a part of Architect's Basic Services, to meet Owner's budget. If Architect is unable to redesign the Project to meet Owner's budgetary, programmatic and quality needs, then the Architect shall make appropriate written recommendations to the Owner to adjust the Project's size, quality, or budget.

§ 6.3 As part of the Schematic Design Phase services, the Architect shall prepare a preliminary estimate of the Cost of the Work, which shall incorporate Owner's budgetary constraints, programmatic needs, and expectations as to quality, functionality of systems, maintenance costs, and usable life of equipment and facilities. As the design progresses through the end of the Design Development Phase, the Architect shall update and refine the preliminary estimate of the Cost of the Work to a level appropriate to the development of the design.

- .1 The Architect shall advise the Owner of any adjustments to previous estimates of the Cost of the Work indicated by changes in Project requirements or general market conditions. The Architect shall cooperate with Owner, and with the Construction Manager at Risk in CMAR projects, in developing and designing the Project to satisfy Owner's budgetary constraints, programmatic needs and expectations as to quality, functionality of systems, maintenance costs, and usable life of equipment and facilities.
- .2 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project with the prior written consent of the Owner; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. The Architect's estimate of the Cost of the Work shall be based on current area, volume, or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1.1 as a Supplemental Service.

(Paragraph deleted)

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, then the Architect shall redesign elements to achieve cost savings within the Scope of the Work, but in doing so, shall not delete any essential element of the Project. Architect shall present the redesign to Owner for Owner's approval and, in doing so, shall notify Owner in writing of the actions taken to bring the Project into Owner's budget. If Architect is unable to redesign the Project to meet Owner's budgetary, programmatic and quality needs, then the Architect shall make appropriate written recommendations to the Owner to adjust the Project's size, quality or budget. Owner shall consider Architect's recommendations, but shall decide, in its discretion, what adjustments to make.

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall:

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time and/or authorize a different construction procurement method, consistent with State law;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work;
- .5 implement any other mutually acceptable alternative; or
- .6 direct the Architect to redesign the Project to meet the Owner's budgetary, programmatic, and quality needs.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4 or Section 6.6.6, the Architect, without additional compensation, shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 The Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering, and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums due pursuant to Article 9 and Article 11. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect.

(Paragraph deleted)

§ 7.5 Anything to the contrary notwithstanding, the Construction Documents may be used as a prototype for other facilities by the Owner or Owner's hired architects. The Owner may elect to use the Architect to perform the site adaptation and other professional services involved in reuse of the Construction Documents. If the Owner elects to employ a different architect to perform the site adaptation and other professional services involved in reuse of the Construction Documents, then that architect may use Architect's consultants on the same basis that the Architect would have been entitled to use them for the Work on the reuse of the Construction Documents, and such architect will be entitled, to the extent allowed by law, to duplicate the design and review and refer to the Construction Documents, approved shop drawings and calculations, in performing its Work. The Architect will not be responsible for errors and omissions of a subsequent architect. The Architect shall endeavor to commit its consultants to the terms of this section and shall notify Owner in writing if Architect is unable to do so. In the event of termination of this Agreement for any reason, and upon final payment of the sum due through such termination, the Owner shall receive all original documents prepared to the date of termination and shall have the right to use those documents and any reproductions in any way necessary to complete the Project, but the Architect will not be liable for errors or omissions of a subsequent architect.

§ 7.6 The Owner shall be free to use said Construction Documents for Owner's purposes, but shall not assign, delegate, sublicense, pledge or otherwise transfer said Construction Documents, including any underlying copyright or license granted herein, to another party for use by any party other than on behalf of Owner. The Owner may use the Construction Documents for future additions or alterations to this Project or for other projects constructed by Owner. The Owner's privilege to use said Construction Documents extends to their use with and by other architects on Owner's projects only.

ARTICLE 8 CLAIMS AND DISPUTES

(Paragraphs deleted)

§ 8.1.2 **Contractual Adjudication Procedure:** In the case of claims by the Architect against Owner, including, but not limited to, any claim that the Owner has breached a contract, the Architect may not file a lawsuit or demand mediation until the complaint procedure found in Owner's Policy GF (LOCAL) has been fully exhausted regarding the contested matter. A copy of this policy is attached hereto and incorporated herein as Exhibit A. The Architect's failure to timely file a grievance under policy GF (LOCAL), meet any requirement of this Section 8.1, or otherwise fully exhaust policy GF (LOCAL) in accordance with the policy's requirements is a bar to suit against the Owner.

- a. The timelines under Policy GF (LOCAL) are amended for purposes of this Agreement as follows: Architect's complaint must be reduced to writing and filed with the appropriate administrator of Owner within ninety (90) calendar days of the date the Architect first knew, or with reasonable diligence should have known, of the decision or action giving rise to the complaint. If the Architect fails to meet this timeline, the Architect will have failed to exhaust this remedy and will have failed to adhere to this contractual adjudication procedure.

- b. Architect agrees that, in order to fully exhaust its remedies under policy GF (LOCAL), Architect must identify and articulate in writing the specific factual and legal basis for its claims. Any basis that is not identified and articulated by the Architect as part of its complaint under GF (LOCAL) is waived by the Architect and may not be asserted in any subsequent proceeding against the Owner.
- c. Unless waived by Owner in writing, the following are conditions precedent to the institution of civil proceedings by the Architect against the Owner concerning the contested matter: 1) full exhaustion of claims through Owner's GF (LOCAL) policy as described herein; 2) a written demand by the Architect for mediation; and 3) good faith and full participation in the mediation process.
- d. Following the full exhaustion of claims through Owner's complaint procedure, as described in this Agreement, and upon receipt by Owner of Architect's written demand for mediation, Owner may, at its option, either proceed with non-binding mediation of the dispute, or provide written notice to Architect of Owner's decision to waive its right to compel such mediation, and in such event Architect is at liberty to pursue its civil remedies, if any, in accordance with this Agreement.

§ 8.1.3 The Architect waives consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement.

(Paragraphs deleted)

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Article 8, the method of binding dispute resolution shall be litigation in a court of competent jurisdiction. Exclusive venue for any action arising out of this Agreement or the Project is in the county in which Owner's administrative offices are located.

§ 8.4 The provisions of this Article 8 shall survive the termination of this Agreement.

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments of undisputed amounts to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination if not cured after ten (10) days' written notice to Owner of the delinquency. Architect shall be allowed to suspend Architect's performance of services under this Agreement for nonpayment by Owner only after the provision of ten (10) days' written, in accordance with Texas Government Code Section 2251.051 *et seq.* As a prerequisite to any termination or suspension under this Section 9.1, the Architect must first fully exhaust the complaint process described in Section 8.1 above.

§ 9.2 If the Owner suspends the Project for more than thirty (30) consecutive days, the Architect shall be compensated for services performed prior to notice of such suspension.

§ 9.3 If the Owner suspends the Project for more than ninety (90) consecutive days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven (7) days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven (7) days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven (7) days' written notice to the Architect for the Owner's convenience and without cause. The Owner may also terminate this Agreement on seven (7) days' written notice if the budget for the Cost of the Work, prior to commencement of the Work, is exceeded by the lowest bona fide bid or negotiated proposal.

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, the Owner shall compensate the Architect for services performed prior to termination and Reimbursable Expenses then due, and no other amount. In determining the compensation due to the Architect under this section, the schedule in Section 11.5 below shall be used to determine the appropriate compensation based on services completed.

(Paragraphs deleted)

§ 9.7 This Agreement may be terminated by Owner if Architect engages in conduct that would constitute a violation of state or federal criminal law related to or relevant to the Project, including but not limited to, the laws prohibiting certain gifts to public servants, or engages in conduct that would constitute a violation of the Owner's ethics or conflict of interest policies.

§ 9.7.1 The parties hereby agree that: 1) if an order for relief is entered on behalf of the Architect, pursuant to Chapter 11 of the U.S. bankruptcy Code; 2) if any other similar order is entered under any debtor relief laws; 3) if Architect makes an assignment for the benefit of one or more of its creditors; 4) if a receiver is appointed for the benefit of its creditors; or 5) if a receiver is appointed on account of its insolvency, any such event could impair or frustrate Architect's performance. Accordingly, it is agreed that upon occurrence of any such event, Owner shall be entitled to request of Architect adequate assurance of future performance in accordance with the terms and conditions of this Agreement. Failure to comply with such request within ten (10) days of delivery of the request shall entitle Owner to terminate the Architect's services in accordance with this section.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by and enforced under the laws of Texas, excluding that jurisdiction's choice of law rules. Mandatory and exclusive venue for any legal or mediation proceedings brought under or pertaining to this Agreement shall be in the county where Owner's administrative office is located.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201–2017, General Conditions of the Contract for Construction that is applicable to the agreement for construction entered into between the Owner and a contractor or construction manager. The Architect acknowledges that the document referenced in this Section 10.2 will not be the standard form of the AIA Document A201–2017, but will be an amended version of that document.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect. There are no third-party beneficiaries to this Agreement. The parties do not intend that any non-party have any right to enforce any part of this Agreement.

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site unless the toxic materials or substances were brought to the Project pursuant to the terms of Contract Documents. Should the Architect become aware of the presence of hazardous materials or toxic substances that pose an immediate danger on the Project Site, the Architect shall immediately report the presence to the Owner in writing.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Architect shall maintain the confidentiality of information specifically designated as confidential by the Owner, unless withholding such information would violate the law, create the risk of significant harm to the public or prevent the Architect from establishing a claim or

defense in an adjudicatory proceeding. The Architect shall require of the Architect's consultants similar agreements to maintain the confidentiality of information specifically designated as confidential by the Owner. Owner herein designates the following as confidential information: security measures; security access codes; pending real estate purchases, exchange, lease or value; any information pertaining to litigation; student likenesses and student record information; employee information; and any other information deemed confidential by law. Nothing in this section or this Agreement shall be construed as requiring Owner to keep information confidential when the disclosure of such information is required by the Texas Open Meetings Act (Texas Government Code Chapter 551) or the Texas Public Information Act (Texas Government Code Chapter 552).

§ 10.8 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

(Paragraph deleted)

§ 10.9 Any right to recovery of attorney's fees available under Texas Local Government Code Chapter 271, Subchapter I, is hereby waived.

§ 10.10 APPLICABLE LAW This Agreement is subject to all applicable federal and state laws, rules, and regulations. Invalidation of any portion of this Agreement under the laws of the State of Texas or of the United States shall not affect the validity of the remainder of this Agreement.

§ 10.11 CONFLICTS IN DOCUMENTS To the extent of conflicts between the Contract Documents, amendments shall prevail over original forms.

§ 10.12 CHILD SUPPORT. BY SIGNING THIS AGREEMENT, THE UNDERSIGNED CERTIFIES AS FOLLOWS: UNDER SECTION 231.006, Texas Family Code, the vendor or applicant certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate.

§ 10.13 INDEPENDENT CONTRACTOR It is understood and agreed that the relationship of Architect to Owner shall be that of an independent contractor. Nothing contained in this Agreement or inferable from this Agreement shall be deemed or construed to: 1) make Architect the agent, servant or employee of the Owner; or 2) create any partnership, joint venture, or other association between Owner and Architect. Any direction or instruction by Owner or any of its authorized representatives in respect to the Architect's services shall relate to the results the Owner desires to obtain from the Architect, and shall in no way affect the Architect's independent contractor status.

§ 10.14 NO WAIVER No delay or omission by either of the parties hereto in exercising any right or power accruing upon the noncompliance or failure of performance by the other party hereto of any of the provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either of the parties hereto of any of the covenants, conditions or agreements hereof to be performed by the other party hereto shall not be construed to be a waiver of any subsequent breach thereof or any other covenant, condition or agreement herein contained.

§ 10.15 FELONY CONVICTION Pursuant to Texas Education Code Section 44.034, Architect must give advance written notice to the Owner if the Architect or an owner or operator of the Architect has been convicted of a felony. The Owner may terminate this Agreement if the Owner determines that the Architect failed to give such notice or misrepresented the conduct resulting in the conviction. This paragraph requiring advance notice does not apply to a publicly-held corporation.

§ 10.16 CRIMINAL HISTORY RECORD CHECKS

§ 10.16.1 Architect shall take all steps necessary to ensure compliance with Texas Education Code section 22.0834. Architect shall ensure that all Architect employees, consultants, and representatives who will enter upon a school

campus submit to a national criminal history record information review by the Owner. If Architect believes one or more specific people are not subject to the requirements of Texas Education Code section 22.0834, Architect may submit a written request to Owner identifying such people, and Owner shall make a determination whether the requirements apply.

If it is determined that Architect or any of Architect's employees, consultants, or representatives is in violation of this provision, Architect shall immediately remove such person from the property of the Owner with no requirement of written notice from the Owner and shall prohibit such person from future entry on the property of the Owner.

In addition to the foregoing, Architect represents to Owner that it (1) has adopted a policy prohibiting employees and representatives, including subcontracting entity employees and representatives, from interacting with students or entering areas used by students, (2) has and will inform employees/representatives of the policy, and (3) shall enforce the policy at the public work area.

§ 10.16.2 Architect will not assign any "covered employee" with a "disqualifying criminal history", as those terms are defined below, to work on the Project. If Architect receives information that a covered employee has a reported disqualifying criminal history, then Architect will immediately remove the covered employee from the Project and notify the Owner in writing within three business days. If the Owner objects to the assignment of any covered employee on the basis of the covered employee's criminal history record information, then Architect agrees to discontinue using that covered employee to provide services on Owner's Project. If Architect has taken precautions or imposed conditions to ensure that the employees of Architect and any Architect consultant will not become covered employees, Architect will ensure that these precautions or conditions continue throughout the time the contracted services are provided.

§ 10.16.3 For the purposes of Section 10.16, "covered employees" means employees, agents, or subcontractors of Architect or any of Architect's consultants who has or will have continuing duties related to the services to be performed on Owner's Project and has or will have direct contact with Owner's students. The Owner will decide what constitutes direct contact with Owner's students. "Disqualifying criminal history" means any conviction or other criminal history information designated by the Owner, or one of the following offenses, if at the time of the offense, the victim was under 18 years of age or enrolled in a public school: a felony offense under Texas Penal Code Title 5 Offenses Against Persons; an offense for which a defendant is required to register as a sex offender under Texas Code of Criminal Procedure Chapter 62; or an equivalent offense under federal law or the laws of another state.

§ 10.17 RECORDS RETENTION Architect shall keep all accounting and construction records on the Project for a period of at least twelve (12) years after Final Completion of the Project, and thereafter shall offer the records retention requirements, per the Texas Government Code § 441.158 *et seq.* and the Texas State Library and Archives Commission's Local Schedule GR (Government Records). In the alternative, Architect may provide such records to Owner for retention at any time if Owner agrees in writing to accept such records in lieu of Architect's retention under this section.

§ 10.18 COMPLAINTS The Texas Board of Architectural Examiners has jurisdiction over complaints regarding the professional practices of persons registered as architects in Texas under the Architects Registration Law. Texas Occupations Code Chapter 1051. The Texas Board of Architectural Examiners can be reached at P. O. Box 12337, Austin, Texas 78711-2337 or 333 Guadalupe, Suite 2-350, Austin, Texas 78701-3942, by phone at (512) 305-8900, or on the web at www.tbae.state.tx.us.

§ 10.20 NO LIENS The parties agree that no architect, engineer, mechanic, contractor, materialman, artisan, laborer or subcontractor, whether skilled or unskilled, shall ever, in any manner have, claim or acquire any lien upon the Project of whatever nature or kind so erected or to be erected by virtue of this Agreement, nor upon any of the land upon which said improvements are so erected, built, or situated, such property being public property belonging to a political subdivision of the State of Texas, or upon any funds of Owner.

ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

.1 Stipulated Sum
(Insert amount)

N/A

.2 Percentage Basis
(Insert percentage value)

N/A (N/A%) of the Cost of the Work, as calculated in accordance with Section 11.6.

.3 Other
(Describe the method of compensation)

Renovation and/or Addition for the Security Vestibule

If the Cost of the Work, as calculated in accordance with Section 11.6, is:

1. \$0 to \$500,000 → compensation is a stipulated sum of \$42,500
2. over \$500,000 → 8.5% of the Cost of the Work, as calculated in accordance with Section 11.6

§ 11.2 For the Architect’s Supplemental Services designated in Section 4.1.1, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

Architect must secure Owner’s pre-approval in writing of both the services to be provided and the cost prior to performing any Supplemental Services.

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation.)

Architect must secure Owner’s pre-approval in writing of both the services to be provided and the cost prior to performing any Additional Services.

(Paragraphs deleted)

§ 11.5 When compensation for Basic Services is based on a stipulated sum or a percentage basis, the proportion of compensation for each phase of services shall be as follows:

Schematic Design Phase	Fifteen	percent (	15	%)
Design Development Phase	Twenty	percent (	20	%)
Construction Documents Phase	Forty	percent (	40	%)
Procurement Phase	Five	percent (	5	%)
Construction Phase (at least 3% of the Architect’s fee must be attributable to Basic Services that occur after Substantial Completion)	Twenty	percent (	20	%)
<hr/>				
Total Basic Compensation	one hundred	percent (	100	%)

(Paragraph deleted)

§ 11.6.1 When compensation is based on a percentage of the Cost of the Work and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions, in accordance with the schedule set forth in Section 11.5 based on (1) the lowest bona fide bid or negotiated proposal, or (2) if no such bid or proposal is received, the most recent written estimate of the Cost of the Work for such portions of the Project, provided that such estimate has been formally approved by the Owner's Board of Trustees. In the event that no such estimate exists, the Architect shall not be entitled to any compensation.

(Table deleted)

(Paragraphs deleted)

§ 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic and Additional Services and include expense incurred by the Architect and the Architect's consultants directly related to the Projects, only as follows:

1. Transportation and authorized out-of-town travel and subsistence if approved by Owner in advance;
2. Permitting and other fees required by authorities having jurisdiction over the Project;
3. Printing, reproduction, plots, standard form documents;
 - a. Project Development
 - i. Design Presentation to the Board of Trustees
 - ii. Schematic Design Book
 - iii. Staff Review Documents if required and approved by Owner in advance
 - b. Construction Documents
 - i. Staff Review Documents if required and approved by Owner in advance
 - ii. Document reproduction for electronic media
 - iii. Drawing & Project Manuals, Addenda, Jurisdictional Authority Review Comment Printing
 - c. Construction Phase
 - i. Document printing as required and approved by Owner in advance
 - ii. Close Out Documents – Manuals and CDs if required and approved by Owner in advance
4. Postage and Handling and delivery of Construction Documents other than those required to be provided by Architect under this agreement;
5. Renderings, physical models, mock-ups, professional photography, and presentation materials requested and approved by the Owner or required for this Project.

(Paragraphs deleted)

The Architect shall be solely responsible for the auditing of all Reimbursable Expenses, prior to submitting to Owner for reimbursement, and shall be responsible for the accuracy thereof. Any overpayment by the Owner for errors in submittals for reimbursement shall be deducted from the Architect's subsequent payment for services.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the actual, reasonable expenses incurred by the Architect. The Architect shall present Reimbursable Expenses, including supporting documentation, for payment with its regular invoices, and must request payment within thirty (30) days of incurring such expenses. The Architect waives any claim for Reimbursable Expenses not presented in accordance with this Section 11.8.2.

(Paragraphs deleted)

§ 11.9 COMPENSATION FOR USE OF ARCHITECT'S INSTRUMENTS OF SERVICE

The parties agree that Architect's compensation for Basic Services includes all licensing fee for the Owner's use of the Construction Documents, including use after termination of this Agreement.

§ 11.10 Payments to the Architect

(Paragraphs deleted)

§ 11.10.2 Progress Payments

(Paragraphs deleted)

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable within 45 days of presentation of the Architect's invoice, subject to the terms of this Agreement. Without limiting Owner's rights under this Agreement, Owner's payment of any amount to Architect does not constitute a waiver of any claims arising out of or related to the services for which payment is being sought.

§ 11.10.2.3 Records of Reimbursable Expenses, expenses pertaining to Additional Services, and services, if any, performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

(Include other terms and conditions applicable to this Agreement.)

§ 12.1 It shall be the duty of the Architect throughout the term of this Agreement as part of Basic Services, to make a prompt written record of all meetings, conferences, discussions, and decisions made between and/or among the Owner, Architect, and Contractor or Construction Manager during all phases of the Project and concerning any material condition in the requirements, scope, performances, and/or sequence of the Work and to provide promptly a copy of all such records to the Owner.

§ 12.2 Architect acknowledges that the Owner utilizes one or more software programs and other procedures and processes to organize and administer its construction projects and that the Owner relies on the Architect's full cooperation and assistance in using the same. Architect agrees that it will fully comply with all of the Owner's requests regarding the use of such software, procedures, and processes, including, but not limited to, transmission and storage of data, documents, and other information. Specifically, and without limiting the foregoing, the Architect agrees to fully cooperate with the Owner's requests regarding the use of the "E-Builder" software system, or any other system or process that the Owner may thereafter, in its sole discretion, choose to implement.

§ 12.3 Architect agrees to comply with the requirements of Texas Education Code 22.0834, and Texas Administrative Code regulations adopted thereunder (the "Background Laws"). Architect agrees that all Architect employees, agents, or representatives who enter upon Owner's property shall be treated as though they are subject to the requirements of the Background Laws. Architect further agrees that Owner may direct that Architect obtain background checks, fingerprinting, badging, and related services through a specific vendor, at the Architect's sole cost, and that the Architect will comply with said directive.

§ 12.4 This Section 12.4 only applies if Architect has more than 10 full time employees and the Agreement is valued at \$100,000 or more. By executing this Agreement, Architect verifies the following:

- .1 as required by Texas Government Code 2271.002, Architect verifies that it does not boycott Israel and will not boycott Israel during the term of this contract.
- .2 as required by Texas Government Code 2274.002, Architect verifies that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate during the term of the contract against a firearm entity or firearm trade association.
- .3 as required by Texas Government Code 2276.002, Architect verifies that it does not boycott energy companies and will not boycott energy companies during the term of the contract.

§ 12.5 The parties agree that the only amounts that can ever be due and owing under this Agreement from the Owner to the Architect are amounts for compensation for services actually performed in accordance with the terms of this Agreement, calculated in accordance with the terms of this Agreement, and further subject to any claim or right that the Owner may have to offset or otherwise reduce any such amounts.

§ 12.6 The Texas Board of Professional Engineers and Land Surveyors has jurisdiction over complaints regarding the professional practices of licensed professional engineers in Texas.

Texas Board of Professional Engineers and Land Surveyors

Init.

1917 S Interstate 35
Austin, TX 78741
Telephone: (512) 440-7723

§ 12.7 Contracting Information

§ 12.7.1 This Section 12.7 applies only if, per Texas Government Code § 552.371(a), (1) the Agreement has a stated expenditure of at least \$1 million in public funds for the purchase of goods or services by the governmental body; or (2) the Agreement results in the expenditure of at least \$1 million in public funds for the purchase of goods or services by the Owner in a fiscal year of the Owner.

§ 12.7.2 Pursuant to Texas Government Code § 552.372, the Architect must:

- (1) preserve all contracting information related to the contract as provided by the records retention requirements applicable to the Owner for the duration of the contract;
- (2) promptly provide to the Owner any contracting information related to the contract that is in the custody or possession of the entity on request of the Owner; and
- (3) on completion of the contract, either:
 - (a) provide at no cost to the Owner all contracting information related to the contract that is in the custody or possession of the entity; or
 - (b) preserve the contracting information related to the contract as provided by the records retention requirements applicable to the Owner.

§ 12.7.3 The Architect shall comply with the requirements of Subchapter J, Chapter 552, Government Code, and the Architect agrees that this Agreement can be terminated if the Architect knowingly or intentionally fails to comply with a requirement of that subchapter.

§ 12.7.4 "Contracting information" is defined by Texas Government Code § 552.003(1-a) and means the following information maintained by a governmental body or sent between a governmental body and a vendor, contractor, potential vendor, or potential contractor:

- (A) information in a voucher or contract relating to the receipt or expenditure of public funds by a governmental body;
- (B) solicitation or bid documents relating to a contract with a governmental body;
- (C) communications sent between a governmental body and a vendor, contractor, potential vendor, or potential contractor during the solicitation, evaluation, or negotiation of a contract;
- (D) documents, including bid tabulations, showing the criteria by which a governmental body evaluates each vendor, contractor, potential vendor, or potential contractor responding to a solicitation and, if applicable, an explanation of why the vendor or contractor was selected; and
- (E) communications and other information sent between a governmental body and a vendor or contractor related to the performance of a final contract with the governmental body or work performed on behalf of the governmental body.

ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and Architect.

§ 13.2 This Agreement is comprised of the following documents identified below:

- .1 AIA Document B101™-2017, Standard Form Agreement Between Owner and Architect

(Paragraphs deleted)

- .2 Exhibits:

(Check the appropriate box for any exhibits incorporated into this Agreement.)

[

(Paragraphs deleted)

X]

Other Exhibits incorporated into this Agreement:

(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits

Init.

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User Notes:

(1515870070)

and scopes of services identified as exhibits in Section 4.1.2.)

(Paragraphs deleted)

Exhibit A – Owner’s GF (LOCAL) Board Policy

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

OWNER *(Signature)*

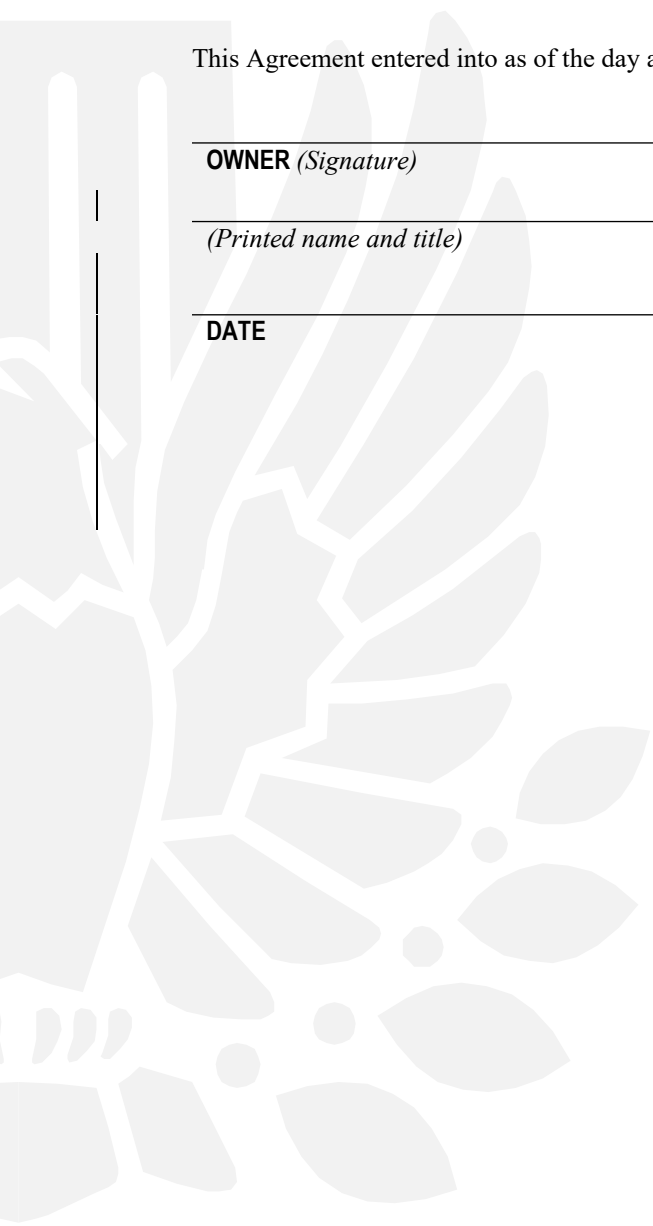
(Printed name and title)

DATE

ARCHITECT *(Signature)*

William Duncan, Principal Architect, License #24968
(Printed name, title, and license number, if required)

DATE



Additions and Deletions Report for AIA® Document B101® – 2017

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

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 13:46:46 CT on 02/25/2025.

PAGE 1

AGREEMENT made as of the Twenty Fifth day of February in the year Two Thousand Twenty Five

...

Westbrook Independent School District
102 N. Bertner
Westbrook, Texas 79565

...

Jacob | Martin
3465 Curry Lane
Abilene, Texas 79606

...

Security Vestibule

PAGE 2

As determined by the Owner's Board of Trustees, with the assistance of the Architect.

...

As determined by the Owner's Board of Trustees, with the assistance of the Architect.

...

To be determined

PAGE 3

To be determined

...

To be determined

...

To be determined

.4 Other milestone dates:

N/A

Time is of the essence of this Agreement. The inclusion or exclusion of any milestone date in this section does not relieve the Architect of its obligation to perform its duties in a timely manner.

...

Any method allowed by law and chosen by the Owner's Board of Trustees.

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:
(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Architect shall complete and incorporate AIA Document E204™ 2017, Sustainable Projects Exhibit, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E204 2017 is incorporated into this agreement, the Owner and Architect shall incorporate the completed E204 2017 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

...

Board of Trustees

...

Owner's Superintendent, and any other person that Owner may so designate.

...

.1 — Geotechnical Engineer:

.2 — Civil Engineer:

.3 — Other, if any:

— *(List any other consultants and contractors retained by the Owner.)*

...

William Duncan, AIA, NCARB
Jacob | Martin
3465 Curry Lane
Abilene, Texas 79606
Telephone: 325-695-1070
Email: wduncan@jacobmartin.com

PAGE 4

§ 1.1.11.1 Consultants retained under Basic Services:

~~.1 — Structural Engineer:~~

~~.2 — Mechanical Engineer:~~

~~.3 — Electrical Engineer:~~

All those necessary for the Project unless specifically identified in section 1.1.9 above.

§ 1.1.11.2 Consultants retained under ~~Supplemental~~ Supplementary/Additional Services:

Geotechnical Engineer

...

None

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect ~~shall appropriately adjust~~ may appropriately adjust, by mutual written agreement, the Architect's services, schedule for the Architect's services, and the Architect's compensation. ~~The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.~~

~~**§ 1.3** The parties shall agree upon written protocols governing the transmission and use of, and reliance on, Instruments of Service or any other information or documentation in digital form.~~

~~**§ 1.3.1** Any use of, or reliance on, all or a portion of a building information model without agreement to written protocols governing the use of, and reliance on, the information contained in the model shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.~~

§ 2.1 The Architect shall provide professional services as set forth in this Agreement. The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals. The Architect certifies that it is a registered professional architect or engineer licensed to practice in the State of Texas. Pursuant to the Texas Occupations Code, any structural, mechanical, or electrical plans, specifications, or opinions of probable cost for construction must be prepared by a registered professional engineer or a registered architect, whichever is appropriate, and who is licensed to practice in the State of Texas. Architect agrees to notify Owner should Architect's license or registration status change. Architect certifies that Architect and Architect's employees and agents are eligible to work under federal, state, and local immigration laws and regulations.

§ 2.1.1 The Architect acknowledges that the Owner may retain the services of a Program Manager, Contractor or Construction Manager. The Architect shall cooperate with the Program Manager, Contractor or Construction Manager, and the Owner, in the fulfillment of the Architect's and Program Manager's, Contractor's or Construction Manager's responsibilities under their respective agreements with the Owner.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project. Time is of the essence of this Agreement. The Architect shall commence services under this Agreement within five business days of its execution hereof.

§ 2.2.1 The Architect warrants that it shall prepare all plans and designs, and otherwise perform all services under this Agreement, consistent with the applicable standard of care and in accordance with all legal requirements, including but not limited to, the Texas Education Code, the Texas Government Code, the rules concerning school facilities promulgated by the Texas Commissioner of Education, and the Texas Accessibility Standards, each as effective as of the date of this Agreement. In accordance with Texas Local Government Code Section 271.904(d), the Architect shall perform its services with the professional skill and care ordinarily provided by competent architects/engineers practicing under the same or similar circumstances and professional license; and as expeditiously as is prudent considering the ordinary professional skill and care of a competent architect/engineer. In compliance with 19 Texas Administrative Code ("TAC") Section 61.1040, the Architect shall certify that he/she has reviewed the standards contained in the regulation and used the best professional judgment and reasonable care consistent with the practice of architecture and/or engineering in the State of Texas in executing the construction documents. The Architect's or Engineer's seal and signature on the Construction Documents shall indicate certification of compliance with this section. "Certify" means that the Architect has reviewed the standards contained in Texas Education Agency rules and used the best professional judgment and reasonable care consistent with the practice of architecture or engineering in the State of Texas in executing the Construction Documents.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project. The representative shall be a registered professional architect licensed to practice in the state of Texas. The Architect or the Architect's designated representative shall render decisions in a timely manner pertaining to documents submitted by the Owner, the Contractor, and other authorized representatives, in order to avoid unreasonable delay in the orderly and sequential progress of the Project.

§ 2.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

§ 2.5 The Architect shall maintain the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9 for the time periods stated in Section 2.5.1. The following insurance shall be required of the Architect and shall be written by an insurance company having an A minus rating or better by A.M. Best and shall be written in limits for not less than the minimum required by law or the following.

§ 2.5.1 Commercial General Liability with policy limits of not less than (\$) for each occurrence and (\$) in the aggregate for bodily injury and property damage.

~~§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than (\$) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.~~

~~§ 2.5.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.5.1 and 2.5.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.~~

~~§ 2.5.4 Workers' Compensation at statutory limits.~~

§ 2.5.1 Prior to performing Architect's services under this Agreement, Architect shall procure, maintain and provide insurance certificates, policies and endorsements, in at least the following amounts, to protect Architect and Owner from claims arising out of the performance of the Architect's services under this Agreement and caused by any error, omission, negligent act or omission, or design defect by Architect, such insurance to be in a form approved by the Owner, with an effective date prior to the beginning date of design. Such insurance shall be written on an occurrence basis, if available, and on a claims-made basis, if occurrence basis insurance is not available. So long as commercially available, Architect shall maintain its insurance in full force and effect during the term of this Agreement and after the completion of services under this Agreement until the expiration of any applicable statute of limitations, such period to be not less than one year from Final Completion of all construction of this Project as to workers' compensation, two years from the Final Completion of all construction of this Project as to comprehensive general liability, and comprehensive automobile liability, and not less than ten (10) years from the Final Completion of all construction of this Project (or twelve (12) years, as allowed by Texas Civil Practice and Remedies Code § 16.008), as to errors and omissions insurance. Architect shall furnish to Owner insurance certificates, policies, and endorsements upon request at any time. Architect shall name Owner as an additional insured under his policies for comprehensive general liability and comprehensive automotive liability. Insurance shall be obtained from companies licensed to do business in the State of Texas by the Texas Department of Insurance. The policies shall include a waiver of subrogation in favor of the Owner. Any deviation from these requirements can only be approved by Owner's Board of Trustees. Any nonconformity may be grounds for termination or modification of the Contract. To the extent that Architect is unable to procure the insurance designated herein because the insurance is not reasonably available or is cost-prohibitive, then Architect shall provide written notice to Owner's Board of Trustees. Said lack of insurance may then be grounds for termination or modification of this Agreement.

1. Workers' Compensation:
 - a. State: Statutory
 - b. Applicable Federal: Statutory
 - c. Employer's Liability: \$1,000,000 per Accident
\$1,000,000 Disease, Policy Limit
\$1,000,000 Disease, Each Employee
2. Comprehensive or Commercial General Liability:
 - a. Bodily Injury: \$1,000,000 Each Occurrence
\$2,000,000 Aggregate
 - b. Property Damage: \$1,000,000 Each Occurrence
\$2,000,000 Aggregate
 - c. Products and Completed Operations Coverage: \$2,000,000 Aggregate
3. Automobile Liability for Bodily Injury and Property Damage:
 - a. Combined Single Limit: \$2,000,000 per Accident
4. Architect's and Engineer's Professional Liability: \$1,000,000 per Claim
\$2,000,000 Aggregate
5. Umbrella Excess Liability: \$2,000,000 per Occurrence

\$2,000,000 Aggregate

6.	Contract and Insurance Requirement:	<u>Hold Harmless Agreement</u> <u>Contractual Coverage</u> <u>Waiver of Subrogation</u> <u>Owner named as additional insured on coverages, except as to professional liability and workers' compensation</u>
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The Owner shall be entitled, upon request and without expense, to receive copies of the policies and all endorsements thereto as they apply to the limits required by the Owner, and may make a reasonable request for deletion, revision, or modification of particular policy terms, conditions, limitations, or exclusions (except where policy provisions and established by law or regulation binding upon either of the parties hereto or the underwriter of any such policies). Upon such request by the Owner, the Architect shall exercise reasonable efforts to accomplish such changes in policy coverage, and shall pay the cost thereof.

§ 2.5.5 ~~Employers' Liability with policy limits not less than (\$) each accident, (\$) each employee, and (\$) policy limit.~~ The Architect shall maintain all forms of insurance required by law in the State of Texas, including insurance coverage for comprehensive general liability, automobile liability, and workers' compensation, provided by carriers who shall be licensed to provide such coverage in the State of Texas in forms and amounts not less than as required by law. The Architect shall use its best professional efforts to require that any and all Consultants engaged or employed by the Architect carry and maintain similar insurance. The Architect and his Consultants shall submit proof of such insurance to the Owner before submittal of the first invoice to the Owner, at the anniversary date(s) of the submittal, and at any time when a material change in coverage, carriers, or underwriters occurs. The maintenance in full current force and effect of such coverage shall be a condition precedent to the Owner's obligation to pay under this Agreement. The insurance policies shall incorporate a provision requiring written notice to the Owner at least thirty (30) days prior to any cancellation or nonrenewal of the policies.

§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than (\$) per claim and (\$) in the aggregate.

§ 2.5.7 Additional Insured Obligations. To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 2.5.8 ~~The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5.~~ Architect shall comply with all applicable requirements of 28 TAC 110.110, including, but not limited to, 110.110(e). By signing this contract or providing or causing to be provided a certificate of coverage, the person signing this contract is representing to the governmental entity that all employees of the person signing this contract who will provide services on the project will be covered by workers' compensation coverage for the duration of the project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the division. Providing false or misleading information may subject the Architect to administrative penalties, criminal penalties, civil penalties, or other civil actions.

§ 2.6 INDEMNITY Approval of any Construction Documents by Owner shall not constitute and shall not be deemed to be a release of the responsibility and liability of Architect, its agents, employees, and subcontractors, for Construction Documents which are sufficient for Owner to complete the construction of the Project, nor shall such approval be deemed to be an assumption of such responsibility and liability by Owner for any defect in the Construction Documents prepared by Architect, its agents, employees, subcontractors, or consultants, it being the intent of the parties that the approval by Owner signifies Owner's approval of only the general design concept of the improvements to be constructed.

TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, THE ARCHITECT SHALL AND DOES AGREE TO INDEMNIFY, PROTECT, AND HOLD HARMLESS THE OWNER, ITS TRUSTEES,

OFFICERS, DIRECTORS, OFFICIALS, VOLUNTEERS, EMPLOYEES, SUCCESSORS AND ASSIGNEES, AND THE PROGRAM MANAGERS (COLLECTIVELY, "THE INDEMNIFIED PARTIES") OF, FROM AND AGAINST ALL CLAIMS, DAMAGES, LOSSES, LIABILITIES, LIENS, CAUSES OF ACTION, SUITS, JUDGMENTS, PENALTIES, AND EXPENSES, INCLUDING ATTORNEY FEES AND COURT COSTS, OF ANY NATURE, KIND OR DESCRIPTION OF ANY PERSON OR ENTITY, TO THE EXTENT CAUSED BY ANY NEGLIGENT, WRONGFUL OR TORTIOUS ACT OR OMISSION OF THE ARCHITECT. IN THE EVENT OF FAILURE BY THE ARCHITECT TO FULLY PERFORM IN ACCORDANCE WITH THIS INDEMNIFICATION PARAGRAPH, EACH OF THE INDEMNIFIED PARTIES MAY, AT ITS OPTION, AND WITHOUT RELIEVING ARCHITECT OF ITS OBLIGATIONS HEREUNDER, SO PERFORM, BUT ALL COSTS AND EXPENSES SO INCURRED BY ANY OF THE INDEMNIFIED PARTIES IN THAT EVENT SHALL BE REIMBURSED BY ARCHITECT TO THE INDEMNIFIED PARTIES, AND ANY COST AND EXPENSES SO INCURRED BY INDEMNIFIED PARTIES, OR ANY OF THEM SHALL BEAR INTEREST UNTIL REIMBURSED BY ARCHITECT, AT THE RATE OF INTEREST PROVIDED TO BE PAID ON JUDGMENTS UNDER THE LAWS OF THE STATE OF TEXAS. THIS INDEMNIFICATION PARAGRAPH SHALL NOT BE LIMITED TO DAMAGES, COMPENSATION, OR BENEFITS PAYABLE UNDER INSURANCE POLICIES, WORKERS' COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEE BENEFIT ACTS.

ARCHITECT SHALL PROTECT AND INDEMNIFY THE OWNER FROM AND AGAINST ALL CLAIMS, DAMAGES, JUDGMENTS AND LOSS ARISING FROM INFRINGEMENT OR ALLEGED INFRINGEMENT OF ANY UNITED STATES PATENT, OR COPYRIGHT, ARISING BY OR OUT OF ANY OF THE SERVICES PERFORMED HEREUNDER OR THE USE BY ARCHITECT, OR BY OWNER AT THE DIRECTION OF ARCHITECT, OF ANY ARTICLE OR MATERIAL, PROVIDED THAT UPON BECOMING AWARE OF A SUIT OR THREAT OF SUIT FOR PATENT OR COPYRIGHT INFRINGEMENT, OWNER SHALL PROMPTLY NOTIFY ARCHITECT AND ARCHITECT SHALL BE GIVEN FULL OPPORTUNITY TO NEGOTIATE A SETTLEMENT.

It is agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of these indemnification obligations, such legal limitations are made part of the indemnification obligation and shall operate to amend the indemnification obligation to the minimum extent necessary to bring the provision into conformity with the requirements of such limitations, and so modified, the indemnification obligations shall continue in full force and effect.

It is understood and agreed that this section is subject to, and expressly limited by, the terms and conditions of the Texas Civ. Prac. & Rem. Code Ann. Sec 130.001 to 130.005, as amended.

The indemnities contained herein shall survive the termination of this Agreement for any reason whatsoever. The indemnities contained herein shall remain in effect for not less than ten (10) years from final completion of all construction under this Agreement.

§ 2.7 The Architect shall review, and be responsible for compliance with laws, codes, and regulations applicable to the Architect's services, including, without limitation, school facility standards found in applicable regulations and state law, including, but not limited to, 19 TAC Section 61.1040. The Architect shall respond in the design of the Project to requirements imposed by governmental authorities having jurisdiction over the Project. The Architect shall comply with all policies, regulations, and rules of the Owner, including, but not limited to, those related to employee conduct (such as prohibitions against alcohol, weapons, drugs, fraternization, harassment, and tobacco on school property), and fraud and financial impropriety. Architect shall provide all necessary certifications and use the best professional judgment and reasonable care consistent with the practice of architecture and/or engineering in the State of Texas in developing the Construction Documents. Architect shall also certify that the Construction Documents conform to the provisions of applicable laws and regulations. Architect's signature and seal on the Construction Documents shall certify compliance. Architect shall perform a building code search under applicable regulations that may influence the Project, and shall certify that the design has been researched before it is final. Architect shall also certify that the facilities have been designed according to the provisions of 19 TAC Section 61.1040, based on the long-range school facility plan, educational specifications, building code specifications, and all documented changes to the Construction Documents provided by the Owner.

§ 2.8 Architect shall complete the Texas Education Agency's Certification of Project Compliance. In executing the certifications required under the provisions of this section, Architect shall exercise his/her reasonable professional judgment and care consistent with the practice of architecture/engineering in the State of Texas and applicable law. Architect shall design the Project in such a manner that the Project or each part of the Project is readily accessible to and usable by individuals with disabilities, in compliance with the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, federal regulations interpreting the Americans with Disabilities Act and Section 504, Texas Government Code Chapter 469, the Texas Accessibility Standards, all applicable requirements or standards of the Texas Department of Licensing and Regulation, and all applicable requirements or standards of the American National Standards Institute. It shall be the responsibility of the Architect to address revisions or amendments to applicable codes or standards which become effective prior to the date of issuance of permit.

§ 2.10 The Architect shall, in accordance with generally accepted standards of professional care, design the Project and develop construction documents in compliance with applicable national, federal, state, and local laws, including regulations, codes, ordinances, orders, rules and policies of any governmental entity having jurisdiction over the Project. Without limiting the generality of the foregoing, Architect shall comply with the School Facilities Standards set forth in 19 TAC §61.1040 regarding Architect's and Engineer's seals on the drawings, specifications and other documents prepared by Architect and Architect's Consultants.

§ 2.12 When this Agreement, or the scope of the Project(s) in this Agreement, requires an action by the Architect that is not considered the practice of architecture/engineering in the State of Texas, the Architect shall retain those consultants necessary to complete the required action on behalf of the Architect.

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§ 3.1 The Architect's Basic Services consist of those described in ~~this Article 3~~ and include usual and customary structural, mechanical, and electrical engineering services. ~~Services not set forth in this Article 3 are Supplemental or Additional Services:~~ architectural services, structural, mechanical, plumbing, fire protection and electrical engineering services; architectural interior design; site feasibility design, scope of work verification for renovations of existing schools; basic cost estimating, electronic record drawings; and internal auditing and accounting services necessary for Architect to fulfill Architect's responsibilities under this Agreement. Architect shall provide all plans and specifications for all site development necessary for the Project, which shall include locating any building on-site, and developing all plans and specifications for site drainage, parking, landscaping, walkways, and irrigation. All architectural plans, specifications or estimates shall be prepared by a registered professional architect, as required by Texas Occupations Code Chapter 1051. Any structural, mechanical, plumbing, fire protection, and electrical engineering plans, specifications or estimates must be prepared by a registered professional engineer, as required by Texas Occupations Code Chapter 1001. The Owner reserves the right, in its sole discretion, to reject the employment by Architect of any consultant for the Project which the Owner has an objection. Architect, however, shall not be required to contract with any consultant to which it has a reasonable objection.

§ 3.1.1 The Architect shall manage the Architect's ~~services,~~ services and administer the Project in accordance with this Agreement and applicable provisions of the Agreement between Owner and Contractor or between Owner and Construction Manager. The Architect shall consult with the Owner and the Owner's Contractor or Construction Manager, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner team and issue reports as reasonably requested by the Owner. The Architect shall coordinate the services provided by the Architect and the Architect's consultants with those services provided by the Owner, the Owner's consultants and the Contractor or Construction Manager.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect ~~shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of,~~ shall, to the extent allowed by its standard of care, be entitled to rely on the accuracy and completeness of services and information furnished by the Owner and the Owner's consultants. Owner, including, but not limited to, in accordance with 19 TAC Section 61.1040. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, ~~omission,~~ omission or inconsistency in such services or information. Architect shall also promptly respond in writing to notices from Owner regarding Owner's discovery of errors, omissions, or inconsistencies in the Architect's services or documentation, and, if requested, shall promptly meet with Owner regarding same. Owner's notice or lack of notice shall not relieve Architect of any responsibility or liability for performance of Architect's contracted services.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's ~~services~~-services in compliance with the Owner's Initial Information, including the detailed tasks/activities for the design phase in conformance with the overall project schedule and with dates of Architect's design services and completion of documentation required by the Architect. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion and Final Completion of the Work as set forth in the Initial Information. The schedule shall also achieve Owner's proposed dates of Substantial and Final Completion as stated in this Agreement, and within Owner's budget, once identified. The schedule shall include allowances for periods of time required for the Owner's and Contractor's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's prior written approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction. Architect shall provide Contractor and Construction Manager at Risk all documentation reasonably requested for the preparation and periodic update of the Project schedule developed and maintained by the Contractor or Construction Manager at Risk.

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work, Work made or given without the Architect's ~~written approval~~-written approval, but only if the Architect, with respect to a known directive, substitution, or acceptance as described in this section, has provided written notice to the Owner specifically identifying both (1) the directive, substitution, or non-conforming Work, and (2) an explanation of the Architect's reasons for disapproving of such direction, substitution, or acceptance of non-conforming Work.

§ 3.1.5 The Architect shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities. The Architect shall exercise usual and customary professional care in its efforts to comply with all laws, codes, and regulations in effect as of the date of execution of this Agreement.

§ 3.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project. The Architect shall be responsible, with the assistance of the Owner, for preparation and timely submittal of documents required for approval or recording by all governmental agencies having jurisdiction over the Project. The Architect shall be responsible for making such changes in the Construction Documents as may be required by existing written standards promulgated by said governmental agencies at no additional charge to the Owner. The Architect shall document all meetings and decisions made throughout the course of the Project and shall provide copies to the Owner, Contractor or Construction Manager, and the governmental entity involved.

§ 3.1.7 The Architect shall submit documents during the design process, at intervals indicated in this Agreement, for evaluation and approval by the Owner.

- .1 The Architect shall incorporate into the plans, drawings, and specifications such revisions, as are necessary to satisfy the review comments from the Owner, or designated party, any of which may be appealed in writing for good cause.
- .2 The Owner shall have the right, but not the obligation, to reject any portion of the Architect's services that are deemed inadequate or incomplete. The lack of rejection by the Owner shall not constitute a defense to inadequate or incomplete design or professional services.
- .3 In giving approvals the Owner does not assume any responsibility for the design or professional services provided by the Architect, and such approval shall not constitute a defense to inadequate or incomplete design or professional services.

§ 3.1.8 The Architect shall prepare interior/exterior finish selections in the form of a color board for review and approval by the Owner.

§ 3.1.9 The Architect shall comply, and shall assist the Owner in complying, with the Texas Education Agency's School Facilities Standards, codified at 19 T.A.C. 61.1040, (the "Standards") both by performing its services and

designing the Project in accordance with the Standards, and by assisting the Owner in identifying and complying with requirements the Standards impose upon the Owner, including, but not limited to, the following:

- .1 Prior to commencing Schematic Design, the Architect shall request from the Owner the Long-Range Plan and Educational Specifications required by the Standards. The Architect shall not proceed with Schematic Design unless it has either (1) received the Long-Range Plan and Educational Specifications, or (2) consulted with the Owner regarding the need for those documents and received written notice from the Owner that, based on the Architect's advice, the documents are not required.
- .2 When engaging another design professional as a subconsultant, the Architect shall procure professional design services based on the qualification-based selection process established in Texas Government Code Chapter 2254.
- .3 The Architect shall ensure that the Owner obtains confirmation from a local or state building official or a third-party code compliance officer as provided in the Standards that all required inspections, testing, or permits required by the Standards have been performed in accordance with contractual terms and in accordance with all applicable building code specifications.
- .4 The Architect shall coordinate and prepare a proposed statement of any special inspections or testing required in accordance with the required construction codes, customizing the proposed statement based on knowledge about the Project regardless of whether the statement requires testing and inspection to be less than the default requirements of the required construction codes, including materials testing, Project-specific requirements for special inspections and testing, specific wind and seismic requirements, frequency of the special inspections, or tests to be performed in accordance with the referenced standard defining the inspection.
- .5 The Architect shall prepare Construction Documents that are of sufficient clarity to indicate the timing, location, nature, and extent of specific inspections and tests required to be performed by the Owner through the local authority having jurisdiction, the third-party code compliance officer, any third-party special inspector or inspection agency, or the prime design professional if qualified as a special inspector and specified as a contractual term.
- .6 The Architect shall ensure that all known Owner-accepted nonconforming work is properly documented.
- .7 The Architect shall provide all certifications required of the Architect by the Standards, and shall ensure and coordinate the necessary certifications by the Owner and by the Contractor.
- .8 If the Project involves an instructional facility as that term is defined in the Standards, before commencing with the Design Development phase, the Architect shall advise the Owner of the need for Owner's governing body to select either the quantitative method for compliance under subsection (h) of the Standards or the qualitative method for compliance under subsection (i) of the Standards. The Architect shall explain to the Owner how these methods of compliance apply to the Project and make recommendations to the Owner about which method of compliance the Architect views as the most appropriate for the Project. The Architect shall not commence with the Design Development phase prior to Owner's governing body making that selection.
- .9 The Architect shall submit to the Owner a report identifying any construction code requirements that the Architect believes, to the best of its knowledge after performing research, will not be enforced by a state or local authority having jurisdiction. The Architect shall advise the Owner of any requirement that the Owner contract with a third-party code compliance officer.
- .10 At the completion of the Design Development phase, and prior to commencing with the Construction Documents phase, the Architect shall advise the Owner of the need to approve a Project construction budget under subsection (k)(2) of the Standards. The Architect shall assist the Owner in developing a budget that that meets the requirements of the Standards, including, but not

limited to, the requirement to identify how many of the additional safety and security standards are required. The Architect shall not proceed with the Construction Documents phase until it has requested and received from the Owner written documentation of the approved safety and security standards.

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§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's ~~services~~.services and the Project.

§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, the proposed procurement and delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner in writing of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the ~~Project~~.Project, and Architect shall review any additional information provided pursuant to Architect's request.

§ 3.2.2.1 The Architect shall visit the Owner's Project site and shall provide to Owner a preliminary evaluation of the feasibility of the Owner's site for the Project based on site conditions, and the Owner's program, schedule, and budget for the Cost of the Work. The Architect shall include, in the preliminary evaluation, an identification and evaluation of the location, availability, adequacy, capacity, and sufficiency of all utilities necessary to serve the completed Project. The Architect shall also address with Owner any existing easements or rights-of-way which may interfere with Owner's Project. As soon as practicable after execution of this Agreement and, if possible, before Owner's Board of Trustees designates a method of construction contract procurement, the Architect shall review the Owner's proposed method of contracting for construction services and shall notify the Owner in writing of anticipated impacts that such method may have on the Owner's program, financial and time requirements, and the scope of the Project.

- .1 For renovation projects, the Architect shall visually determine the existing conditions of the Project site and/or facility and compare to the information provided by the Owner. The existing conditions include those areas affected by the scope of work, which are able to be viewed during a walk-through with the moving of furniture, or by limited investigation of accessible concealed conditions via coordination with and the assistance of the Owner's on-site staff, without destructive testing. This includes, but is not limited to, spaces above lay-in ceilings, crawl spaces, pipe chases and mezzanines.
- .2 For addition projects, the Architect shall visually determine the existing conditions of the Project site and/or facility and compare to the information provided by the Owner. The existing conditions include those areas affected by the scope of work, which are able to be viewed during a walk-through with the moving of furniture, or by limited investigation of accessible concealed conditions via coordination with and the assistance of the Owner's on-site staff, without destructive testing. This includes, but is not limited to, connections between new and existing buildings, and existing rooms or spaces that may need to be modified due to the placement of the addition.
- .3 For new construction projects, the Architect shall visually determine the existing conditions of the Project site and compare to the information provided by the Owner. The existing conditions include those areas affected by the scope of work which are able to be viewed during a site visit. This includes, but is not limited to, evaluation of the surrounding neighborhoods and natural features to be preserved.
- .4 For all projects, the Architect and the Architect's consultants shall, at the completion of the site visit, prepare a field report including photographs, analysis and recommendations documenting the process.
- .5 For all projects, the Architect shall conduct a scope to budget validation process and prepare a Scope-to-Budget report. The Scope-to-Budget shall include as appropriate: the validated scope of work, confirmed construction costs and updated project milestones.

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner in writing and shall discuss with the Owner alternative approaches to design and construction of ~~the Project. The Architect shall reach an~~ the Project, including the feasibility of incorporating environmentally responsible design approaches. The Architect shall reach a written understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project requirements agreed upon in writing with the Owner, the Architect shall prepare and present, for the Owner's approval, a written preliminary design illustrating the scale and relationship of the Project components.~~components~~, including the field report and scope to budget validation report.

§ 3.2.5 Based on the Owner's ~~approval of the preliminary design~~, written approval of the preliminary design and validation of Owner's schedule and budget for the Work, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall establish the conceptual design of the Project and illustrate the scale and relationship of the Project components and consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, ~~sections and elevations; and sections, and elevations; and at the Owner's direction, the Schematic Design Documents~~ may include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing. A preliminary code search, indicating the anticipated code requirements governing building, fire, life safety, accessibility, and health, and a statement as to the Architect's and Architect's Consultants' approach to accommodate these requirements shall be included.

§ 3.2.5.1 ~~The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain more advanced sustainable design services as a Supplemental Service under Section 4.1.1.~~

§ 3.2.5.2 ~~The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule, and budget for the Cost of the Work.~~

§ 3.2.6 The Architect shall submit to the Owner ~~an a written~~ estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.2.7 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's written approval. The Architect shall not proceed to the Design Development Document Phase without the written approval of the Owner; provided, however, this approval shall not relieve the Architect of Architect's responsibility and liability. Architect shall bear full responsibility and all resulting excess costs incurred by Architect in proceeding without proper approval.

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§ 3.3.1 Based on the Owner's written approval of the Schematic Design Documents, and on the Owner's written authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, ~~mechanical~~ mechanical, and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels.

§ 3.3.2 The Architect shall provide a written update of the estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's written approval. Architect shall not proceed to the Construction Documents Phase without the written approval of Owner; provided, however, this approval shall not relieve Architect of Architect's responsibility and liability to provide documents which are sufficient for Owner to complete the construction of the Project. Architect shall bear full responsibility for, and all resulting excess costs incurred by Architect in, proceeding without Owner's approval.

§ 3.3.4 The Owner's decisions on matters relating to aesthetic effect shall be final.

...

§ 3.4.1 Based on the Owner's written approval of the Design Development Documents, and on the Owner's written authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.4.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents. As required by Texas Education Agency Rule 19 TAC Section 61.1040, Architect shall perform a building code search under applicable regulations that may influence the Project. The Architect's or Engineer's seal and signature on the Construction Documents shall indicate certification of compliance with this section. "Certify" means that the Architect has reviewed the standards contained in Texas Education Agency rules and used the best professional judgment and reasonable care consistent with the practice of architecture or engineering in the State of Texas in executing the Construction Documents. If any of the standards, rules, guidelines, laws, and similar items referenced in sections 3.4.2.1 through 3.4.2.4, or elsewhere in this Agreement, have been updated, repealed, or modified in any way, the Architect shall notify the Owner in writing and provide appropriate recommendations in writing.

§ 3.4.2.1 As required by law, all bid or proposal documents and contracts shall include, if applicable, all required information related to trench excavation safety. Texas Health and Safety Code Section 756.021 et seq.

§ 3.4.2.2 All playground equipment designed by Architect, if any, shall comply with each applicable provision of ASTM Standard F1487-07ae1, "Consumer Safety Performance Specifications for Playground Equipment for Public Use", published by ASTM International; have no unshielded horizontal bare metal platforms; and be accessible to individuals with disabilities in accordance with the Americans with Disabilities Act Accessibility Guidelines. All playground surfacing designed by Architect shall comply with each applicable provision of ASTM Standard F2223-04e1, "Standard Guide for ASTM Standards on Playground Surfacing" published by ASTM International, and paths shall be designed for accessibility by individuals with disabilities. Texas Health and Safety Code Section 756.061 et seq.

§ 3.4.2.3 All outdoor lighting fixtures designed by Architect, if any, shall meet the statutory energy conservation and light pollution standards established by the Texas Department of State Health Services, Texas Health and Safety Code - Chapter 425.

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms; forms that conform to legal requirements; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, ~~Supplementary~~ Supplementary, and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include bidding requirements and sample forms. The Architect shall not include the form of agreement between the Owner and Contractor nor any General, Supplementary, or other Conditions of the Contract in the bidding documents or the project manual for the Project without first giving the Owner sufficient time to review the documents and receiving the Owner's written authorization to include the documents in the bidding documents for the Project.

§ 3.4.3.2 The Architect's bid specifications and any subsequent contract shall not deny or diminish the right of a person to work, because of the person's membership or other relationship status with respect to any organization. Texas Education Code Section 44.043.

§ 3.4.4 The Architect shall ~~update the estimate for the~~ provide a written opinion of the probable Cost of the Work prepared in accordance with Section 6.3.

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's written approval. Architect shall not proceed to the Procurement Phase without the written approval of Owner; provided, however, this approval shall not relieve Architect of Architect's responsibility and liability to provide documents which are sufficient for Owner to complete the construction of the Project. Architect shall bear full responsibility for, and all resulting excess costs incurred by Architect in, proceeding without Owner's approval.

§ 3.4.6 The Owner's decisions on matters relating to aesthetic effect shall be final.

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The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's written approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction. Such assistance shall include, if necessary, testifying in any bid or proposal dispute. Architect shall disclose in writing to Owner any prior or current relationships which Architect may have had with any bidders or proposers, which may reasonably present a potential conflict of interest. The Architect shall cooperate with the Owner's legal counsel in the preparation of all Contract Documents and the General Conditions of the Contract for Construction, as amended or supplemented for the Project, to be used in the bidding or proposal documents. Architect shall ensure that the Supplementary or other Conditions of the Contract created for the Project, if any, shall not contradict the provisions of Owner's approved construction contracts except with Owner's prior written consent.

§ 3.5.1.1 The Architect shall include in all requests for proposals and specifications manuals the following language:

By submitting a bid/proposal, each bidder/proposer agrees to waive any claim it has or may have against the Owner (the school district), the Engineer, the Architect, and their respective employees and officers, arising out of or in connection with the administration, evaluation, or recommendation of any bid/proposal; waiver of any requirements under the Bid/Proposal Documents or the Contract Documents; acceptance or rejection of any bids/proposals; and award of the Contract.

By submitting a bid/proposal, each bidder/proposer agrees to exhaust its administrative remedies under District Policy or the Disputes Clause of any resulting contract before seeking judicial relief of any type in connection with any matter related to this solicitation, the award of any contract, and any dispute under any resulting contract.

§ 3.5.2 **Competitive Bidding**Sealed Proposals or Other Delivery Methods

§ 3.5.2.1 Bidding or Proposal Documents shall consist of bidding requirements and proposed Contract Documents. The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Owner/Contractor Agreement) and consist of the Owner/Contractor Agreement, Conditions of the Contract (General, Supplementary and other Conditions), all sections of the Project Manual, including Drawings, Specifications, and Addenda issued prior to execution of the Contract, other documents listed in the Owner/Contractor Agreement and Modifications issued after execution of the Contract Documents.

§ 3.5.2.2 The Architect shall assist the Owner in bidding-procuring the Project by:

- .1 facilitating the ~~distribution of Bidding Documents to prospective bidders;~~ ~~reproduction and distribution of Bidding or Proposal Documents to prospective bidders or proposers and requesting their return upon completion of the negotiation process;~~
- .2 organizing and conducting a ~~pre-bid~~ ~~pre-bid/proposal~~ conference for prospective ~~bidders;~~ ~~bidders/proposers;~~
- .3 preparing responses to questions from prospective ~~bidders~~ ~~bidders/proposers~~ and providing clarifications and interpretations of the ~~Bidding~~ ~~Bidding/Proposal Documents~~ to the prospective ~~bidders~~ ~~bidders/proposers~~ in the form of addenda; ~~and,~~

- .4 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner; bids/proposals, and subsequently documenting and distributing the bidding/proposal results, as directed by the Owner;
- .5 evaluating the bids/proposals based on the approved criteria;
- .6 organizing and participating in selection interviews with prospective contractors;
- .7 participating in negotiations with prospective contractors and subsequently preparing a summary report of the negotiations results, as directed by the Owner; and
- .8 reviewing, in conjunction with the Owner, the Owner's representative, if appropriate, and the Construction Manager at Risk or Contractor, alternative approaches to design and construction of the Project in order to preserve the Scope of the Work, and the quality of the construction within Owner's overall budget for the Project.

§ 3.5.2.3 If the Bidding Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and The Architect shall consider requests for substitutions, if the Bidding Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective bidders.

§ 3.5.3 Negotiated Proposals The Architect shall produce "Issued For Construction" documents that include Construction Documents updated to include all revisions and modifications made to the design after the design phase, including, but not limited to, value engineering decisions, Addenda, and city-permitting revisions. These documents are to be provided for the use of the Contractor for construction. The Front page of each set of these documents is to be stamped "ISSUED FOR CONSTRUCTION."

§ 3.5.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents.

§ 3.5.3.2 The Architect shall assist the Owner in obtaining proposals by:

- .1 facilitating the distribution of Proposal Documents for distribution to prospective contractors and requesting their return upon completion of the negotiation process;
- .2 organizing and participating in selection interviews with prospective contractors;
- .3 preparing responses to questions from prospective contractors and providing clarifications and interpretations of the Proposal Documents to the prospective contractors in the form of addenda; and,
- .4 participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.

§ 3.5.3.3 If the Proposal Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective contractors.

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§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™ 2017, General Conditions of the Contract for Construction. the applicable AIA Document A201–2017, General Conditions of the Contract for Construction, as amended. All references in this Agreement to AIA Document A201 are references to the amended version of that document that is applicable to the Project. Upon written request by the Architect, the Owner shall provide a copy of the A201 General Conditions to be used for the Architect's prior review. The Architect shall provide written notice of any objections to the proposed A201 General Conditions within seven (7) days of receipt, which written notice shall identify the specific sections of the contract that are objectionable and also include reasonable alternatives to the proposed terms. If the Owner and Contractor modify AIA Document A201–2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement. the applicable A201 General Conditions without the Architect's agreement as to the objectionable terms that the Architect identified in accordance with the preceding sentence, then the Architect shall provide the reasonable alternative services described in its written objections. The Architect acknowledges that Owner is relying on architect to propose and provide reasonable alternatives as described in this section that will serve the Owner's best interest and adequately protect the Owner. If at any time the Architect intends to provide the reasonable alternative services referenced herein instead of the services described in the applicable A201 that is effective between the Owner and Contractor, the Architect shall, prior to providing those services, provide written notice to the Owner identifying the alternative services to be provided.

.1 The Architect shall organize and participate in a pre-proposal conference with the Contractor or Construction Manager and major sub-contractors, prior to commencing construction activities on site. The campus representative shall be informed of the general plan for construction activities, highlighting any activities that may impact their normal operations of the school. Construction will not proceed until the campus representative has acknowledged the safety plan, construction phasing and barrier plan, staging area, etc.

§ 3.6.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, ~~sequences~~ sequences, or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work. Any services by Architect made necessary by Architect's design errors or omissions shall be at no additional cost to Owner.

§ 3.6.1.3 Subject to Section 4.2 and except as provided in Section 3.6.6.5, the ~~The~~ Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates ~~on the date the Architect issues the final Certificate for Payment.~~ one year after the Architect issues the Final Certificate for Payment. The Architect shall consult with the Owner prior to issuing on the above certificate.

§ 3.6.1.4 The Architect shall review requests by the Contractor or Construction Manager for additional information about the Contract Documents and respond appropriately in a timely manner.

§ 3.6.1.5 If deemed appropriate by the Architect or requested by the Owner, the Architect shall reproduce and distribute supplemental drawings and specifications in response to requests for information by the Construction Manager or Contractor.

§ 3.6.1.7 Upon request of the Owner, and prior to the expiration of six (6) months from the date of Substantial Completion and , again, prior to the expiration of ten (10) months from the date of Substantial Completion, the Architect shall, without additional compensation, conduct post-occupancy evaluation meetings with the Owner to review the facility operations and performance for purposes of identifying defects, warranty issues, and proposed corrections related to the Project; and advise Owner in writing regarding the need for correction of the Work.

§ 3.6.1.8 During the year after the Architect issues the Final Certificate for Payment, the Architect shall visit the site and/or assist the Owner with resolution of any issues about the Project or the Work installed under this Agreement.

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§ 3.6.2.1 The ~~Architect shall visit the site at~~ Architect's authorized representative and/or each engineer's authorized representative, shall visit the site at least once per week (or more per week when reasonably deemed necessary by the Owner or when reasonably necessary to endeavor to protect Owner's interest), and at other intervals appropriate to the stage of construction, ~~or as otherwise required in Section 4.2.3, to become generally~~ (1) to observe the progress, quantity and quality of the Work completed, (2) to reject any observed non-conforming Work, (3) to become familiar with the progress and quality of the portion of the Work completed, ~~and to determine, in general,~~ (4) to endeavor to guard the Owner against defects and deficiencies in the Work, (5) to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the ~~Contract Documents.~~ Contract, and (6) to document progress of the Work, in written and photographic form. Furthermore, a minimum of two Owner/Architect/Contractor job site meetings per month from commencement of construction through Substantial Completion will be initiated by the Architect. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. Attendees will include Owner's representatives, Owner's Program Manager, if appropriate, the Contractor or Construction Manager's project manager and superintendent, Architect's project representative and engineer's representatives appropriate to the stage of the Work. Architect's authorized representative or appropriate engineer will provide on-site observations prior to and during all concrete pours that contribute to the structural integrity of the building, including all pours of concrete piers, footings, grade beams, floor slabs, and concrete superstructure components, if applicable. In addition,

Architect's authorized representative or appropriate engineer will provide on-site observations prior to covering up or closing up of portions of the construction which, if covered, would conceal problems with the structural integrity, the mechanical, plumbing, electrical and other critical systems of the Project. Architect will advise Owner of the need for any third-party laboratory or testing services to assist the Architect, and will assist Owner in the development of Requests for Proposals or other solicitations for any required testing services approved by Owner. On the basis of the site visits, visits and observations by the Architect, the Architect shall keep the Owner reasonably-informed about the progress and quality of the portion of the Work completed, and shall promptly orally report to the Owner and Contractor (1) known deviations from the Contract Documents, (2) known deviations Documents and from the most recent construction schedule submitted by the Contractor, and (3) (2) defects and deficiencies observed in the Work. Work, which notice shall be followed by notice from the Architect in writing of defects and nonconforming Work noted and corrective actions taken or recommended. Any services by Architect made necessary by Architect's design errors or omissions shall be at no additional cost to Owner.

§ 3.6.2.2 ~~The Architect has the authority to~~ shall reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed-installed, or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work. Architect shall promptly notify Owner and Contractor, orally and in writing, of any observed fault or defect in the Project or nonconformance with Construction Documents or Contract Documents, upon discovery of the defect or nonconformance, and shall notify Owner of all corrective actions taken or recommended. The testing or inspections required by this section are subject to the requirements of Chapter 44 of the Texas Education Code and Chapter 2269 of the Texas Government Code.

§ 3.6.2.3 ~~The Architect shall interpret and decide~~ make recommendations to Owner regarding matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 3.6.2.4 ~~Interpretations and decisions~~ recommendations of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor recommendations, the Architect use its best professional efforts to secure faithful performance by both Owner and Contractor, shall not show partiality to either, Contractor and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

§ 3.6.2.5 ~~Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201-2017, the Architect shall render initial decisions as amended, the Architect shall promptly within the time frame established in AIA A201 render initial decisions, written recommendations, or interpretations on Claims between the Owner and Contractor as provided in the Contract Documents.~~

§ 3.6.2.6 ~~Nothing contained in this Agreement shall prohibit the Owner from communicating directly with its Construction Manager or Contractor.~~

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§ 3.6.3.1 ~~The Architect shall observe the progress of the Work, and, consistent with the standard of care, evaluate, review and certify the amounts due the Contractor and shall issue certificates in such amounts. sign and issue certificates if such amounts are valid, correct and deemed due and owing, in Architect's professional opinion, within seven (7) days of receipt of Contractor's application for payment. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation observations and evaluations of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, that in Architect's professional opinion and, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) indicated and that the quality of the work is in accordance with the Construction Documents and the Contract Documents and that~~

the Architect has evaluated and certified that the amounts requested in the Application for Payment are valid and correct, in the Architect's professional opinion. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect to specific qualifications expressed by the Architect in writing to Owner.

...

§ 3.6.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect's professional judgment, to permit adequate review. The Owner reserves the right to implement a project management controls system and require the Architect to perform this and other duties to satisfy the requirements of the system.

§ 3.6.4.2 The Architect shall review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions ~~or construction means, methods, techniques, sequences or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences, or procedures.~~ The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component. If it is determined that any submittal does not comply with the requirements of the Contract Documents, then Architect shall require Contractor to come into compliance. The Architect shall promptly report in writing to the Contractor and Owner any errors, inconsistencies and omissions discovered by the Architect in the Shop Drawings, Product Data and Samples. The Architect is not authorized to approve changes involving major systems such as HVAC, roof, foundation, outward appearance, color schemes, floor plans, building materials, or mechanical equipment without Owner's prior written consent.

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§ 3.6.4.4 ~~Subject to Section 4.2, the~~ The Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

§ 3.6.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents. The Owner reserves the right, but not the obligation, to provide an approved submittal log form for use by the Architect.

...

§ 3.6.5.1 The Architect shall timely review, prepare and make recommendations to Owner regarding all Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents, accompanied by all supporting documentation. With prior written notice to the Owner, the Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, the ~~If necessary, the Architect shall prepare, reproduce, and distribute Drawings and Specifications to describe Work to be added, deleted, or modified. The Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.~~

.1 The Architect shall accept requests by the Owner, and shall review properly- prepared, timely requests by the Contractor or Construction Manager for changes in the Work, including adjustments

to the Contract Sum or Contract Time. A properly prepared request for a change in the Work by the Contractor shall be accompanied by sufficient supporting data and information to permit the Architect to make a reasonable determination. If the Architect determines that requested changes in the Work are not materially different from the requirements of the Contract Documents or Construction Documents and do not change the Contract Sum or Contract Time, then the Architect may issue an order for a minor change in the Work, with prior written notice to the Owner, or recommend to the Owner that the requested change be denied.

.2 If the Architect determines that implementation of the requested changes would result in a material change to the Contract that may cause an adjustment in the Contract Time or Contract Sum, then the Architect shall make a recommendation to approve or deny the requested change to the Owner. Based upon information furnished by the Contractor, if any, the Architect shall estimate the additional cost and time that might result from such change, including any additional costs attributable to Additional Services of the Architect. If the Architect recommends approval, then the Architect shall incorporate those estimates into a proposed Change Order or other appropriate documentation for the Owner's Board of Trustees' approval and execution.

§ 3.6.5.2 The Architect shall maintain all records relative to changes in the Work. The Owner reserves the right, but not the obligation, to provide an approved Change Management Log Form for use by the Architect.

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.3 forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and, and
.4 issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents. Documents, as well as a Certification of Project Compliance as described herein. The Architect shall consult with the Owner prior to issuing the above certificate.

...

§ 3.6.6.3 When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work. When the Work is found finally complete, the Architect shall inform the Owner in writing about the balance of the Contract Sum remaining to be paid to the Contractor as final payment.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of claims, liens, or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

...

§ 3.7 Without limiting any other part of this Agreement, the Architect's Basic Services include the following:

- .1 Programming
- .2 Multiple preliminary designs
- .8 Civil engineering (on-site)

§ 3.8.1 The Architect shall produce record drawings in reproducible hard copy and in electronic format acceptable to the Owner for the Owner's records once the Project receives a building permit. The drawings shall include all revisions related to permitting, addenda, value engineering, or otherwise.

...

§ 4.1.1 The Except where noted, the services listed below are not included in Basic Services but may be required for the Project. Items designed as "Architect, as a Basic Service" are required and shall be provided by the Architect. The

Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project.

§ 4.1.1.1	Programming	<u>Architect, as a Basic Service (see § 3.7)</u>
§ 4.1.1.2	Multiple preliminary designs	<u>Architect, as a Basic Service (see § 3.7)</u>
§ 4.1.1.3	Measured drawings	<u>Not Provided</u>
§ 4.1.1.4	Existing facilities surveys	<u>Not Provided</u>
§ 4.1.1.5	Site evaluation and planning	<u>Not Provided</u>
§ 4.1.1.6	Building Information Model management responsibilities	<u>Not Provided</u>
§ 4.1.1.7	Development of Building Information Models for post construction use	<u>Not Provided</u>
§ 4.1.1.8	Civil engineering (off-site)	<u>Not Provided</u>
§ 4.1.1.9	Landscape design	<u>Not Provided</u>
§ 4.1.1.10	Architectural interior design	<u>Not Provided</u>
§ 4.1.1.11	Value analysis	<u>Not Provided</u>
§ 4.1.1.12	Detailed cost estimating beyond that required in Section 6.3	<u>Not Provided</u>
§ 4.1.1.13	On-site project representation	<u>Not Provided</u>
§ 4.1.1.14	Conformed documents for construction	<u>Not Provided</u>
§ 4.1.1.15	As-designed record drawings	<u>Not Provided</u>
§ 4.1.1.16	As-constructed record drawings	<u>Not Provided</u>
§ 4.1.1.17	Post-occupancy evaluation	<u>Not Provided</u>
§ 4.1.1.18	Facility support services	<u>Not Provided</u>
§ 4.1.1.19	Tenant-related services	<u>Not Provided</u>
§ 4.1.1.20	Architect's coordination of the Owner's consultants	<u>Not Provided</u>
§ 4.1.1.21	Telecommunications/data design	<u>Not Provided</u>
§ 4.1.1.22	Security evaluation and planning	<u>Not Provided</u>
§ 4.1.1.23	Commissioning	<u>Not Provided</u>
§ 4.1.1.24	Sustainable Project Services pursuant to Section 4.1.3	<u>Not Provided</u>
§ 4.1.1.25	Fast-track design services	<u>Not Provided</u>
§ 4.1.1.26	Multiple bid packages	<u>Not Provided</u>
§ 4.1.1.27	Historic preservation	<u>Not Provided</u>
§ 4.1.1.28	Furniture, furnishings, and equipment design	<u>Not Provided</u>
§ 4.1.1.29	Other services provided by specialty Consultants	<u>Not Provided</u>
§ 4.1.1.30	Other Supplemental Services	<u>Not Provided</u>
§ 4.1.1.31	Surveys	<u>Architect</u>
§ 4.1.1.32	Food Service	<u>Architect</u>
§ 4.1.1.33	Acoustic	<u>Architect</u>
§ 4.1.1.34	Roofing Consultant	<u>Architect</u>
§ 4.1.1.35	Traffic Engineer	<u>Architect</u>
§ 4.1.1.36	Environmental	<u>Architect</u>

§ 4.1.1.37 Wayfinding	Architect
§ 4.1.1.38 Geotechnical Engineer	Architect

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To be provided by Architect when obtaining pre-approval from Owner.

...

To be determined by Owner with the Architect's advice.

§ 4.1.3 If the Owner identified a Sustainable Objective in Article 1, the Architect shall provide, as a Supplemental Service, the Sustainability Services required in AIA Document E204™-2017, Sustainable Projects Exhibit, attached to this Agreement. The Owner shall compensate the Architect as provided in Section 11.2.

~~The~~ Upon written agreement with the Owner, the Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to ~~compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule;~~ the compensation and schedule adjustment specified in the written agreement authorizing the Additional Services.

...

- .1 Services necessitated by a substantial change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery ~~method;~~ method, except when said changes are due to Architect's or Architect's consultants' errors or omissions;

...

- .3 Changing or editing previously prepared ~~Instruments of Service~~ Construction Documents necessitated by official interpretations of applicable codes, laws or regulations ~~that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b) contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;~~ after the building permit has been issued;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner-authorized recipients;
- .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;
- .7 Preparation for, and attendance at, a public presentation, meeting or hearing;
- .8 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .9 Evaluation of the qualifications of entities providing bids or proposals;
- .10 .5 Consultation concerning replacement of Work resulting from fire or other cause during construction; or,
- .11 Assistance to the Initial Decision Maker, if other than the Architect. construction.

§ 4.2.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Architect of the Owner's determination. The Owner shall compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice.

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule approved by the Architect;

- ~~.2~~ — Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner provided information, Contractor prepared coordination drawings, or prior Project correspondence or documentation;
- ~~.3~~ — Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
- ~~.4~~ — Evaluating an extensive number of Claims as the Initial Decision Maker; or,
- ~~.5~~ — Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom.

~~§ 4.2.3~~ The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. ~~When Services, provided that, when the limits below are reached, the Architect shall notify the Owner; Owner and obtain Owner's written agreement to proceed and any added costs related thereto:~~

- ~~.1~~ ~~Two (2)~~ reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor; ~~Contractor;~~
- ~~.2~~ ~~(—) Weekly~~ visits to the site by the Architect during ~~eonstruction~~ construction;
- ~~.3~~ ~~Three (3)~~ inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract ~~Documents~~ Documents;
- ~~.4~~ ~~Two (2)~~ inspections for any portion of the Work to determine final completion.

~~§ 4.2.4~~ Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and Contractor, whichever is earlier, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

~~§ 4.2.5~~ If the services covered by this Agreement have not been completed within ~~(—) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.~~

~~§ 5.1~~ Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program, which shall set forth the Owner's objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility; expandability; special equipment; systems; and site requirements, but only to the extent required by 19 Texas Administrative Code Section 61.1040. The Owner hereby refers Architect to any applicable authority to obtain building code and requirements.

~~§ 5.2~~ The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect ~~shall~~ may thereafter agree in writing to a corresponding change in the Project's scope and quality.

~~§ 5.3~~ The Owner shall identify a representative Owner, by legal and formal action of its governing body, acting as a body corporate, may identify a representative, other than Owner's governing body, authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services. In no event may the Owner's Designated Representative exceed the authority granted to him/her under District Policy and state law. It is understood that the Owner's Designated Representative does not have the authority to make any changes to the scope, budget, or cost of the Work, and that only the Owner's Board of Trustees, acting as a body corporate, can make such changes.

~~§ 5.4~~ The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands;

adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions, and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project project benchmark.

~~§ 5.5 The Owner~~ If necessary for the Project, the Owner, upon the Architect's written request, shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

~~§ 5.6 The Owner shall provide the Supplemental Services designated as the Owner's responsibility in Section 4.1.1.~~

~~§ 5.7 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E204™ 2017, Sustainable Projects Exhibit, attached to this Agreement.~~

~~§ 5.9 The~~ Except as otherwise provided in the Contract Documents, the Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

~~§ 5.10 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.~~

~~§ 5.11 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions~~ Project that Owner reasonably believes is not known to the Architect or its representatives on the Project, including errors, omissions, or inconsistencies in the Architect's Instruments of Service. Any failure to provide notice required by this section does not absolve Architect of any responsibility for any such fault, defect, error, omission, or inconsistency. Architect acknowledges that he is the leader of the design team and is responsible for the design of the Project. Therefore, Owner shall be entitled to rely on the Construction Documents, services, and information furnished by the Architect. This section shall not relieve Architect of any responsibility or liability for the performance of Architect's contracted services on the Project.

~~§ 5.12 The Owner shall endeavor to include the Architect in all communications with the Contractor that relate to or affect the Architect's services or professional responsibilities. The Owner shall endeavor to promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.~~

~~§ 5.13 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the applicable General Conditions of the Contract for Construction.~~

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~~§ 5.15 Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.~~

~~§ 6.1 For purposes of this Agreement, the Architect's compensation, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include include, without limitation, contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect, Architect, the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner. For purposes of the Architect's compensation, the Cost of the Work shall not include the fee for management and supervision of construction or installation provided by a separate Owner representative. For purposes of the Architect's~~

compensation, the Cost of the Work shall include the Owner's cost of labor and materials furnished by the Owner in constructing portions of the Project, if the Work is designed by Architect. For purposes of the Architect's compensation, the Cost of the Work shall also include the Owner's cost of fixtures, furnishing and equipment designed by the Architect, at the request of the Owner.

§ 6.1.1 In CMAR projects the Architect shall provide information to the Construction Manager that is reasonably necessary for the Construction Manager to prepare a preliminary estimate of the Cost of the Work. This estimate may be based on current area, volume or similar conceptual estimating techniques combined with information provided by the Construction Manager. As the design process progresses through the end of the preparation of the Construction Documents, the Architect shall provide additional information reasonably requested by the Construction Manager in updating and refining the preliminary estimate of the Cost of Work. The Architect shall cooperate with the Owner and its Construction Manager in developing and designing the Project that satisfies the Owner's budgetary constraints. If the preliminary estimate of the construction costs or any revised estimates exceed the amount budgeted the Architect shall not proceed without the Owner's approval.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and shall ~~may~~ be adjusted throughout the Project as ~~required under Sections 5.2, 6.4 and 6.5.~~ at Owner's discretion. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work, prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials, or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market, or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Architect. ~~If Architect's design is determined to exceed Owner's budget, then Architect agrees to redesign the Project, at Architect's expense and as a part of Architect's Basic Services, to meet Owner's budget. If Architect is unable to redesign the Project to meet Owner's budgetary, programmatic and quality needs, then the Architect shall make appropriate written recommendations to the Owner to adjust the Project's size, quality, or budget.~~

§ 6.3 As part of the Schematic Design Phase services, the Architect shall prepare a preliminary estimate of the Cost of the Work, which shall incorporate Owner's budgetary constraints, programmatic needs, and expectations as to quality, functionality of systems, maintenance costs, and usable life of equipment and facilities. As the design progresses through the end of the Design Development Phase, the Architect shall update and refine the preliminary estimate of the Cost of the Work to a level appropriate to the development of the design.

.1 The Architect shall advise the Owner of any adjustments to previous estimates of the Cost of the Work indicated by changes in Project requirements or general market conditions. The Architect shall cooperate with Owner, and with the Construction Manager at Risk in CMAR projects, in developing and designing the Project to satisfy Owner's budgetary constraints, programmatic needs and expectations as to quality, functionality of systems, maintenance costs, and usable life of equipment and facilities.

.2 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; ~~of the Project with the prior written consent of the Owner;~~ and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. The Architect's estimate of the Cost of the Work shall be based on current area, ~~volume~~ ~~volume~~, or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1.1, ~~4.1.1~~ as a Supplemental Service.

§ 6.4 If, through no fault of the Architect, the Procurement Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, then the Architect shall redesign elements to achieve cost savings within the Scope of the Work, but in doing so, shall not delete any essential element of the Project. Architect shall present the redesign to Owner for Owner's approval and, in doing so, shall notify Owner in writing of the actions taken to bring the Project into Owner's budget. If Architect is unable to redesign the Project to meet Owner's budgetary, programmatic and quality needs, then the Architect shall make appropriate written recommendations to the Owner to adjust the Project's size, quality, or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments quality or budget. Owner shall consider Architect's recommendations, but shall decide, in its discretion, what adjustments to make.

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner ~~shall~~shall:

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.2 authorize rebidding or renegotiating of the Project within a reasonable ~~time;~~time and/or authorize a different construction procurement method, consistent with State law;

...

.4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; ~~or,~~

.5 implement any other mutually acceptable ~~alternative;~~alternative; or

.6 direct the Architect to redesign the Project to meet the Owner's budgetary, programmatic, and quality needs.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, ~~the Architect 6.6.4 or Section 6.6.6, the Architect, without additional compensation,~~ shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. ~~If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise the Architect's services for modifying the Construction Documents shall be without additional compensation. In any event, the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.~~

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§ 7.3 The Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, ~~altering~~altering, and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums due pursuant to Article 9 and Article 11. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. ~~If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.~~

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. ~~The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.~~

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license

granted herein to another party without the prior written agreement of the Architect. ~~Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.~~

§ 7.5 Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.

§ 7.5 Anything to the contrary notwithstanding, the Construction Documents may be used as a prototype for other facilities by the Owner or Owner's hired architects. The Owner may elect to use the Architect to perform the site adaptation and other professional services involved in reuse of the Construction Documents. If the Owner elects to employ a different architect to perform the site adaptation and other professional services involved in reuse of the Construction Documents, then that architect may use Architect's consultants on the same basis that the Architect would have been entitled to use them for the Work on the reuse of the Construction Documents, and such architect will be entitled, to the extent allowed by law, to duplicate the design and review and refer to the Construction Documents, approved shop drawings and calculations, in performing its Work. The Architect will not be responsible for errors and omissions of a subsequent architect. The Architect shall endeavor to commit its consultants to the terms of this section and shall notify Owner in writing if Architect is unable to do so. In the event of termination of this Agreement for any reason, and upon final payment of the sum due through such termination, the Owner shall receive all original documents prepared to the date of termination and shall have the right to use those documents and any reproductions in any way necessary to complete the Project, but the Architect will not be liable for errors or omissions of a subsequent architect.

§ 7.6 The Owner shall be free to use said Construction Documents for Owner's purposes, but shall not assign, delegate, sublicense, pledge or otherwise transfer said Construction Documents, including any underlying copyright or license granted herein, to another party for use by any party other than on behalf of Owner. The Owner may use the Construction Documents for future additions or alterations to this Project or for other projects constructed by Owner. The Owner's privilege to use said Construction Documents extends to their use with and by other architects on Owner's projects only.

§ 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 ~~To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2017, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.~~Contractual Adjudication Procedure: In the case of claims by the Architect against Owner, including, but not limited to, any claim that the Owner has breached a contract, the Architect may not file a lawsuit or demand mediation until the complaint procedure found in Owner's Policy GF (LOCAL) has been fully exhausted regarding the contested matter. A copy of this policy is attached hereto and incorporated herein as Exhibit A. The Architect's failure to timely file a grievance under policy GF (LOCAL), meet any requirement of this Section 8.1, or otherwise fully exhaust policy GF (LOCAL) in accordance with the policy's requirements is a bar to suit against the Owner.

a. The timelines under Policy GF (LOCAL) are amended for purposes of this Agreement as follows: Architect's complaint must be reduced to writing and filed with the appropriate administrator of Owner within ninety (90) calendar days of the date the Architect first knew, or with reasonable diligence should have known, of the decision or action giving rise to the complaint. If the Architect fails to meet this timeline, the Architect will have failed to exhaust this remedy and will have failed to adhere to this contractual adjudication procedure.

b. Architect agrees that, in order to fully exhaust its remedies under policy GF (LOCAL), Architect must identify and articulate in writing the specific factual and legal basis for its claims. Any basis

that is not identified and articulated by the Architect as part of its complaint under GF (LOCAL) is waived by the Architect and may not be asserted in any subsequent proceeding against the Owner.

c. Unless waived by Owner in writing, the following are conditions precedent to the institution of civil proceedings by the Architect against the Owner concerning the contested matter: 1) full exhaustion of claims through Owner's GF (LOCAL) policy as described herein; 2) a written demand by the Architect for mediation; and 3) good faith and full participation in the mediation process.

d. Following the full exhaustion of claims through Owner's complaint procedure, as described in this Agreement, and upon receipt by Owner of Architect's written demand for mediation, Owner may, at its option, either proceed with non-binding mediation of the dispute, or provide written notice to Architect of Owner's decision to waive its right to compel such mediation, and in such event Architect is at liberty to pursue its civil remedies, if any, in accordance with this Agreement.

~~§ 8.1.3~~ The Architect and Owner ~~waive~~ waives consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. ~~This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.~~

~~§ 8.2~~ Mediation

~~§ 8.2.1~~ Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect 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 by binding dispute resolution.

~~§ 8.2.2~~ The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of this Agreement. 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.

~~§ 8.2.3~~ 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.

~~§ 8.2.4~~ If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:

(Check the appropriate box.)

— Arbitration pursuant to Section 8.3 of this Agreement

— Litigation in a court of competent jurisdiction

— Other: *(Specify)*

If the Owner and Architect 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.

§ 8.3 Arbitration

§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, 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, which, unless the parties mutually agree otherwise, 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.

§ 8.3.1.1 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.

§ 8.3.2 The foregoing agreement to arbitrate, and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement, shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.3 The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.4 Consolidation or Joinder

§ 8.3.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 8.3.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 8.3.4.3 The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Article 8, the method of binding dispute resolution shall be litigation in a court of competent jurisdiction. Exclusive venue for any action arising out of this Agreement or the Project is in the county in which Owner's administrative offices are located.

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§ 9.1 If the Owner fails to make payments of undisputed amounts to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted, if not cured after ten (10) days' written notice to Owner of the delinquency. Architect shall be allowed to suspend Architect's performance of services under this Agreement for nonpayment by Owner only after the provision of ten (10) days' written, in accordance with Texas Government Code Section 2251.051 *et seq.* As a prerequisite to any termination or suspension under this Section 9.1, the Architect must first fully exhaust the complaint process described in Section 8.1 above.

~~§ 9.2~~ If the Owner suspends the ~~Project, Project~~ for more than thirty (30) consecutive days, the Architect shall be compensated for services performed prior to notice of such suspension. ~~When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.~~

~~§ 9.3~~ If the Owner suspends the Project for more than ~~90 cumulative~~ ninety (90) consecutive days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven (7) days' written notice.

~~§ 9.4~~ Either party may terminate this Agreement upon not less than seven (7) days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

~~§ 9.5~~ The Owner may terminate this Agreement upon not less than seven (7) days' written notice to the Architect for the Owner's convenience and without cause. The Owner may also terminate this Agreement on seven (7) days' written notice if the budget for the Cost of the Work, prior to commencement of the Work, is exceeded by the lowest bona fide bid or negotiated proposal.

~~§ 9.6~~ If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, ~~or the Architect terminates this Agreement pursuant to Section 9.3,~~ the Owner shall compensate the Architect for services performed prior to termination, ~~Reimbursable Expenses incurred, and costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements, termination and Reimbursable Expenses then due, and no other amount.~~ In determining the compensation due to the Architect under this section, the schedule in Section 11.5 below shall be used to determine the appropriate compensation based on services completed.

~~§ 9.7~~ In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, ~~or the Architect terminates this Agreement pursuant to Section 9.3,~~ the Owner shall pay to the Architect the following fees:

(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)

.1 — Termination Fee:

.2 — Licensing Fee if the Owner intends to continue using the Architect's Instruments of Service:

~~§ 9.8~~ Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

~~§ 9.9~~ The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 9.7.

~~§ 9.7~~ This Agreement may be terminated by Owner if Architect engages in conduct that would constitute a violation of state or federal criminal law related to or relevant to the Project, including but not limited to, the laws prohibiting certain gifts to public servants, or engages in conduct that would constitute a violation of the Owner's ethics or conflict of interest policies.

~~§ 9.7.1~~ The parties hereby agree that: 1) if an order for relief is entered on behalf of the Architect, pursuant to Chapter 11 of the U.S. bankruptcy Code; 2) if any other similar order is entered under any debtor relief laws; 3) if Architect makes an assignment for the benefit of one or more of its creditors; 4) if a receiver is appointed for the benefit of its creditors; or 5) if a receiver is appointed on account of its insolvency, any such event could impair or frustrate Architect's performance. Accordingly, it is agreed that upon occurrence of any such event, Owner shall be entitled to request of Architect adequate assurance of future performance in accordance with the terms and conditions of this

Agreement. Failure to comply with such request within ten (10) days of delivery of the request shall entitle Owner to terminate the Architect's services in accordance with this section.

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, and enforced under the laws of Texas, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3. Mandatory and exclusive venue for any legal or mediation proceedings brought under or pertaining to this Agreement shall be in the county where Owner's administrative office is located.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2017, General Conditions of the Contract for Construction. Construction that is applicable to the agreement for construction entered into between the Owner and a contractor or construction manager. The Architect acknowledges that the document referenced in this Section 10.2 will not be the standard form of the AIA Document A201-2017, but will be an amended version of that document.

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§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect. There are no third-party beneficiaries to this Agreement. The parties do not intend that any non-party have any right to enforce any part of this Agreement.

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site unless the toxic materials or substances were brought to the Project pursuant to the terms of Contract Documents. Should the Architect become aware of the presence of hazardous materials or toxic substances that pose an immediate danger on the Project Site, the Architect shall immediately report the presence to the Owner in writing.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4. Architect shall maintain the confidentiality of information specifically designated as confidential by the Owner, unless withholding such information would violate the law, create the risk of significant harm to the public or prevent the Architect from establishing a claim or defense in an adjudicatory proceeding. The Architect shall require of the Architect's consultants similar agreements to maintain the confidentiality of information specifically designated as confidential by the Owner. Owner herein designates the following as confidential information: security measures; security access codes; pending real estate purchases, exchange, lease or value; any information pertaining to litigation; student likenesses and student record information; employee information; and any other information deemed confidential by law. Nothing in this section or this Agreement shall be construed as requiring Owner to keep information confidential when the disclosure of such information is required by the Texas Open Meetings Act (Texas Government Code Chapter 551) or the Texas Public Information Act (Texas Government Code Chapter 552).

§ 10.8 If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement. The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

§ 10.8.1 The receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, when required by law, arbitrator's order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably

necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.

§ 10.9 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement. **Any right to recovery of attorney's fees available under Texas Local Government Code Chapter 271, Subchapter I, is hereby waived.**

§ 10.10 APPLICABLE LAW This Agreement is subject to all applicable federal and state laws, rules, and regulations. Invalidation of any portion of this Agreement under the laws of the State of Texas or of the United States shall not affect the validity of the remainder of this Agreement.

§ 10.11 CONFLICTS IN DOCUMENTS To the extent of conflicts between the Contract Documents, amendments shall prevail over original forms.

§ 10.12 CHILD SUPPORT. BY SIGNING THIS AGREEMENT, THE UNDERSIGNED CERTIFIES AS FOLLOWS: UNDER SECTION 231.006, Texas Family Code, the vendor or applicant certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate.

§ 10.13 INDEPENDENT CONTRACTOR It is understood and agreed that the relationship of Architect to Owner shall be that of an independent contractor. Nothing contained in this Agreement or inferable from this Agreement shall be deemed or construed to: 1) make Architect the agent, servant or employee of the Owner; or 2) create any partnership, joint venture, or other association between Owner and Architect. Any direction or instruction by Owner or any of its authorized representatives in respect to the Architect's services shall relate to the results the Owner desires to obtain from the Architect, and shall in no way affect the Architect's independent contractor status.

§ 10.14 NO WAIVER No delay or omission by either of the parties hereto in exercising any right or power accruing upon the noncompliance or failure of performance by the other party hereto of any of the provisions of this Agreement shall impair any such right or power or be construed to be a waiver thereof. A waiver by either of the parties hereto of any of the covenants, conditions or agreements hereof to be performed by the other party hereto shall not be construed to be a waiver of any subsequent breach thereof or any other covenant, condition or agreement herein contained.

§ 10.15 FELONY CONVICTION Pursuant to Texas Education Code Section 44.034, Architect must give advance written notice to the Owner if the Architect or an owner or operator of the Architect has been convicted of a felony. The Owner may terminate this Agreement if the Owner determines that the Architect failed to give such notice or misrepresented the conduct resulting in the conviction. This paragraph requiring advance notice does not apply to a publicly-held corporation.

§ 10.16 CRIMINAL HISTORY RECORD CHECKS

§ 10.16.1 Architect shall take all steps necessary to ensure compliance with Texas Education Code section 22.0834. Architect shall ensure that all Architect employees, consultants, and representatives who will enter upon a school campus submit to a national criminal history record information review by the Owner. If Architect believes one or more specific people are not subject to the requirements of Texas Education Code section 22.0834, Architect may submit a written request to Owner identifying such people, and Owner shall make a determination whether the requirements apply.

If it is determined that Architect or any of Architect's employees, consultants, or representatives is in violation of this provision, Architect shall immediately remove such person from the property of the Owner with no requirement of written notice from the Owner and shall prohibit such person from future entry on the property of the Owner.

In addition to the foregoing, Architect represents to Owner that it (1) has adopted a policy prohibiting employees and representatives, including subcontracting entity employees and representatives, from interacting with students or entering areas used by students, (2) has and will inform employees/representatives of the policy, and (3) shall enforce the policy at the public work area.

§ 10.16.2 Architect will not assign any "covered employee" with a "disqualifying criminal history", as those terms are defined below, to work on the Project. If Architect receives information that a covered employee has a reported disqualifying criminal history, then Architect will immediately remove the covered employee from the Project and notify the Owner in writing within three business days. If the Owner objects to the assignment of any covered employee on the basis of the covered employee's criminal history record information, then Architect agrees to discontinue using that covered employee to provide services on Owner's Project. If Architect has taken precautions or imposed conditions to ensure that the employees of Architect and any Architect consultant will not become covered employees, Architect will ensure that these precautions or conditions continue throughout the time the contracted services are provided.

§ 10.16.3 For the purposes of Section 10.16, "covered employees" means employees, agents, or subcontractors of Architect or any of Architect's consultants who has or will have continuing duties related to the services to be performed on Owner's Project and has or will have direct contact with Owner's students. The Owner will decide what constitutes direct contact with Owner's students. "Disqualifying criminal history" means any conviction or other criminal history information designated by the Owner, or one of the following offenses, if at the time of the offense, the victim was under 18 years of age or enrolled in a public school: a felony offense under Texas Penal Code Title 5 Offenses Against Persons; an offense for which a defendant is required to register as a sex offender under Texas Code of Criminal Procedure Chapter 62; or an equivalent offense under federal law or the laws of another state.

§ 10.17 RECORDS RETENTION Architect shall keep all accounting and construction records on the Project for a period of at least twelve (12) years after Final Completion of the Project, and thereafter shall offer the records retention requirements, per the Texas Government Code § 441.158 *et seq.* and the Texas State Library and Archives Commission's Local Schedule GR (Government Records). In the alternative, Architect may provide such records to Owner for retention at any time if Owner agrees in writing to accept such records in lieu of Architect's retention under this section.

§ 10.18 COMPLAINTS The Texas Board of Architectural Examiners has jurisdiction over complaints regarding the professional practices of persons registered as architects in Texas under the Architects Registration Law, Texas Occupations Code Chapter 1051. The Texas Board of Architectural Examiners can be reached at P. O. Box 12337, Austin, Texas 78711-2337 or 333 Guadalupe, Suite 2-350, Austin, Texas 78701-3942, by phone at (512) 305-8900, or on the web at www.tbae.state.tx.us.

§ 10.20 NO LIENS The parties agree that no architect, engineer, mechanic, contractor, materialman, artisan, laborer or subcontractor, whether skilled or unskilled, shall ever, in any manner have, claim or acquire any lien upon the Project of whatever nature or kind so erected or to be erected by virtue of this Agreement, nor upon any of the land upon which said improvements are so erected, built, or situated, such property being public property belonging to a political subdivision of the State of Texas, or upon any funds of Owner.

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N/A

...

()% of the Owner's budget for the N/A (N/A%) of the Cost of the Work, as calculated in accordance with Section 11.6.

...

Renovation and/or Addition for the Security Vestibule

If the Cost of the Work, as calculated in accordance with Section 11.6, is:

1. \$0 to \$500,000 → compensation is a stipulated sum of \$42,500
2. over \$500,000 → 8.5% of the Cost of the Work, as calculated in accordance with Section 11.6

§ 11.2 For the Architect's Supplemental Services designated in Section 4.1.1 and for any Sustainability Services required pursuant to Section 4.1.3, 4.1.1, the Owner shall compensate the Architect as follows:

...

Architect must secure Owner's pre-approval in writing of both the services to be provided and the cost prior to performing any Supplemental Services.

...

Architect must secure Owner's pre-approval in writing of both the services to be provided and the cost prior to performing any Additional Services.

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus — percent (—%), or as follows:
(Insert amount of, or basis for computing, Architect's consultants' compensation for Supplemental or Additional Services.)

Schematic Design Phase	<u>Fifteen</u>	percent (	<u>15</u>	%)
Design Development Phase	<u>Twenty</u>	percent (	<u>20</u>	%)
Construction Documents Phase	<u>Forty</u>	percent (	<u>40</u>	%)
Procurement Phase	<u>Five</u>	percent (	<u>5</u>	%)
Construction Phase (at least 3% of the Architect's fee must be attributable to Basic Services that occur after Substantial Completion)	<u>Twenty</u>	percent (	<u>20</u>	%)

...

§ 11.6 When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner's most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner's budget for the Cost of the Work.

§ 11.6.1 When compensation is on a percentage basis based on a percentage of the Cost of the Work and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions. ~~The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.~~ portions, in accordance with the schedule set forth in Section 11.5 based on (1) the lowest bona fide bid or negotiated proposal, or (2) if no such bid or proposal is received, the most recent written estimate of the Cost of the Work for such portions of the Project, provided that such estimate has been formally approved by the Owner's Board of Trustees. In the event that no such estimate exists, the Architect shall not be entitled to any compensation.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices. (If applicable, attach an exhibit of hourly billing rates or insert them below.)

Employee or Category

Rate (\$0.00)

§ 11.8.1 Reimbursable Expenses are in addition to compensation for ~~Basic, Supplemental, Basic~~ and Additional Services and include ~~expenses~~ expense incurred by the Architect and the Architect's consultants directly related to the ~~Project, Projects, only~~ as follows:

- ~~1~~
- ~~1.~~ 1. Transportation and authorized out-of-town travel and ~~subsistence~~; subsistence if approved by Owner in advance;
- ~~.2~~ 2. Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;
- ~~3~~ 2. Permitting and other fees required by authorities having jurisdiction over the Project;
- ~~4~~ 3. Printing, reproduction, plots, standard form documents;
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§ 11.8.2 For Reimbursable Expenses the compensation shall be the ~~expenses incurred by the Architect and the Architect's consultants plus~~ actual, reasonable expenses incurred by the Architect. The Architect shall present Reimbursable Expenses, including supporting documentation, for payment with its regular invoices, and must request payment within thirty (30) days of incurring such expenses. The Architect waives any claim for Reimbursable Expenses not presented in accordance with this Section 11.8.2.

§ 11.9 Architect's Insurance. If the types and limits of coverage required in Section 2.5 are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below:
(Insert the additional coverages the Architect is required to obtain in order to satisfy the requirements set forth in Section 2.5, and for which the Owner shall reimburse the Architect.)

§ 11.9 COMPENSATION FOR USE OF ARCHITECT'S INSTRUMENTS OF SERVICE

The parties agree that Architect's compensation for Basic Services includes all licensing fee for the Owner's use of the Construction Documents, including use after termination of this Agreement.

§ 11.10.1 Initial Payments

§ 11.10.1.1 An initial payment of ~~(\$ —)~~ shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.1.2 If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of ~~(\$ —)~~ shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid ~~(—)~~ days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.
(Insert rate of monthly or annual interest agreed upon.)

—%

§ 11.10.2.2 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work, unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable within 45 days of presentation of the Architect's invoice, subject to the terms of this Agreement. Without limiting Owner's rights under this Agreement, Owner's payment of any amount to Architect does not constitute a waiver of any claims arising out of or related to the services for which payment is being sought.

§ 11.10.2.3 Records of Reimbursable Expenses, expenses pertaining to ~~Supplemental and Additional Services, and services services,~~ if any, performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

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§ 12.1 It shall be the duty of the Architect throughout the term of this Agreement as part of Basic Services, to make a prompt written record of all meetings, conferences, discussions, and decisions made between and/or among the Owner, Architect, and Contractor or Construction Manager during all phases of the Project and concerning any material condition in the requirements, scope, performances, and/or sequence of the Work and to provide promptly a copy of all such records to the Owner.

§ 12.2 Architect acknowledges that the Owner utilizes one or more software programs and other procedures and processes to organize and administer its construction projects and that the Owner relies on the Architect's full cooperation and assistance in using the same. Architect agrees that it will fully comply with all of the Owner's requests regarding the use of such software, procedures, and processes, including, but not limited to, transmission and storage of data, documents, and other information. Specifically, and without limiting the foregoing, the Architect agrees to fully cooperate with the Owner's requests regarding the use of the "E-Builder" software system, or any other system or process that the Owner may thereafter, in its sole discretion, choose to implement.

§ 12.3 Architect agrees to comply with the requirements of Texas Education Code 22.0834, and Texas Administrative Code regulations adopted thereunder (the "Background Laws"). Architect agrees that all Architect employees, agents, or representatives who enter upon Owner's property shall be treated as though they are subject to the requirements of the Background Laws. Architect further agrees that Owner may direct that Architect obtain background checks, fingerprinting, badging, and related services through a specific vendor, at the Architect's sole cost, and that the Architect will comply with said directive.

§ 12.4 This Section 12.4 only applies if Architect has more than 10 full time employees and the Agreement is valued at \$100,000 or more. By executing this Agreement, Architect verifies the following:

- .1 as required by Texas Government Code 2271.002, Architect verifies that it does not boycott Israel and will not boycott Israel during the term of this contract.
- .2 as required by Texas Government Code 2274.002, Architect verifies that it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and will not discriminate during the term of the contract against a firearm entity or firearm trade association.
- .3 as required by Texas Government Code 2276.002, Architect verifies that it does not boycott energy companies and will not boycott energy companies during the term of the contract.

§ 12.5 The parties agree that the only amounts that can ever be due and owing under this Agreement from the Owner to the Architect are amounts for compensation for services actually performed in accordance with the terms of this Agreement, calculated in accordance with the terms of this Agreement, and further subject to any claim or right that the Owner may have to offset or otherwise reduce any such amounts.

§ 12.6 The Texas Board of Professional Engineers and Land Surveyors has jurisdiction over complaints regarding the professional practices of licensed professional engineers in Texas.

Texas Board of Professional Engineers and Land Surveyors
1917 S Interstate 35
Austin, TX 78741
Telephone: (512) 440-7723

§ 12.7 Contracting Information

§ 12.7.1 This Section 12.7 applies only if, per Texas Government Code § 552.371(a), (1) the Agreement has a stated expenditure of at least \$1 million in public funds for the purchase of goods or services by the governmental body; or (2) the Agreement results in the expenditure of at least \$1 million in public funds for the purchase of goods or services by the Owner in a fiscal year of the Owner.

§ 12.7.2 Pursuant to Texas Government Code § 552.372, the Architect must:

- (1) preserve all contracting information related to the contract as provided by the records retention requirements applicable to the Owner for the duration of the contract;
- (2) promptly provide to the Owner any contracting information related to the contract that is in the custody or possession of the entity on request of the Owner; and
- (3) on completion of the contract, either:
 - (a) provide at no cost to the Owner all contracting information related to the contract that is in the custody or possession of the entity; or
 - (b) preserve the contracting information related to the contract as provided by the records retention requirements applicable to the Owner.

§ 12.7.3 The Architect shall comply with the requirements of Subchapter J, Chapter 552, Government Code, and the Architect agrees that this Agreement can be terminated if the Architect knowingly or intentionally fails to comply with a requirement of that subchapter.

§ 12.7.4 "Contracting information" is defined by Texas Government Code § 552.003(1-a) and means the following information maintained by a governmental body or sent between a governmental body and a vendor, contractor, potential vendor, or potential contractor:

- (A) information in a voucher or contract relating to the receipt or expenditure of public funds by a governmental body;

- (B) solicitation or bid documents relating to a contract with a governmental body;
- (C) communications sent between a governmental body and a vendor, contractor, potential vendor, or potential contractor during the solicitation, evaluation, or negotiation of a contract;
- (D) documents, including bid tabulations, showing the criteria by which a governmental body evaluates each vendor, contractor, potential vendor, or potential contractor responding to a solicitation and, if applicable, an explanation of why the vendor or contractor was selected; and
- (E) communications and other information sent between a governmental body and a vendor or contractor related to the performance of a final contract with the governmental body or work performed on behalf of the governmental body.

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~~.2 Building Information Modeling Exhibit, if completed:~~

~~.3~~
~~.2 Exhibits:~~

...

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

Other Exhibits incorporated into this Agreement:

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~~.4 Other documents:~~
~~*(List other documents, if any, forming part of the Agreement.)*~~
Exhibit A – Owner’s GF (LOCAL) Board Policy

...

William Duncan, Principal Architect, License #24968

...

 DATE

 DATE

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, _____, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 13:46:46 CT on 02/25/2025 under Order No. 4104251405 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B101™ – 2017, Standard Form of Agreement Between Owner and Architect, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)