



## **Agenda of Regular Meeting**

### **The Board of Trustees Belton Independent School District**

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A Regular Meeting of the Board of Trustees of Belton Independent School District will be held February 21, 2022, beginning at 6:15 PM in the Pittenger Fine Arts Center, 400 N. Wall Street, Belton, TX 76513. One or more trustees may participate via video conference.

The subjects to be discussed or considered or upon which any formal action may be taken are listed below. Items do not have to be taken in the same order as shown on this meeting notice.

- 1. Call to Order, Moment of Silence and Pledge of Allegiance**
- 2. Recognitions** **4**
  - A. Student Showcase - Belton High School Madrigal
  - B. National Football Foundation National High School Academic Excellence Award - Lake Belton High School
  - C. Texas Music Educators Association All-State Band Students
  - D. Texas Music Educators Association All-State Choir Students
  - E. Texas Dance Educators Association All-State Dance Students
  - F. Health Occupations Students of America (HOSA) State Qualifiers
  - G. Temple Rotary Educator of the Month
  - H. Belton Rotary Educator of the Quarter
  - I. Texas Association of School Business Officials Award of Excellence in Financial Management
- 3. Public Comments Regarding Items on the Agenda**
- 4. Values and Beliefs - Each and Every** **8**
- 5. Public Hearings**

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A. Personnel - Texas Government Code, Section 551.074	
1. Summative Evaluation of the Superintendent	
2. Board Self-Evaluation	
<b>13. Reconvene in Open Session</b>	
<b>14. Adjourn</b>	

**Belton Independent School District**  
**Board of Trustee Meeting Agenda Item**

**February 21, 2022**

**Item:** Recognitions

**Contact Person:** Jennifer Bailey

**Presented for:**  Action  Report Only

**Supporting Documents:**  None  Attached  Provided Later

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**District Goal or Objective Addressed:**

Goal 2: Ensure exceptional learning experiences for each and every student.

Goal 4: Develop a district-wide culture of value, support, and growth amongst all students and staff.

**Background Information:**

**Student Showcase - Belton High School Madrigal**

Belton High School's Madrigal Show Choir performed their submission for the International Championship of High School A Cappella tournament. The competition set consisted of three songs — "Red Desert," "Water," and "If You Feel the Way I Do" — all arranged by Belton High School (BHS) graduate Ben Holcomb. Choreography was created by the students in the ensemble. The group will find out if they advance in the competition in a couple of weeks. This program is a great example of the inspiring instruction offered in Belton ISD.

Ensemble members include: Juniors Amy Villanueva and Maverick Shepherd; and seniors Jordan Pilgrim, Megan Sloane, Sarah Millington, Joshua Martinez, Jason Blattner, Nicholas Wagner, Daniel Holcomb, William Hayes, Samuel McCollough, Jackson Reasoner, Corban Hammonds, Mackenzie Bramlett, Grace Taggart, Annalysse Miller, Sarah McGraw and Ashland Reyes.

**National Football Foundation National High School Academic Excellence Award  
Lake Belton High School**

We are proud to share BISD's Journey of a Graduate is reflected in the Texas High School Coaches Association recent recognition of the Lake Belton High School (LBHS) football team. The team was named a finalist for the National Football Foundation National High School Academic Excellence Award. It's an honor given to high school teams that maintain a 3.0 grade point average or above throughout the regular football season. The award is the first nationwide recognition honoring individual high school football teams for excellence in the classroom.

### **Texas Music Educators Association All-State Band Students**

We have several fine arts recognitions that demonstrate the BISD Journey of a Graduate competencies.

Senior Ethan Rasmussen from BHS and junior Sam Fothergill and sophomore Jacob Wiley from Belton New Tech @Waskow were selected for the TMEA 6A All-State Band. Ethan and Sam are percussionists, while Jacob plays the French horn. Shannon Gill is the director of bands at BHS and assistant band directors are Kevin Kwaku, Ian Smith and Chris Kreger.

### **Texas Music Educators Association All-State Choir Students**

BHS seniors Sarah Millington, Jordan Pilgrim, Daniel Holcomb, Jackson Reasoner and Ashland Reyes earned a spot in the TMEA All-State Choir. All five musicians sing with BHS' A Cappella Choir and Madrigal Show Choir, under the direction of Tonya Lovorn and assistant Christopher Orr.

LBHS sophomore Erin Hankins made history by becoming her school's first-ever student to receive state choir recognition with her placement in the Small School Choir All-State Mixed Choir. Terrance Livingston is the head choir director at LBHS.

### **Texas Dance Educators Association All-State Dance Students**

Senior Maggie Hodnick from BHS and junior Kaylee Rivera from LBHS were recently named All-State dancers by the Texas Dance Educators Association. Both girls serve as captain of their respective dance teams, the Magic Belles and Silver Spurs. The Magic Belles are under the direction of Rachel Hill and Emma Soard. The Silver Spurs' directors are Erin Choats and Shelby Carney.

### **Health Occupations Students of America (HOSA) State Qualifiers**

Future HOSA students competed in area events last month with 10 advancing to state competitions in April. We are proud of how these students demonstrate Journey of a Graduate competencies in this CTE program.

Students qualifying from BHS were all seniors. They are: Esohe Agbonghae, Emma Andrews and Diana Orona in public service announcement; Jennie Bonnet and Raymundo Martinez in emergency medical technician; Sarah Bowden in biomedical laboratory science; and Enedina Granados in veterinary science.

Stephanie Yaryan and CoryLynn Upton are the HOSA sponsors at BHS.

Advancing from LBHS are: junior Kyle Trehern in cultural diversities and disparities; sophomore Shrey Gupta in medical spelling; and freshman Olivia Gallant in personal care.

LBHS HOSA sponsors are Mary Keeton and Cathy Bruggman.

### **Temple Rotary Educator of the Month**

Two of BISD's world-class employees are being honored by the Rotary, a great community partner.

Kim Dragoo is being recognized by the Temple Rotary Club for the month of January for her outstanding service to Belton ISD. Kim serves as an English teacher at North Belton Middle School. She is in her 24th year in education, all in Belton ISD.

Mrs. Dragoo goes to great depths to reach her students. She spends hours outside the school day to create and engineer assignments that will engage each and every one of her students. She tirelessly strives to increase her students' reading levels which positively impacts their future success. She provides students with every opportunity to be successful with great joy and effort.

Mrs. Dragoo's principal, Michelle Tish, said this about her: "Mrs. Dragoo ensures every student is successful, she is helpful to her colleagues, and she is always smiling and demonstrating a love for her students. We are thankful that she is part of our team."

### **Belton Rotary Educator of the Quarter**

Ashley Vernon is being recognized by the Belton Rotary Club for her outstanding service to Belton ISD. Ashley serves as an early childhood special education teacher at Belton Early Childhood School (BECS). She is in her 6th year in education, all of which is with Belton ISD.

Courtney Brewer, assistant principal at BECS, said this about Ashley:

"Ashley is an advocate for her students and works tirelessly to create an environment where students reach flow. Her students come to her with disabilities ranging from Non-Categorical Early Childhood (NCEC) Autism, Intellectual Disability, and Speech/Language Impairment to name a few. Her biggest focus is establishing and maintaining a safe place for her students to grow to love school. This is usually their first school experience, and she takes that responsibility very seriously. Her students' language has sky-rocketed since August; they can share a really desirable toy with a friend; they know how to breathe and find their calm during a really tough time — all as a result of Ashley's intentional practices. When I enter her room, I can immediately feel a sense of belonging, acceptance, but also I'm very aware that it's a safe place where students can be challenged and pushed to achieve at their highest levels."

### **Texas Association of School Business Officials Award of Excellence in Financial Management**

Belton ISD is proud to be among the second group of educational institutions recognized by the Texas Association of School Business Officials (TASBO) with the prestigious Award of Excellence in Financial Management. This recognition highlights BISD's commitment to financial stewardship and fiscal responsibility.

Established in 2020, the award is given to Texas school districts, open-enrollment charter schools, and education service centers that demonstrate professional standards, best practices, and innovations in the area of financial management and reporting.

The criteria to qualify for the Award of Excellence in Financial Management is stringent, based on financial accounting and reporting guidelines identified by the Texas Education Agency Financial Accountability System Resource Guide (FASRG). Applicants must submit documents across 11 key areas, which are reviewed by a TASBO accounting subcommittee.

Members of the District's finance team will be honored at an awards reception on March 2 during the 2022 TASBO annual conference.

**Fiscal Implications:**

None.

**Administrative Recommendation(s):**

None.



# Belton ISD

## Values and Beliefs

Adopted April 19, 2021

- **Each and Every:** We believe each and every student deserves exceptional experiences according to their unique needs and passions.
- **Innovation:** We believe in igniting and supporting innovative thinking and problem solving in our students and staff.
- **Continuous Improvement:** We believe a mindset of continuous improvement should be modeled by our staff and cultivated in classrooms.
- **Community Engagement:** We believe that the learning experiences of our students are enhanced through the engagement of our community.
- **Learning Space:** We believe well designed and maintained facilities positively impact student learning and staff efficacy.
- **Engaged Workforce:** We believe a thriving staff will be able to create exceptional learning experiences for each and every student.
- **Inspiring Instruction:** We believe instructional design can empower students and ignite a passion for learning.

**Belton Independent School District**  
***Board of Trustee Meeting Agenda Item***

***February 21, 2022***

**Item:** Public Hearing Regarding the 2020-2021 Texas Academic Performance Report (TAPR)

**Contact Person:** Deanna Lovesmith

**Presented for:**  Action  Report Only

**Supporting Documents:**  None  Attached  Provided Later

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**District Goal or Objective Addressed:**

Goal 2: Ensure exceptional learning experiences for each and every student.

**Background Information:**

Texas Education Code 39.306 requires each district's board of trustees to publish an annual report and conduct a public hearing that includes the Texas Academic Performance Report (TAPR), district accreditation status, campus performance objectives, information on violent or criminal incidents, and information on the performance of the previous year's graduates in their first year of college, as reported by the Texas Higher Education Coordinating Board (THECB) as well as the PEIMS financial standards reports. The TAPR reports along with other required postings for the district and all campuses can be accessed on the [Belton ISD Accountability page](#).

**Fiscal Implications:**

None

**Administrative Recommendation(s):**

Receive the 2020-2021 Belton ISD Texas Academic Performance Report and conduct a public hearing as required.

# Public Hearing Regarding the 2020-2021 Texas Academic Performance Report (TAPR)

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February 21, 2022

Review and summarize the annual 2020-2021 Texas Academic Performance Report (TAPR) and meet the requirements of TEC 39.306 which states: the district's Board of Trustees must publish an annual report and hold a public hearing.

## The annual report must include:

### Section 1:

- Texas Academic Performance Report
  - [Belton ISD Report](#)
  - [Campus Reports](#)
- District and Campus Accountability Rating - *Not Rated: Declared State of Disaster*
- District Designation and Campus Ratings - *No designations awarded*
- District Current Special Education Compliance Status - *Needs Assistance*

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### Section 2:

- PEIMS Financial Standard Report
  - [2019-2020 District Actual Financial Data](#)
  - [2019-2020 Campus Actual Financial Data](#)

### Section 3:

- Accreditation Status
  - [Not Assigned](#) by TEA for the 2020-2021 school year

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#### **Section 4:**

- Campus Performance Objectives
  - [Belton ISD Improvement Plans](#)

#### **Section 5:**

- Report on Violent or Criminal Incidents on Campuses
  - [2020-2021 Report](#)

#### **Section 6:**

- Student Performance in Postsecondary Institutions
  - From the Texas Higher Education Coordinating Board (THECB) which reports student performance during the first year of enrollment in a postsecondary institution (TEC 51.403) - [THECB report](#)

For more information visit the [2020-2021 TAPR Glossary](#)

The full Belton ISD Annual Report and campus reports are available on the [Belton ISD Accountability website](#) and on the Texas Education Agency website.

Please contact the Teaching & Learning office with any questions:  
Holly Moore [Holly.Moore@bisd.net](mailto:Holly.Moore@bisd.net)

**Belton Independent School District**  
***Board of Trustee Meeting Agenda Item***

***February 21, 2022***

**Item:** Public Hearing Regarding Acceleration Instruction Report

**Contact Person:** Deanna Lovesmith and Holly Moore

**Presented for:**  Action  Report Only

**Supporting Documents:**  None  Attached  Provided Later

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**District Goal or Objective Addressed:**

Goal 2: Ensure exceptional learning experiences for each and every student.

**Background Information:**

Texas Education Code 29.081 requires each district to evaluate the effectiveness of accelerated instruction programs for students who have not performed satisfactorily on the state end-of-course assessment and hold a public hearing to consider the results.

**Fiscal Implications:**

None

**Administrative Recommendation(s):**

Receive the Acceleration Instruction Report and conduct a public hearing.

# Public Hearing Regarding Accelerated Instruction Report

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February 21, 2022



The purpose of this presentation is to report on the effectiveness of BISD's Accelerated Instruction Program in accordance with TEC §29.081 and EHBC(LEGAL).

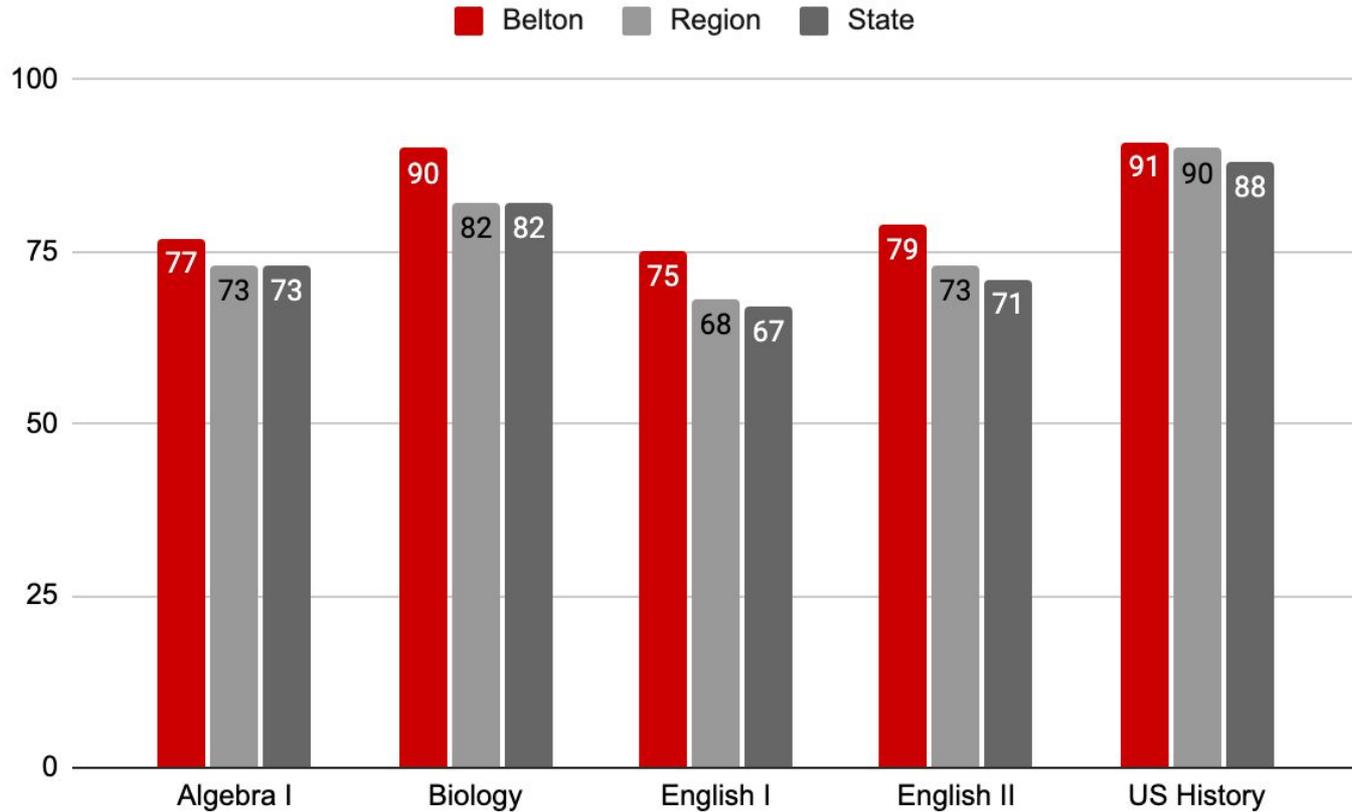
HB 5 requires students to fulfill the requirements of five content areas via STAAR EOC or a substitute exam:

- Algebra I
- Biology
- U.S. History
- English I
- English II

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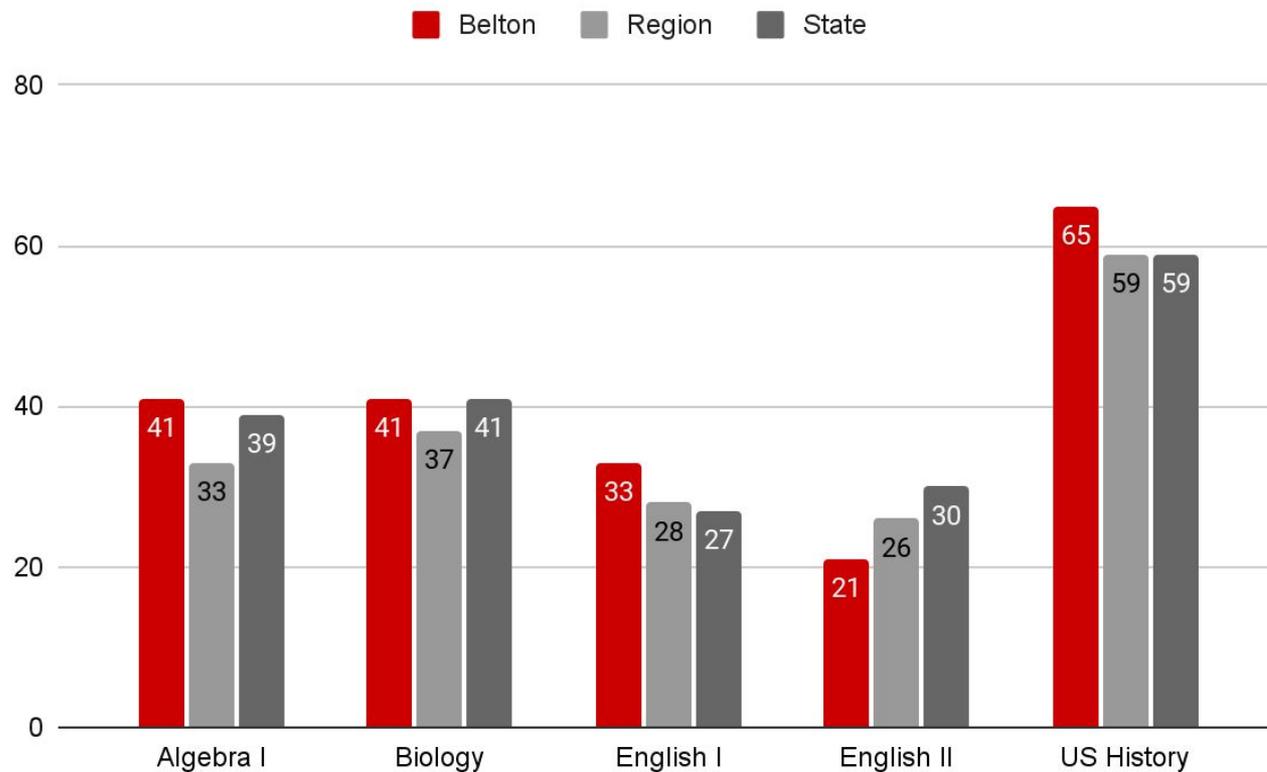
TEC §28.0217: Any student who does not perform satisfactorily on an EOC must receive intervention. The district must evaluate the effectiveness of these interventions in a public hearing. (TEC §29.081) and EHBC(LEGAL).

## Pass Rate Before Accelerated Instruction



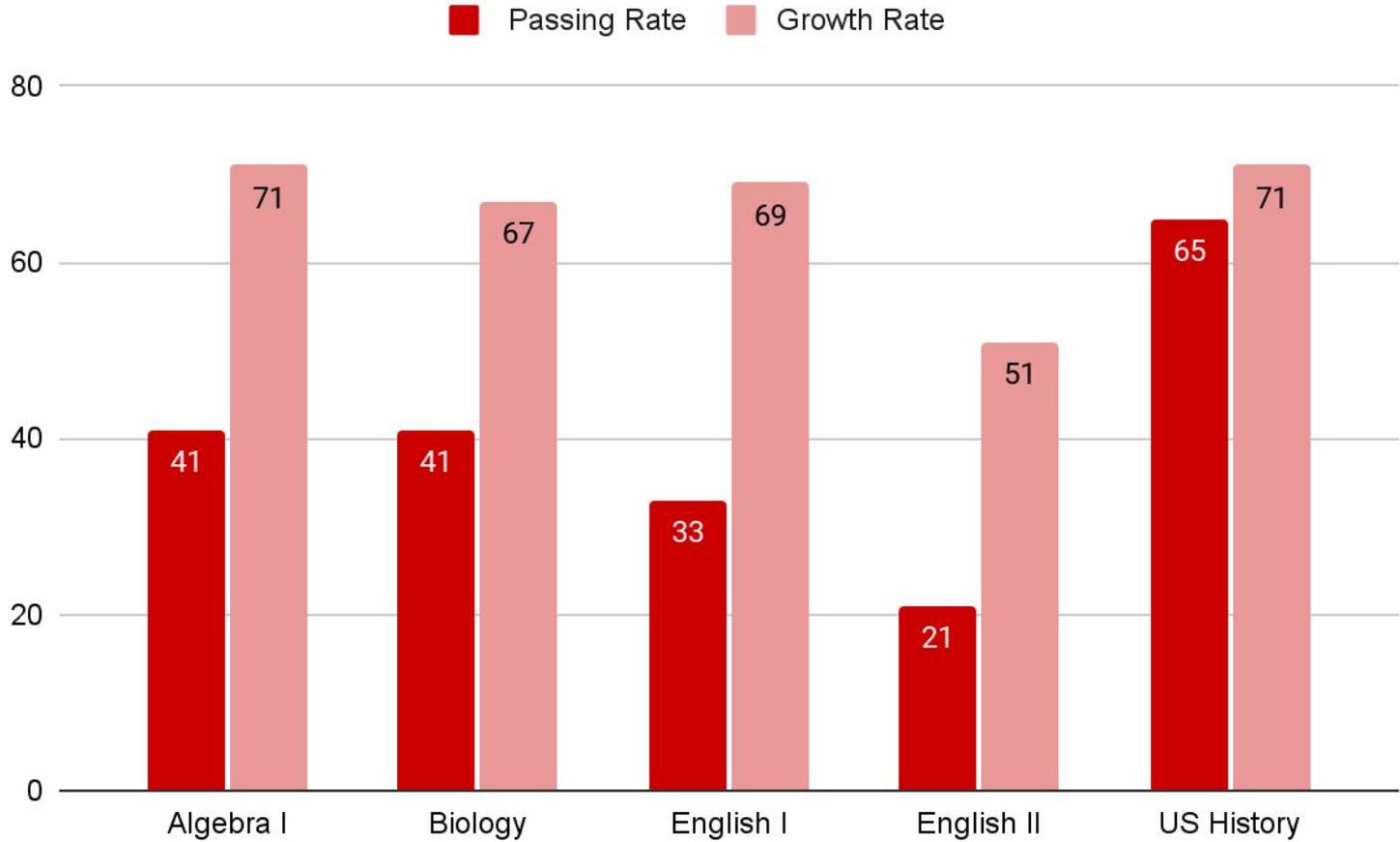
19

## Dec. 2021 Accelerated Learning Passing Scores



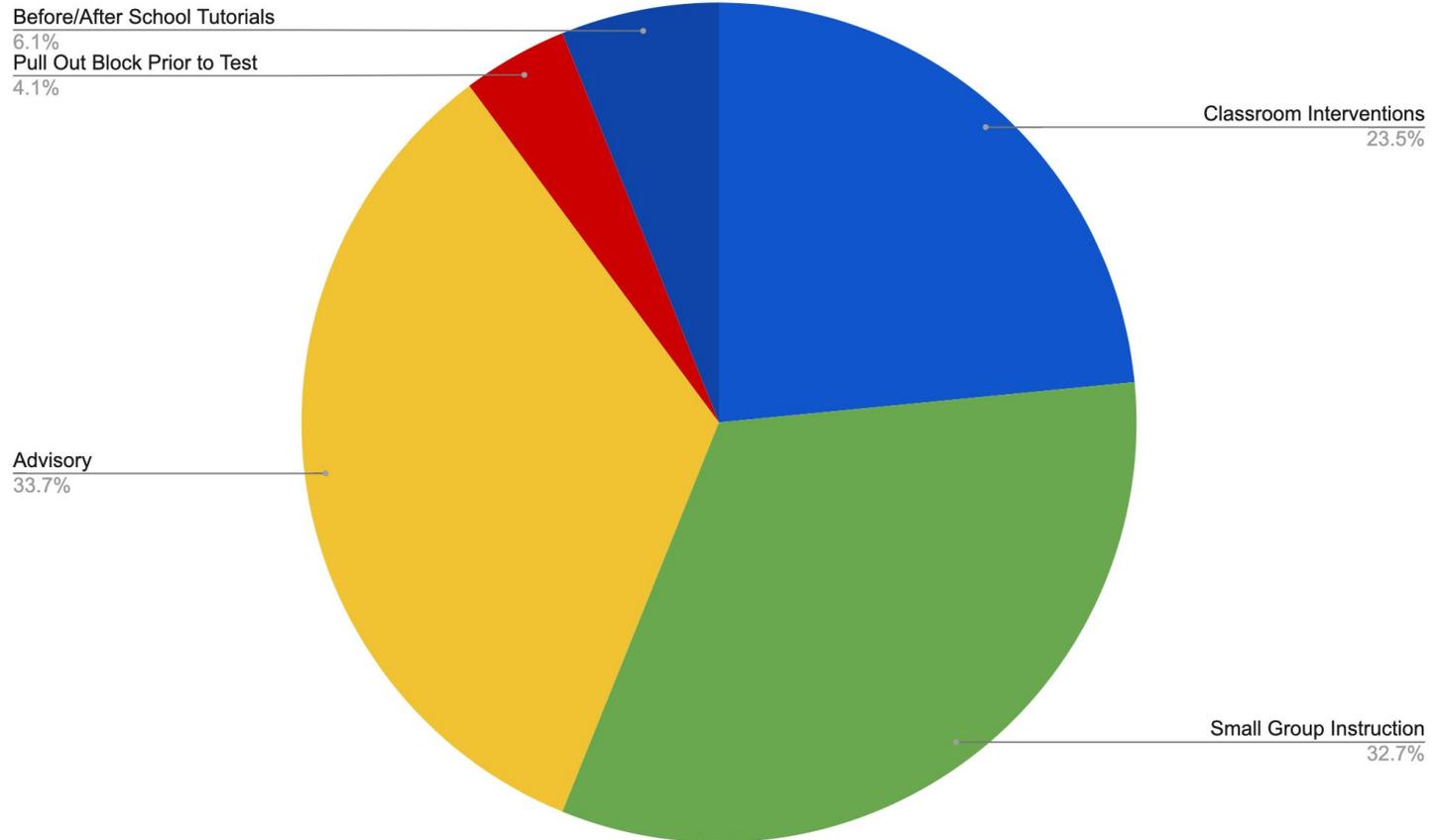
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# Growth Rate

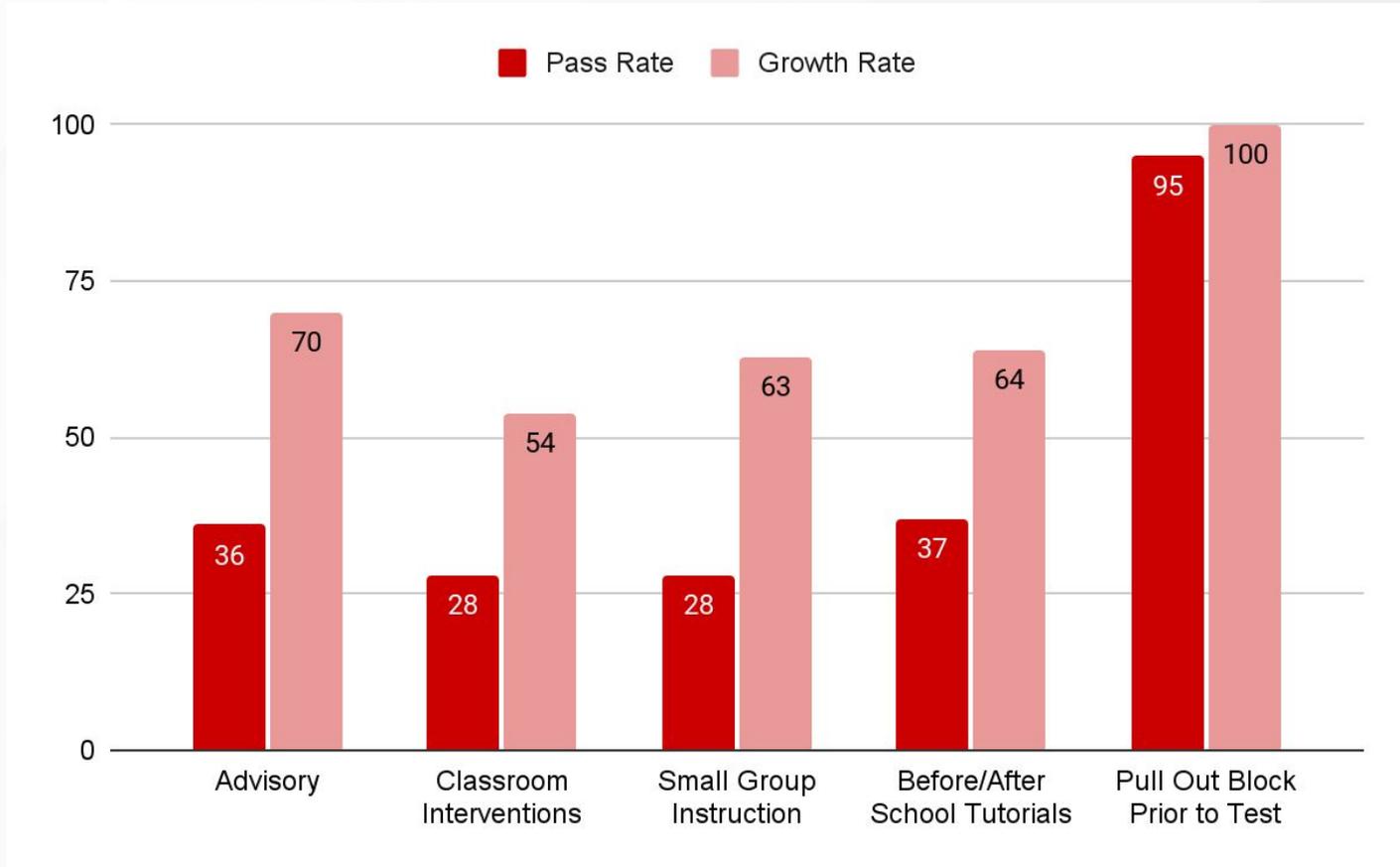


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# Accelerated Instruction Snapshot



# Pass & Growth Rate by Intervention



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An Individual Graduation Committee (IGC) must evaluate a student candidate's completed project(s). In addition, the IGC must confirm the candidate meets the following:

- Met passing standard on minimum of 3 EOCs\*
- Attempted offered EOC administrations
- Attended EOC interventions offered through BISD
- Meets BISD credit requirements

*\*Waived for Spring 2021*

**2021 IGC Graduates = 48**

Please contact the Teaching & Learning office with any questions:  
Holly Moore: [Holly.moore@bisd.net](mailto:Holly.moore@bisd.net)

**Belton Independent School District**  
**Board of Trustee Meeting Agenda Item**

**February 21, 2022**

**Item:** Consider, Discuss, and Take Appropriate Action Regarding the Employment of Administrative Employees

**Contact Person:** Name

**Presented for:**  Action     Report Only

**Supporting Documents:**     None     Attached     Provided Later

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**District Goal or Objective Addressed:**

Goal 3: Attract, retain, and support a world-class team of employees.

**Background Information:**

Administrative employees will be recommended for hiring.

**Fiscal Implications:**

The salary and benefits are included in the budget for 2021-2022.

**Administrative Recommendation(s):**

Approval of recommendation and addition of personnel as presented.

**Belton Independent School District**  
**Board of Trustee Meeting Agenda Item**

**February 21, 2022**

**Item:** Consider, Discuss, and Take Appropriate Action Regarding Adoption of the District of Innovation Plan

**Contact Person:** Deanna Lovesmith

**Presented for:**  Action     Report Only

**Supporting Documents:**     None     Attached     Provided Later

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**District Goal or Objective Addressed:**

Goal 2: Ensure exceptional learning experiences for each and every student.

**Background Information:**

During the 84th Texas legislative Session, House Bill 1842 was passed providing public school districts the opportunity to seek a District of Innovation (DOI) designation. The designation allows eligible districts the flexibility to exempt certain provisions of the Texas Education Code (TEC) to allow for additional local oversight for up to five years. On September 19, 2016, the Belton Independent School District's Board of Trustees adopted a resolution initiating the process of becoming a District of Innovation. A final plan was approved by the Board of Trustees on February 27, 2017. The plan was approved for a five-year period and must be renewed if the District plans to continue beyond that period.

On October 26, 2021, the Districtwide Education Improvement Committee (DWEIC) heard a report on the effectiveness of the current DOI plan and proposed plan for renewal. The DOI plan addresses teacher certification, minimum attendance requirements, first day of instruction, and transfer exemptions. The plan also addresses these areas as follows:

Teacher Certification exemption from TEC 21.003 (a) will allow Belton ISD to hire:

- CTE teachers with an associate's degree or professional certification in the area of jobs they are applying. The current plan allows this in the areas of law enforcement, health science, culinary arts, construction trades and automotive technology. The proposed plan expands this practice to all CTE areas of study.
- Non-certified teachers enrolled in a teacher certification program or certified teachers teaching outside of their certification area.

Minimum Attendance exemption from 21.003(a) will continue to allow Belton ISD to offer:

- Online dual credit courses during the school day, and
- Locally developed blended learning courses in core content areas.

First Day of Instruction exemption from TEC 25.0811 will continue to allow Belton ISD to develop a school calendar with the first day of instruction prior to the fourth Monday in August, allowing for the ability to develop a calendar that meets local community values and supports a comprehensive educational program.

Transfer Policy exemption from TEC 25.036 allows Belton ISD to revoke an inter-district transfer of a non-residential student at any time during the year if the student is assigned discipline consequences of suspension (in or out of school), placement in a disciplinary alternative program, or expulsion. In addition, students not meeting the state's 90% attendance standard may also be subject to immediate revocation of the transfer status. This exemption is new to the DOI plan.

In compliance with the renewal process for DOI plans, Belton ISD has:

- Posted the final plan on the website for at least 30 days (the plan was posted on December 17, 2021).
- Notified the Commissioner of the intent of the Board of Trustees to take action on the DOI plan.
- Held a public DWEIC meeting on February 17 with approval of the proposed plan.

**Fiscal Implications:**

Not applicable

**Administrative Recommendation(s):**

Take action on the proposed renewal of the District of Innovation Plan.

# District of Innovation



February 21, 2022

To consider, discuss and take appropriate action regarding adoption of the District of Innovation Plan

# Renewal Process

- ✓ DOI plan posted on website
  - ✓ Notification to the Commissioner - Intent
  - ✓ Districtwide Educational Improvement Council approval
- 
- Board action on plan
  - Notification to the Commissioner - Approved plan
  - DOI plan on website
  - Link of plan provided to TEA

## Areas of Impact:

- Teacher Certification (TEC §21.003 (a))
- Minimum Attendance (TEC §25.092 (a))
- First Day of Instruction (TEC §25.0811)
- Transfer Exemption (TEC §25.036)



*Inspiring Dreams.  
Empowering Futures.*<sup>33</sup>

# Belton Independent School District

## District of Innovation Plan

*Original Adoption February 27, 2017*

Proposed Revised Adoption: February 21, 2022



## Overview

During the 84th Texas legislative Session, House Bill 1842 was passed providing public school districts the opportunity to seek a District of Innovation(DOI) designation. The designation allows eligible districts the flexibility to exempt certain provisions of the Texas Education Code (TEC) in an effort to allow for additional local oversight for up to five years. On September 19, 2016, the Belton Independent School District's Board of Trustees adopted a resolution initiating the process of becoming a District of Innovation. A final plan was approved by the Board of Trustees on February, February 27, 2017. The plan was approved for a five-year period, and must be renewed if the District plans to continue beyond that period. On February 21, 2022, the Board of Trustees will take action on the proposed renewal of the District of Innovation Plan. The proposed plan was approved by DWEIC on December 7, 2021.

## District of Innovation Public Hearings

Date: February 21, 2022  
Time: 6:00 pm  
Location: Belton ISD Administration Building  
400 N. Wall Street  
Belton, TX 76513

## District of Innovation Committee Members

The District-wide Education Improvement Committee will serve as the renewal committee for the District of Innovation Plan.

Member Name	Role
Deanna Lovesmith	Chair
Mindy Wampler	Teacher
Daina Taylor	Teacher
Sarah Taggart	Teacher
Erica Kinsey	Teacher
Wendy Thibeault	Teacher
Amanda Burch	Teacher
Christina Taitingfong	Teacher
Allison Schiller	Teacher
Brandi Rhymes	Teacher

Shannan Swanson-Bryan	Teacher
Phoebe Duggan	Teacher
Lisa Velazquez	Teacher
Elmer Solis	Teacher
Rebecca Kidder	Teacher
Melissa Clark	Teacher
Timothy Potts	Teacher
Shannon Ulloa	Teacher
Amanda Necessary	Secondary Administrator
Kelly Sanders	Elementary Administrator
Norma Romero Komlofske	District Level Professional
Terri Covington	Business
Christa Ochoa	Community
Chrstine Rahm	Parent

## District Vision

Empower each and every learner to pursue their dreams and enrich their communities. Inspiring Dreams. Empowering Futures.

## District Goals

1. Strengthen and support the engagement of all stakeholders in the pursuit of the BISD vision.
2. Ensure exceptional learning experiences for each and every student.
3. Attract, retain and support a world-class team of employees.
4. Develop a district-wide culture of value, support and growth amongst all students and staff.
5. Maximize our use of resources for both current priorities and plans for the future.

## Term

As outlined by the Texas Education Agency, the term of the Innovation Plan is five years. The original plan was adopted on February 27, 2017, by the Board of Trustees regular meeting. The plan expires on February 27, 2022, unless terminated or amended earlier by the Board of Trustees in accordance with the law. The Districtwide Educational Improvement Committee (DWEIC) will monitor the effectiveness of the plan.

The DWEIC committee approved a revised plan on December 7, 2021. The plan will be taken to the Board of Trustees for consideration of approval on February 21, 2022. This plan will expire on February 21, 2027.

## Innovation Plan

### **Teacher Certification**

*TEC 21.003*

#### Current Law

21.003 (a) A person may not be employed as a teacher, teacher intern or teacher trainee, librarian, educational aide, administrator, educational diagnostician, or school counselor by a school district unless the person holds an appropriate certificate or permit issued as provided by Subchapter B.

#### Plan to Address Comprehensive Educational Program

Belton ISD has struggled to find certified teachers for Career and Technical Education (CTE) courses and foresees continued difficulty in filling positions in this area. Requiring teacher certification for candidates in these areas is a financial barrier and a hardship to many applicants who are likely taking a pay cut from the private sector to join the school district. Most come prepared to begin teaching immediately and are discouraged by the hurdles required to obtain certification prior to being awarded a teaching position. Certifications costs can exceed \$5,000 and take months to complete.

Many qualified candidates in the fields have wage-earning experience, certifications, and/or associate's degrees. However, most candidates do not possess a bachelor's degree and teaching certification. While the District has the ability to hire applicants with a bachelor's degree using the School District Teaching permit process, it is difficult to find applicants from these fields with a bachelor's degree. The District requests an exception for CTE teachers to hire candidates with an associate's degree and/or the appropriate work-related professional certification in the particular course of study for the job in which they are applying. Potential applicants would be required to meet current qualifications as required for entry into teacher certification programs according to the Educator Preparation Program, Statement of Qualifications (SOQ) Secondary Career and Technical Certification including wage earning experience. However, qualified candidates would not be required to complete a certification program. The District would designate these candidates with a local teaching permit and they would be hired as at-will employees.

In addition, Belton ISD often finds teacher applicants who are entering into certification programs and are interested in an immediate open teaching position. The District seeks to use the Innovation Plan to hire non-certified teachers who are in a teacher certification program or certified teachers who may be teaching outside of their certification area. Through the DOI Plan, the district would be exempt from filing a state waiver or Teacher Classroom Assignment Permit (TCAP) on any non-certified teacher hire. This will save applicants a fee (approximately \$500), allow for immediate filling of a vacancy, and increase recruitability efforts for open teaching positions.

## Minimum Attendance for Class Credit or Final Grade

*TEC 25.092*

### Current Law

25.092 (a)... [A] student in any grade level from kindergarten through grade 12 may not be given credit or a final grade for a class unless the student is in attendance for at least 90 percent of the days the class is offered.

### Plan to Address Comprehensive Educational Program

Belton ISD's one-to-one digital learning initiatives began in 2010 with a locally funded innovative grant project awarded to one teacher at Belton High School and all fifth grade classrooms at Joe M. Pirtle Elementary. By the fall of 2011, the District launched its first one-to-one campuses at South Belton Middle School and Belton New Tech High School @ Waskow whereby each student was issued an individual device for learning. By the fall of 2020, all Belton ISD students were in a one-to-one learning environment. District has been able to implement the use of digital library books, digital textbooks, a learning management system, and the use of hundreds of digital learning resources to enhance instruction.

In order to continue to expand educational opportunities for students, the District has identified the following two digital learning initiatives.

- ***Providing students with online dual credit courses scheduled during the school day.***

~~Beginning in 2017-2018,~~ Students may choose to enroll in online dual credit courses through the University of Texas - Permian Basin through a Memorandum of Understanding (MOU). Students who request to participate must have parental permission. The course would be completed at home if scheduled as a first or last period course. If a student is scheduled to take the course during the school day, the student would be assigned a location at the campus such as the library, a computer lab, or other area as assigned by the principal. Students completing the course off campus must be enrolled separately in other required courses that together meet the TEA's required minutes of instruction for attendance accounting purposes.

- ***Providing a locally developed online/blended learning course in a core content area with flexibility to complete a portion of the coursework from home.*** ~~Beginning in 2017-2018,~~ the District will continue to offer locally developed online courses in identified core content areas for junior or senior level high school students. Students who request to participate must have parental permission and be enrolled separately in other required courses that together meet the TEA's required minutes of instruction for

attendance accounting purposes. Students would be assigned to the course either first or last period. Teachers would develop the course(s) to be delivered in a blended learning model whereby students would meet with the teacher in a face-to-face setting and have the flexibility to allow students to work from home or another location, including independently in the school building in a flexible common space. Students would be required to be in attendance as requested by the teacher for tutorials or enrichment and/or for whole group instruction. Students would be awarded credit based on course mastery.

## First Day of Instruction

*TEC 25.0811*

### Current Law

25.00811 (a) ... [A] school district may not begin instruction for students for a school year before the fourth Monday in August.

### Plan to Address Comprehensive Educational Program

Belton ISD's DOI Committee has determined that a school calendar that provides the option to begin the first day of instruction prior to the fourth Monday in August as currently required by the TEC will provide the District the ability to develop a calendar that effectively meets local community values and supports a comprehensive educational program.

Currently the District serves a population of approximately-13,500 students. Significant to Belton ISD's population is the growing number of military connected families who are moving into the district. This year, 8% of the student population is considered military connected. An increasing number of families working at nearby Fort Hood, the world's largest military installation, are choosing Belton ISD as their home. In collaboration with Fort Hood and Commanding General Sean McFarland, the District wishes to ensure that students are off with their families on federal holidays in collaboration and support of our military. A calendar which begins on the fourth Monday in August does not provide the ability to incorporate the majority of federal holidays for students without compromising other community values including professional development days, parent conference days, and the length of Christmas and spring breaks.

In addition to meeting the needs of students and families, Belton ISD wishes to develop a school calendar that provides options for students to participate in and enter postsecondary opportunities at institutions of higher education. A calendar which ends prior to the beginning of local college and university summer sessions provides for students' educational needs to be effectively served. Students would not be asked to juggle multiple schedules by ending one course early or starting a course late in order to further their education.

## Transfer Exemption

### Current Law

25.036 Inter-district Transfers Under Texas Education Code 25.036, a district may choose to accept, as transfers, students who are not entitled to enroll in the district. Under TEC 25.036, a transfer is interpreted to be for a period of one school year.

Belton ISD seeks exemption from the one year transfer commitment. Local Guidelines Nonresident students who have been accepted as inter-district transfer may have such transfer

status revoked at any time during the year if the student is assigned discipline consequences of suspension (in or out of school), placement in a disciplinary alternative program, or expulsion. In addition, students not meeting the state's 90% attendance standard may also be subject to immediate revocation of the transfer status.

## Adoption of Original Innovation Plan

Belton ISD has met all of the process requirements outlined by the TEA and the Commissioner of Education to receive the designation as a District of Innovation. The local Innovation Plan was developed and approved by both the DOI Committee and DWEIC. In addition, a public hearing was conducted on January 23, 2017. The plan was then posted on the District's website for the required 30 days following approval by the Board of Trustees.

Approved by the DPO Committee on the 1st day of December, 2016.

Approved by the DWEIC Committee on the 9th day of January, 2017.

Approved by the Belton ISD Board of Trustees on the 27th day of February, 2017.

## Renewal of Innovation Plan

Belton ISD has met all of the process requirements outlined by the TEA and the Commissioner of Education to receive the designation as a District of Innovation. The local Innovation Plan was developed and approved by the DWEIC. The plan was then posted on the District's website for the required 30 days following approval by the Board of Trustees.

Approved by the DWEIC Committee on December 7, 2021.

Posted to the District Website on December 17, 2021

Approved by the Belton ISD Board of Trustees on

**Belton Independent School District**  
**Board of Trustee Meeting Agenda Item**

**February 21, 2022**

**Item:** Consider, Discuss, and Take Appropriate Action Regarding Budget Assumptions for Fiscal Year 2022-2023

**Contact Person:** Malinda Golden

**Presented for:**  Action     Report Only

**Supporting Documents:**     None     Attached     Provided Later

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**District Goal or Objective Addressed:**

Goal 5: Maximize our use of resources for both current priorities and plans for the future.

**Background Information:**

The annual budget is based on several assumptions that serve as the basis for estimating revenue and expenses used to develop the budget. The initial budget assumptions that will be used for the preliminary budget development for the 2022-2023 fiscal year will be presented for discussion and possible approval.

**Fiscal Implications:**

These initial assumptions will be key in developing preliminary revenue and expense projections for the 2022-2023 fiscal year.

**Administrative Recommendation(s):**

Approve the initial assumptions as presented.



# Budget Assumptions for Fiscal Year 2022-2023

BISD Board of Trustees' Meeting  
Monday, February 21, 2022

Consider, discuss and take appropriate action on preliminary budget assumptions for the 2022-2023 budget development process.

# Historical Budget Assumptions

## Initial Assumptions

	2019-2020	2020-2021	2021-2022
<b>Tax Base Growth</b>	6.00%	6.00%	6.00%
<b>M&amp;O Tax Rate</b>	\$ 1.0683	\$ 1.0548	\$ 0.9683
<b>Property Tax Collection Rate</b>	100%	100%	100%
<b>Enrollment Growth Source</b>	Fall report	Fall report	Fall report
<b>Enrollment Growth %</b>	3.6%	3.4%	4.8%
<b>Health Insurance Contribution</b>	\$ 375	\$ 400	\$ 400
<b>Salary Increase (Growth)</b>	3.1%	6.5%	3.1%
<b>Salary Increase (Raises)</b>	2%	2%	2%
<b>Departmental Budget Increase</b>	2.5%	2.5%	1.5%
<b>NIFA (student count)</b>	400	1,000	1,000
<b>Surplus/(Deficit)</b>	\$ (3,206,334)	\$ (4,584,916)	\$ (3,512,514)

## Final Assumptions

	2019-2020	2020-2021	2021-2022
<b>Tax Base Growth</b>	14.68%	14.85%	12.67%
<b>M&amp;O Tax Rate</b>	\$ 1.0683	\$ 0.9683	\$ 0.9603
<b>Property Tax Collection Rate</b>	100%	98%	100%
<b>Enrollment Growth Source</b>	Spring report	1/2 Spring report	1/2 Spring report
<b>Enrollment Growth %</b>	3.6%	0.98%	5.7%
<b>Health Insurance Contribution</b>	\$ 400	\$ 400	\$ 400
<b>Salary Increase (Growth)</b>	3.2%	9.8%	3.1%
<b>Salary Increase (Raises)</b>	4%	3%	2%
<b>Departmental Budget Increase</b>	2.4%	11.5%	1.1%
<b>NIFA (student count)</b>	400	1,000	1,000
<b>Surplus/(Deficit)</b>	\$ -	\$ (4,223,685)	\$ (5,252,410)

**PROPOSED ASSUMPTIONS - 2022-2023**

<b>Category</b>	<b>Data Element</b>	<b>Preliminary Assumption</b>
<b>Student Enrollment</b>	Demographer's growth projection	14,160
<b>Average Daily Attendance</b>	Based on student enrollment at October snapshot*	93%
<b>Staff Pay Increase</b>	Pay increase	2%
<b>Other compensation increases</b>	New positions due to growth (based on staffing guidelines)	\$6,000,000
	Market adjustments	\$150,000
<b>Campus Allocations</b>	Per student allocation guidelines	\$1,800,000
<b>Capital Projects</b>	Facilities improvements	1%
<b>New Programs</b>	Start up costs for new programs	\$100,000
<b>Campus Improvement</b>	Set aside for campus instructional improvement	\$100,000
<b>Employee Benefits</b>	Contribution towards insurance premiums	\$400 per month





# Superintendent's Report

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***BISD Board of Trustees' Meeting  
Monday, February 21, 2022***

# Purpose

**Provide the Board of Trustees with administrative information from the Superintendent.**

# February Highlights

- Winter Storm
- Principal Check-ins
- World Read Aloud Day
- Bell County Youth Fair
- Recharge Conference
- Board Workshop: Bond
- Bronco World Tour: LBHS, LBMS, NBMS



# Bell County Youth Fair



# World Read Aloud Day



# Athletic Signings

# Questions?

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*Inspiring Dreams. Empowering Futures.*

**BELTON I.S.D. BOARD OF TRUSTEES  
POLICY COMMITTEE MINUTES  
JANUARY 3, 2022**

**Members Present:**

Chair Manuel Alcozer      Janet Leigh      Chris Flor

**Members Absent:** None.

**Staff Present:**

Dr. Matt Smith      Dr. Malinda Golden      Jennifer Bailey      Connie Burns  
Cynthia Bode      Gabi Nino

**Call to Order:** The meeting was called to order at 5:00 PM.

**Public Comments:** None.

**Review and Discuss the Following Items:**

**A. FDA(LOCAL): Admissions, Interdistrict Transfers – 1st Reading**

Cynthia Bode, Director of Student Services, identified proposed changes to this policy to align with the District of Innovation plan. Edits included language to allow the Superintendent to revoke interdistrict transfers for reasons specified in the policy. Language was also added to allow interdistrict high school students who have attended a specific District high school for at least six semesters and whose transfer has been approved to be assigned to the same high school.

Dr. Smith explained how these policies are affected by the District of Innovation (DOI) Plan, and noted that if a student who moved into BISD from another district had a behavior issue, this change will ensure a revocation procedure is included in policy. He stated it is necessary to match that language in the forthcoming DOI plan.

Mr. Alcozer requested that “one or more” be added to the language preceding the list of reasons to give the Superintendent more discretion when making a decision. The group concurred the policy is good to move forward on 1st reading, but suggested staff consult with the District’s legal counsel to determine if there is another item that could be added to the list to give the Superintendent more discretion when making a decision. There is no need to bring any minor changes back to the Committee.

**B. FDB(LOCAL): Admissions, Intradistrict Transfers and Classroom Assignments – 1st Reading**

Ms. Bode explained the changes to this policy which included similar changes to the Revocation section and the addition of language regarding Campus High School Assignment.

Ms. Leigh asked if middle school students would be allowed to finish 8th grade at their current middle school if they had attended grades 6 and 7 at that campus. Ms. Bode indicated this has been allowed as a courtesy, but the student would have to attend the high school they are zoned for.

Mr. Alcozer asked about BISD employees who request intradistrict transfers, and Dr. Smith said the District has been pretty accommodating. Ms. Bode commented that this year they will make improvements to ensure that employees are informed when the application window opens.

Dr. Smith indicated he will check with legal counsel on the suggested changes and present the policies for consideration at the January 24 regular meeting for a 2nd Reading.

**C. BBB(LEGAL): Board Members, Elections**

**D. BBB(LOCAL): Board Members, Elections**

Dr. Smith explained these policies are being presented so the Board can ultimately make a decision regarding a contract with Bell County for joint election services by their February 1 deadline. He stated this may be common for other districts, but would be a change for Belton ISD and could possibly have implications.

The Committee requested additional information to aid in their decision process to include information on the history of elections with Bell County, elections costs in years past and information regarding County polling places.

Dr. Smith told the Committee to let him know of any other questions and he will have staff gather additional information. He will also discuss the idea with the Board President to determine if it should be an agenda item for the January 24 meeting.

**Issues/Concerns for Future Agenda or Administrative Reports:** Mr. Flor asked if these policies being reviewed will be fed into the TASB policy review process in March. Dr. Smith explained that TASB has already worked with staff on policies that have been recently reviewed (like FDA and FDB on this agenda), so they shouldn't have to spend much time on them again.

**Adjournment:** There being no further business, the meeting adjourned at 5:30 PM.

**Next Meeting:** February 7, 2022, 5:00 PM

**BELTON INDEPENDENT SCHOOL DISTRICT  
SPECIAL BOARD MEETING MINUTES  
January 10, 2022 – 4:00 p.m.  
Big Red Room**

**BOARD MEMBERS PRESENT**

Jeff Norwood  
Ty Taggart (via video conference)  
Manuel Alcozer  
Suzanne M. McDonald  
Janet Leigh  
Chris Flor  
Erin Bass (via video conference)

**BOARD MEMBERS ABSENT**

**STAFF PRESENT:** Dr. Matt Smith, Dr. Malinda Golden, Dr. Deanna Lovesmith, Connie Burns

**CALL TO ORDER**

Jeff Norwood, Board President, called the special meeting of the Belton Independent School District Board of Trustees to order at 4:00 p.m. He stated that a quorum of Board Members was present, that the meeting had been duly called, and that notice of the meeting had been posted in accordance with the Texas Open Meetings Act, Texas Government Code Chapter 551. He noted that Mr. Taggart and Ms. Bass were participating by video conference.

**PUBLIC COMMENTS**

Amanda Kelley, Temple, spoke about improving student outcomes.

**BOARD TRAINING REGARDING EVALUATING & IMPROVING STUDENT OUTCOMES (EISO)**

Dr. Smith lead the Board in its biannual training regarding evaluating and improving student outcomes. The Board took two short breaks during the session.

**ADJOURN**

There being no further business, the meeting was adjourned at 6:54 p.m.

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Jeff Norwood, President

\_\_\_\_\_  
Manuel Alcozer, Secretary

**BELTON ISD BOARD OF TRUSTEES  
FACILITIES COMMITTEE MINUTES  
JANUARY 19, 2022**

**Members Present:**

Ty Taggart, Chair                      Erin Bass                      Suzanne M. McDonald (via video conference)

**Staff Present:**

Dr. Matt Smith                      Dr. Malinda Golden                      Mike Morgan                      Stephanie Ferguson  
Jennifer Bailey                      Sam Skidmore                      David Bennett                      Rachel Starnes  
Connie Burns

**Call to Order:** The meeting was called to order at 4:00 PM.

**Public Comments:** None.

**Review and Discuss the Following Items:**

**A. Elementary Design Update and Site Design**

Mike Morgan, Assistant Superintendent for Operations, introduced Mike Boyle of Huckabee Architects, who gave an update on the schematic design for a new elementary school based on additional feedback from the Committee, administration and the community. He laid out the plusses and minuses between one-story and two-story scenarios while fielding questions from Committee members.

Mr. Taggart stated though some may not want two-story, he'd like to see more space for playgrounds given property is hard to come by. Ms. Bass asked about the capacity, and Mr. Boyle indicated the potential capacity is 800 students for either model. Ample parking is provided and student pickup cueing is substantially longer than existing campuses.

Ms. McDonald asked about land availability, and Mr. Morgan indicated there is currently more land available in northern areas of the District with utilities in place than land in the south where utilities will need to be extended.

Dr. Smith commented that even though the teacher committee preferred one-story, they will circle back with that group to explain that their opinions were heard. There may be certain times that two-story is necessary with respect to taxpayer dollars.

Ms. Bass asked if it was more cost effective to build two-story vs. one, and Mr. Boyle replied it would be more cost effective to build a two-story building on the south Belton site due to the reduced amount of excavation and foundation work. He added they are trying to create a product that will be economical to build and maintain while instilling pride in the community. Full renderings will be presented to the Board on January 24.

Mr. Taggart expressed thanks to the presenters and to Board members for their support, and stated he wants to make sure the District is in a good spot for years to come.

## **B. Long Term Facility Needs Report**

Mr. Morgan presented information on long term facility and operational needs, including long term potential bond items.

Ms. Bass expressed thanks for all of the time and effort put into this list of information. She is grateful they are being proactive and setting the District up for success. Mr. Morgan thanked the Board for allowing them to contract with consultants to conduct the facilities assessment in order to obtain the data for use as a guide and development of this plan.

Dr. Smith echoed the note of thanks and also recognized David Bennett, Director of Facilities & Construction, and his entire team for all of their efforts.

## **C. Bond Exploration Committee Recommendations**

Dr. Malinda Golden, Deputy Superintendent, provided the Committee with the results from the final Bond Exploration Committee (BEC) meeting and next steps. She explained that the BEC was tasked with narrowing and prioritizing needs based on the following criteria: highest need; impact on learning experiences; and feasibility.

Ms. McDonald asked if the maximum dollar amount (i.e. \$200M) would be sufficient to address needs. Dr. Smith indicated his presentation at the regular Board meeting will include information for a proposed bond package, but will also include additional future needs since Belton is a fast growth school district. He went on to say he thinks the BEC did a great job vetting wants and needs and narrowing down their list. He will narrow the list further to address immediate needs, but reiterated there will still be many needs after a potential bond election.

Ms. Bass stated she is grateful for the survey information provided by Baselice and thinks it will be useful moving forward.

Mr. Taggart stated he appreciated the process and feels comfortable with the numbers. He thinks they have put together the right information needed to make a final decision. Ms. McDonald agreed stating she thinks the District is ahead of the curve and needs to stay ahead of it moving forward.

Ms. Bass commented she is hoping the community can get through the latest COVID surge so community members can visit campuses to look at the needs that exist. Mr. Taggart added he thinks the District's job moving forward is to make sure stakeholders and voters know the facts and numbers.

Dr. Smith stated strong schools equal strong property values. Survey results showed a strong community perception of BISD at 78%, and the goal is to continue that, but due to accelerated growth, there is much work to do moving forward.

Mr. Taggart noted that according to demographers, BISD is the only local district that grew during the first two phases of the pandemic. That growth is not deniable and the District has to be able to take care of its kids.

Dr. Smith thanked BISD staff who have invested a tremendous amount of time in these meetings. He indicated Dr. Golden will present similar information to the entire Board on

January 24, and he will present his recommendations at the same meeting. February 18 is the deadline to call a bond election.

In closing, Dr. Golden thanked BEC members (and recognized some who were present) for their dedication and all of the hours they put into the process. Ms. Bass echoed the note of thanks to community members.

**Issues/Concerns for Future Agenda or Administrative Reports:** None.

**Adjourn:** The meeting adjourned at 5:38 PM.

**Next Meeting:** February 16, 2022, 4:00 PM

**BELTON INDEPENDENT SCHOOL DISTRICT  
BOARD WORKSHOP MINUTES  
January 24, 2022; 5:00 p.m. – Big Red Room**

**BOARD MEMBERS PRESENT:**

Jeff Norwood  
Ty Taggart  
Manuel Alcozer  
Suzanne M. McDonald (via video conference)  
Janet Leigh (via video conference)  
Chris Flor  
Erin Bass

**BOARD MEMBERS ABSENT:**

**CALL TO ORDER**

Jeff Norwood, Board President, called the workshop meeting of the Belton Independent School District Board of Trustees to order at 5:00 p.m. He stated that a quorum of Board Members was present, that the meeting had been duly called, and that notice of the meeting had been posted in accordance with the Texas Open Meetings Act, Texas Government Code Chapter 551. He noted that Suzanne M. McDonald and Janet Leigh were participating by video conference.

**PUBLIC COMMENTS:**

Brenda Howard, Belton, Texas, addressed the Board regarding the Update on Goal #3 and provided the Board with an excerpt from Article 7 of the Texas Constitution.

**BOARD WORKSHOP**

A. Update on Goal #3: Attract, retain, and support a world-class team of employees  
Dr. Smith introduced this item, then the following presented information on topics listed:

- Todd Schiller – Vision and World-Class Employee (WCE)
- Vickie Dean – Professional Learning System/Learner
- Calvin Itz – Recruitment and Retention
- Gabi Nino and Arturo Lomeli – Campus Principals

Mr. Alcozer asked Ms. Dean if setting a learning goal is required of employees or optional, and she explained this year they asked supervisors to work through that collaborative conversation with staff. Dr. Smith added they are taking a core of things that have been done well and expanding it on to all staff. Ms. Bass requested a Board update following the Recharge conference, a day-long professional development opportunity for employees scheduled for February 21.

Mr. Itz highlighted the top three results from a recruitment survey: early hiring, bring the BISD job fair back (tentatively scheduled for March 5 at LBHS), and have job fairs at diverse locations. General Board comments regarding retention follow:

- Would like to hear what BISD is doing to help first year teachers. (Taggart)  
Mr. Itz confirmed there are fewer college students going into the education field.
- Wondered if there is a way to track former BISD students who wanted to work here and went elsewhere, but could be interested in coming back. (Taggart)
- Asked how are teachers being incentivized to be mentors? (Norwood)  
Mr. Itz indicated this is already included in the job description for instructional coaches, but they could consider incentives if they want to bring other campus workers into the mentor program which was done years ago.

**Belton ISD Board Workshop Meeting  
January 24, 2022 – Page 2**

- Is there anything to help with retention of seasoned teachers? (Bass)  
Mr. Itz stated instructional coaches work side-by-side with all teachers, but agreed they could circle back again with veteran teachers.

Dr. Smith stated he is proud of the entire Human Resources team and their work to get the retention focus group started. He went on to expand on coaching following Ms. Nino's report, and acknowledged the past two years have brought challenges for teachers, administrators, nurses, and every employee in the system, but he believes this investment will help get employees through the challenging times.

Mr. Alcozer praised the proactive approach to a tough situation, and thanked the administration for including all employees across the District.

Mr. Flor asked what is needed of the Board to help keep progress moving forward. Dr. Smith stated adoption of the values and goals last spring helped set the foundation in order to build all of these things in the future, and funding staff salary increases was a good investment. Lastly, he requested the Board be vocal and tell the narrative of what is really going on in BISD which is more positive than people realize. He asked the Board to thank a teacher, be vocal and supportive as they have been and celebrate the good things they see. Ms. Nino added a note for the Board to encourage young people to pursue a career in education so the Grow Your Own program can be expanded. She indicated they will also continue discussions about expanding Principles of Education classes with CTE staff.

- B. Continued Update on Goal #4: Develop a district-wide culture of value, support, and growth amongst all students and staff

Dr. Smith continued the discussion on this update on Goal #4 which got underway at the December 13, 2021 workshop. He reviewed the key progress measure which is on feedback loops, and discussed why the District should focus on culture and how staff/students are treated and feel. He explained there is a committee currently exploring staff engagement annual data point, and Goal #4 improvement efforts are underway. Leadership team meetings happen routinely along with leadership challenges, and teacher listening sessions have been held with campuses to gain feedback to ensure teachers and staff feel they are being supported.

In closing, Dr. Smith stated he is proud of the work that's being done thus far on both of these goals, but there is a long way to go. It's their job to keep striving to inspire dreams and empower futures.

Mr. Norwood commended the Superintendent and all staff for their work, especially with the past two challenging years.

**ADJOURN:** There being no further business, the meeting was adjourned at 6:03 p.m.

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Jeff Norwood, President

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Manuel Alcozer, Secretary

**BELTON INDEPENDENT SCHOOL DISTRICT  
BOARD MEETING MINUTES  
Regular Meeting, January 24, 2022 – 6:15 p.m.  
Pittenger Fine Arts Center**

**BOARD MEMBERS PRESENT**

Jeff Norwood  
Ty Taggart  
Manuel Alcozer  
Suzanne M. McDonald (via video conference)  
Janet Leigh (via video conference)  
Chris Flor  
Erin Bass

**BOARD MEMBERS ABSENT**

**CALL TO ORDER, MOMENT OF SILENCE AND PLEDGE OF ALLEGIANCE**

Jeff Norwood, Board President, called the regular meeting of the Belton Independent School District Board of Trustees to order at 6:17 p.m. He stated that a quorum of Board Members was present, that the meeting had been duly called, and that notice of the meeting had been posted in accordance with the Texas Open Meetings Act, Texas Government Code Chapter 551. He noted that Suzanne M. McDonald and Janet Leigh were participating via video conference.

**RECOGNITIONS**

**A. Student Showcase – Belton High School (BHS) Medical Microbiology Symposium and Miller Heights Elementary School Lego Robotics**

Jennifer Bailey, Executive Director of Communications & Community Engagement, recognized students at Belton High School (BHS) who participated in a Medical Microbiology Symposium in November. The day-long event gave students the opportunity to conduct original research, create posters and present their findings to teachers, local professionals and their peers. Only six students took home awards, but all benefited from the multiple real-world applications the lesson provided.

Ms. Bailey also recognized first- and third-graders at Miller Heights Elementary who used Lego robotics kits donated by the Belton Educational Enrichment Foundation (BEEF) to create theme parks and solve problems. The students learned computer science and design engineering concepts while utilizing their literacy, math, social, emotional and creative skills.

**B. Texas High School Coaches Association Academic All-State Recipients**

Board members presented certificates to student-athletes from Belton High School who were named to Texas High School Coaches Association Academic All-State teams. To be nominated, seniors must be in good standing with their team, of good moral character and have an overall GPA of 92 or above. Class rank and SAT/ACT test scores are also taken into consideration. This year's recipients included:

Cross Country: Aidan Sallee, Shannon Cook and Madeline Fournier (first team); Zach Dennison, Lesa Duskocil, Cooper Fix, Josiah Kahler and Ryan McKenzie (second team); and Kiel Bolton, Seth Branham and Natasha De La Rosa (honorable mention).

Volleyball: Gabrielle Benson (elite team); Kendall Dollar, MyKaela Johnston and Emily Revis (first team); and Kylie Blomquist, Elizabeth Losoya, McKenna Maddux and McKenzie Mansell (second team).

Football: Myles Byars, Dante Hudson, Garrett Mooney and Owen Langford (second team); and

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January 24, 2022 – Page 2**

William Hayes, Jackson Engelke, Andrew Baird, Tanner Conroy, Aidan Cearley, Seth Morgan, Jonah Myers, Joshua McDermaid and Aaron Bain (honorable mention).

**C. Texas Department of Agriculture “Best of the Bunch” Award**

Board members presented a certificate to representatives from BISD’s Nutrition Services department for statewide recognition for participating in the Texas Department of Agriculture’s Farm Fresh Challenge. The District joined schools and childcare providers from across the state to “Eat Local, Teach Local and Be Social” during October 2021. As part of the challenge, Belton ISD students ate local foods and learned about Texas agriculture, while staff shared their success on social media. For its efforts, Nutrition Services earned the “Best of the Bunch” award — the highest award tier available to school districts.

**D. School Board Appreciation Month**

Dr. Smith thanked Board members for their dedicated and countless hours of service they put in. Trustee service revolves around service to the community, and last year trustees averaged about 100 volunteer hours attending board and committee meetings plus training sessions. They spent an average of 65 additional volunteer hours at other events and meeting with state and local representatives. Each member was presented a copy of the book *I Promise* by LeBron James, which will be placed in all elementary libraries in the District in recognition of the Board. The story aligns with one of BISD’s Journey of a Graduate competencies – Perseverance. Trustees were also given several items provided by students from campuses across the District.

**PRESENTATION OF CHILD SAFETY FEE FUNDS FROM THE CITIES OF BELTON AND MORGAN’S POINT RESORT**

Dr. Smith explained that the County Tax Assessor-Collector collects \$1.50 per vehicle registration in Bell County to support child safety. He expressed thanks for the great partnerships with the Cities of Belton and Morgan’s Point Resort. Belton City Manager Sam Listi indicated the City of Belton has chosen to honor the legislative intent of these fees and direct them to the intended purpose of ensuring the safety of school children. He presented a check to the District in the amount of \$25,720 for use in its crossing guard program.

Dalton Rice, City Manager from the City of Morgan’s Point Resort, indicated the City would like to apply their allocation of \$5,169 toward sidewalk additions to enhance student safety.

**VISION STATEMENT: Empower each and every learner to pursue their dreams and enrich their communities**

Dr. Smith read aloud the Vision Statement and asked the Board to share their thoughts about the what the Vision Statement means to them.

**PUBLIC COMMENTS REGARDING ITEMS ON THE AGENDA**

There were none.

**ACTION ITEMS**

**A. Consider, Discuss, and Take Appropriate Action Regarding the Employment of Administrative Employees**

Todd Schiller, Assistant Superintendent of Human Resources, presented the following recommendation: Melissa Lafferty to serve as Chief Financial Officer (replacing Jennifer Land).

**Belton ISD Board Meeting Minutes  
January 24, 2022 – Page 3**

Suzanne M. McDonald made a motion, seconded by Janet Leigh, to accept the Superintendent's recommendation regarding the selection of District personnel, and the addition of new personnel as presented. The motion carried by a vote of 7-0.

**B. Consider, Discuss, and Take Appropriate Action Regarding the 2020-2021 School Year Comprehensive Annual Financial Report**

Dr. Malinda Golden, Deputy Superintendent introduced Paula Lowe, Pattillo, Brown & Hill, LLP, (and Allison Baker) who reviewed the audit report. She indicated an unmodified opinion was issued based on the basic financial statements that are accompanied by the required supplementary and other information, to include compliance for major federal programs. Ms. Lowe commended the District for its receipt of the Certificate of Achievement for Excellence in Financial Reporting from the Government Finance Officers Association and the Certificate of Excellence in Financial Reporting from the Association of School Business Officials International.

Mr. Alcozer asked about the two awards, and Ms. Lowe indicated both agencies have different criteria, but both have to do with transparency. She explained that not every district participates, but it's a great testament to the business office and the Board/administration to go above and beyond to demonstrate transparency by meticulously documenting the District's policies and procedures.

Ms. McDonald stated it's great to continue to receive good reports from the auditing firm, and expressed thanks to the Board for continuing to help to be great stewards of the District's finances.

Mr. Flor echoed the note of thanks to employees in the business office for the amazing work that they do. Dr. Smith stated he would share the good words and also recognized Dr. Robert Muller who served as interim CFO during this time. Dr. Golden added thanks to Kerri Pridemore, Director of Finance, for her work on the audit this year.

Chris Flor made a motion, seconded by Erin Bass, to approve the comprehensive annual financial report as presented. The motion carried unanimously (7-0).

**C. Consider, Discuss, and Take Appropriate Action Regarding the 2022-2023 Academic Calendar**

Dr. Golden presented a brief overview of the calendar design process and the proposed Academic Calendar for 2022-2023.

Ms. Bass stated she thinks starting school in the middle of the week and the extra days off for students after breaks was very helpful to her and she heard the same from staff and parents alike. Dr. Smith stated he his thankful that the District of Innovation (DOI) Plan allows them to start school earlier.

Ty Taggart made a motion, seconded by Manuel Alcozer, to adopt the 2022-2023 Academic Calendar as presented. The motion carried unanimously (7-0).

**D. Consider, Discuss, and Take Appropriate Action Regarding a Contract with Bell County for Joint Election Services for the May 7, 2022 Elections**

Dr. Smith explained that the Bell County Office of Elections Administration has provided a contract for election services for the May 7, 2022 elections. While this is common practice for most districts, it would be new for Belton ISD. The policy committee reviewed BBB(LEGAL) and BBB(LOCAL)

**Belton ISD Board Meeting Minutes  
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regarding elections at its meeting on January 3 and was provided additional information as requested. Though election costs can vary from year to year, it is believed that potential cost savings would be realized since the District would only pay a portion of costs for election workers, supplies and equipment, and programming fees. The proposed contract identifies programming costs only, but Belton ISD would be invoiced for actual charges incurred.

Mr. Alcozer mentioned the Policy Committee reviewed this information and he agreed the District could realize savings in election expenses.

Ms. McDonald stated that she intends to file for reelection to continue the work she's been doing and will submit the paperwork as soon as she's physically able to.

Chris Flor made a motion, seconded by Suzanne M. McDonald, to approve the contract with Bell County for election services as presented. The motion carried unanimously (7-0).

**REPORTS**

**A. Bond Refunding 2021 Update**

Dr. Smith introduced Jennifer Ritter, the District's Financial Advisor from Specialized Public Finance, Inc. (SPFI), who highlighted the District's September 2021 refunding of outstanding Series 2012 and 2013 bonds for savings due to lower market interest rates. The bonds have call dates for February 2022, with current net present value savings 13% greater than the current payment schedule. The interest rates were between 3.00-3.625% before they were refinanced, but they locked in at an average interest rate of 1.66%, which results in an annual savings of about \$325,000 from 2023-2039. Ms. Ritter praised the Board for consistently taking action to refinance bonds with lower interest rates when the opportunity arises. She noted the District has saved taxpayers \$13,877,443 in the past five years by refunding existing bonds at favorable times.

Mr. Taggart asked if now is the best time to call for a bond given current interest rates, and though she couldn't say for certain what interest rates will do in the future, Ms. Ritter stated she believes it's a great time to borrow especially with the cost of construction going up. Dr. Smith thanked Ms. Ritter for all of her guidance along the way.

**B. Bond Exploration Committee Process and Results**

Dr. Golden presented the results from the Bond Exploration Committee (BEC) process and next steps.

Ms. Leigh expressed thanks to those who served on the BEC, stating she knows how important and impactful it can be. She commended the group for all the work they did and the time commitment serving their community. Mr. Flor echoed the words of thanks and noted the group saw the need to address growth through additional facilities, but also included other items that need attention. He is excited and energized about the ideas, but knows it's going to be a lot of hard work to get there. Mr. Taggart thanked Dr. Golden, Mr. Morgan, and other staff who put their opinions and hearts into this process. He stated he liked the community involvement, but appreciates them guiding the committee through the process. Dr. Smith also thanked all for their efforts. Mr. Norwood agreed there was a great deal of community involvement and long hours, but community involvement is a core belief of BISD and they get to tell the Board how to proceed.

**C. Elementary School Design Update**

Mike Morgan, Assistant Superintendent for Operations, introduced Mike Boyle of Huckabee

## **Belton ISD Board Meeting Minutes January 24, 2022 – Page 5**

Architects, who gave an update on the schematic design for a new elementary school based on feedback from the Facilities Committee, administration and the community.

Mr. Taggart stated he thinks the District needs to build functional spaces that are economically sound then praised the administration team (and the Board) for being proactive with this planning process so the legwork will be done when it's time to move forward. Ms. Bass also expressed thanks to community members who were vocal in providing input, especially those who spoke regarding the special education program which will also benefit. Dr. Smith expressed thanks to all who participated and stated this was an inclusive process that included a teacher focus and student voice.

### **D. Goals and Key Progress Measures Update**

Dr. Smith gave a quick overview of each goal and the status of key progress measures thus far. He indicated he will continue to provide updates in workshops and at the end of the school year.

### **E. Facilities Committee Report**

Chair Ty Taggart gave a report on the Facilities Committee Meeting held on January 19, 2022, that included the following topics:

- Review and Discuss the Following Items:
  1. Bond Elementary Design Update and Site Design
  2. Long Term Facility Needs Report
  3. Bond Exploration Committee Recommendations

### **F. Policy Committee Report**

Chair Manuel Alcozer gave a report on the Policy Committee Meeting held on January 3, 2022, that included the following topics:

- Review and Discuss the Following Items:
  1. FDA(LOCAL): Admissions, Interdistrict Transfers - 1st Reading
  2. FDB(LOCAL): Admissions, Intradistrict Transfers and Classroom Assignments - 1st Reading
  3. BBB(LEGAL): Board Members, Elections
  4. BBB(LOCAL): Board Members, Elections

### **G. Superintendent's Report**

#### **1. Superintendent's Recommendation of Potential Bond Projects**

Dr. Smith briefly touched on highlights for January then outlined his prioritized list of proposed bond projects. The package totaled \$168.2 million and included building two elementary schools, an addition at Southwest Elementary, campus safety and security updates, land acquisition for future facilities and Career & Technical Education and fine arts improvements at Belton High School and Belton New Tech High @Waskow. Also included was a facility for the Delta Program, the District's special education program for students ages 18-22 designed to teach life skills, along with security enhancements, HVAC, roofing, plumbing, electrical repair/replacement, and technology infrastructure and devices.

Dr. Smith recommended the following next steps:

- Hold a Special Board Workshop for study and discussion;
- Consider the recommended package of \$168,264,714 which will address growth; aging and evolving facilities; program equity; and safety;
- Provide input and create a final recommendation; and

**Belton ISD Board Meeting Minutes  
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- Call for a May 2022 bond election prior to February 18, 2022.

Ms. McDonald asked if New Tech would benefit from this bond, and Dr. Smith indicated the CTE line item includes items at New Tech.

Ms. Alcozer recommended that the Board schedule a meeting to discuss the potential bond projects, and all were in favor.

Dr. Smith reminded the Board to submit any questions regarding the proposed list to him in the next couple of days. Mr. Alcozer stated he would like to be provided information on the potential ramifications if they do not take action at this time, and Mr. Flor requested a more detailed breakdown of the project list. Dr. Smith indicated he would provide the breakdown by Thursday.

**CONSENT AGENDA – CONSIDER AND TAKE APPROPRIATE ACTION**

**A. Minutes of Previous Meetings:**

1. December 6, 2021 Policy Committee Meeting – Approve
2. December 6, 2021 Special Meeting – Approve
3. December 8, 2021 Facilities Committee Meeting – Approve
4. December 13, 2021 Workshop Meeting – Approve
5. December 13, 2021 Regular Meeting – Approve

**B. Unaudited Financial Report for the Month Ending December 31, 2021 – Approve report**

**C. Gifts, Grants and Bequests – List provided for information only; no action required**

**D. Supply, Equipment, and Service Bids**

1. RFP #2111-350-268 for Custodial Supplies (Chemical and Non-Chemical) – Approve Complete Supply, Gulf Coast Paper Company, Interboro Packaging Corporation, Pollock Investments Inc., Pyramid School Products, Safeway Supply Inc., Smith Supply Co. LLC, and Unipak Corp., as approved vendors for custodial supplies with a contract that expires January 31, 2023.
2. RFP #2111-575-269 for Printing and Copying Services – Approve vendor list with a contract effective through December 31, 2022, with automatic renewal for three (3) years, one (1) year at a time.
3. RFQ #2112-600-276 for Land Surveying Services – Approve All County Surveying, Inc. with a contract with an initial term of two (2) years with the option to renew up to three (3) additional years in one (1) year increments.

**E. Annual Report of Student Activity Funds Maintained at High Schools – Report only**

**F. FDA(LOCAL): Admissions, Interdistrict Transfers – 2nd Reading – Approve**

**G. FDB(LOCAL): Admissions, Intradistrict Transfers and Classroom Assignments – 2nd Reading – Approve**

Ty Taggart made a motion, seconded by Erin Bass, to approve the consent agenda items as presented. The motion carried by a vote of 7-0.

**BOARD REQUESTS FOR NEW INFORMATION AND/OR REPORTS**

- Dr. Smith noted that Ms. Bass requested the Board be provided an update following the Recharge conference, a day-long professional development opportunity for employees scheduled for February 21.
- Ms. McDonald requested follow-up information on New Tech's transition to a stand-alone campus.

**CALENDAR OF EVENTS**

Mr. Norwood reminded the Board of upcoming events.

**PUBLIC COMMENTS REGARDING NON-AGENDA ITEMS**

Brandon Hall, Belton, talked about comments previously made by the NSBA and referenced other comments made by the District's legal counsel during a meeting. Mr. Hall announced he is running for a place on the Board of Trustees to be a voice for parents.

**ADJOURN**

There being no further business, the meeting was adjourned at 8:48 p.m.

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Jeff Norwood, President

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Manuel Alcozer, Secretary

**Belton Independent School District**  
***Board of Trustee Meeting Agenda Item***  
***February 21, 2022***

**Item:** Unaudited Financial Report for the Month Ending January 31, 2022

**Contact Person:** Kerri Pridemore

**Presented for:**  Action     Report Only

**Supporting Documents:**  None     Attached     Provided Later

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**District Goal or Objective Addressed:**

Goal 5: Maximize our use of resources for both current priorities and plans for the future.

**Background Information:**

It has been Board procedure to review and approve the Monthly Financial Report and Investment Report for the District. The financial reports represent the estimated status of revenue and expenditures at the close of the prior month for the General Fund 199, the Child Nutrition Fund 240 & 242, the Capital Projects Fund 699, and the Debt Service Fund 599. These are unaudited figures and an independent financial audit will be performed for the period ending August 31, 2022 and presented under separate cover.

The monthly and quarterly investment reports provide information on District accounts including balances and investment transactions as of the close of the noted month. CDA(Legal).

Additional information is provided on tax collections and student average daily attendance (ADA). The tax year is October 1 to September 30.

**Fiscal Implications:**

The Board adds to its working knowledge of the total school program through the review of these reports.

**Administrative Recommendation(s):**

Accept the monthly financial and investment report.



# FINANCIAL STATEMENTS & INVESTMENT REPORT

## TABLE OF CONTENTS

### Description

- Financials - Unaudited Statements of Revenues and Expenditures
  - General Operating - 199
  - School Nutrition - 240 & 242
  - Capital Outlay - 699
  - Debt Service - 599
  
- Tax Collection Report
  
- Cash Flow Report
  
- Average Daily Attendance
  
- Investment Report - Monthly

<b>BELTON ISD</b>								
<b>Statement of Unaudited Revenues and Expenditures Budget VS. Actual</b>								
<b>General Operating Fund - Fund 199</b>								
<b>Period Ending January 31, 2022</b>								
	<b>Adopted</b>	<b>Amended</b>		<b>Y-T-D Actual</b>		<b>Balance</b>	<b>Percent</b>	<b>Prior Yr</b>
	<b>Budget</b>	<b>2021-22</b>					<b>of Total</b>	<b>Period</b>
<b>Revenues</b>								
Local Sources	44,660,618	44,660,618	0.00%	40,508,708		4,151,910	90.7%	88.2%
State Sources	84,836,109	84,836,109	0.00%	34,111,102		50,725,007	40.2%	45.3%
Federal Sources	2,608,000	2,608,000	0.00%	616,457		1,991,543	23.6%	25.4%
<b>Total Revenues</b>	<b>132,104,727</b>	<b>132,104,727</b>	<b>0.00%</b>	<b>75,236,267</b>		<b>56,868,460</b>	<b>57.0%</b>	<b>57.9%</b>
<b>Expenditures</b>								
				<b>Expenditures</b>	<b>Encumbrances</b>			
Instruction-11	76,338,573	76,442,497	0.14%	29,482,361	514,979	46,445,157	39.2%	39.6%
Instructional resources & media -12	1,635,915	1,636,191	0.02%	629,118	38,344	968,728	40.8%	39.7%
Curriculum & staff development-13	4,578,445	4,572,704	-0.13%	1,736,567	276	2,835,861	38.0%	37.5%
Instructional leadership-21	2,233,110	2,248,166	0.67%	887,502	14,451	1,346,213	40.1%	35.1%
School leadership-23	8,005,019	8,063,976	0.74%	3,281,574	53,701	4,728,701	41.4%	40.7%
Guidance, counseling, & evaluation - 31	6,106,773	6,110,558	0.06%	2,444,880	10,903	3,654,775	40.2%	37.4%
Social work services-32	176,315	176,315	0.00%	73,249	-	103,066	41.5%	64.3%
Health services-33	2,295,465	2,299,901	0.19%	847,318	5,319	1,447,264	37.1%	37.8%
Student transportation-34	5,126,166	5,105,661	-0.40%	2,451,719	228,208	2,425,734	52.5%	54.6%
School Nutrition-35	-	-	0.00%	-	-	-	0.0%	0.0%
Cocurricular/extracurricular -36	5,943,297	5,947,745	0.07%	2,117,741	357,942	3,472,063	41.6%	40.8%
General administration-41	4,282,871	4,080,397	-4.73%	1,492,600	77,743	2,510,054	38.5%	37.3%
Plant maintenance and operations-51	13,396,702	13,430,711	0.25%	5,393,352	2,292,282	5,745,077	57.2%	56.1%
Security and monitoring services-52	1,489,746	1,498,346	0.58%	624,302	18,640	855,404	42.9%	38.8%
Data processing services-53	4,794,740	4,799,040	0.09%	1,463,745	904,265	2,431,031	49.3%	50.4%
Community services-61	9,000	9,000	0.00%	3,344	-	5,656	37.2%	24.8%
Debt Service-71	69,000	68,250	-1.09%	67,963	-	287	99.6%	211.8%
Facilities acquisition & construction - 81	-	-	0.00%	-	-	-	0.0%	0.0%
Payments to fiscal agent - 93	-	-	0.00%	-	-	-	0.0%	0.0%
Payments to JJAEP-95	15,000	15,000	0.00%	618	-	14,382	4.1%	67.1%
Tax Increment - 97	216,000	216,000	0.00%	-	-	216,000	0.0%	0.0%
Intergovernmental Charges-99	645,000	636,679	-1.29%	309,490	319,923	7,266	98.9%	100.0%
<b>Total Expenditures</b>	<b>137,357,137</b>	<b>137,357,137</b>	<b>0.00%</b>	<b>53,307,443</b>	<b>4,836,975</b>	<b>79,212,720</b>	<b>42.3%</b>	<b>43.5%</b>
<b>Non-Operating Revenue &amp; Expenditure</b>								
	<b>Budget Basis</b>			<b>Y-T-D Actual</b>				
Other resources	0							
Other uses	0							
<b>Total Non-Operating</b>	<b>0</b>	<b>0</b>		<b>0</b>				
<b>Fund Balance (audited), 8-31-2021</b>	<b>39,459,420</b>			<b>39,459,420</b>				
<b>Fund Balance, Ending</b>	<b>34,207,010</b>			<b>56,551,270</b>				

<b>BELTON ISD</b>							
<b>Statement of Unaudited Revenues and Expenditures Budget Vs. Actual</b>							
<b>Child Nutrition - Fund 240, 242</b>							
<b>Period Ending January 31, 2022</b>							
	<b>Adopted</b>	<b>Amended</b>	<b>Y-T-D Actual</b>		<b>Balance</b>	<b>Percent</b>	<b>Prior Yr</b>
	<b>Budget</b>	<b>2021-22</b>				<b>of Total</b>	<b>Period</b>
<b>Revenues</b>							
Local Sources	1,100,000	1,100,000	296,526		803,474	27.0%	49.7%
State Sources	43,000	43,000	72,799		(29,799)	169.3%	29.3%
Federal Sources	5,700,000	5,700,000	3,194,230		2,505,770	56.0%	25.9%
<b>Total Revenues</b>	<b>6,843,000</b>	<b>6,843,000</b>	<b>3,563,556</b>		<b>3,279,445</b>	<b>52.1%</b>	<b>28.3%</b>
<b>Expenditures</b>			<b>Expenditures</b>	<b>Encumbrances</b>			
Food Services, Child Nutrition	6,843,000	6,843,000	3,170,592	801,921	2,870,487	58.1%	49.6%
<b>Total Expenditures</b>	<b>6,843,000</b>	<b>6,843,000</b>	<b>3,170,592</b>	<b>801,921</b>	<b>2,870,487</b>	<b>58.1%</b>	<b>49.6%</b>
<b>Non-Operating Revenue &amp; Expenditure</b>	<b>Budget Basis</b>		<b>Y-T-D Actual</b>				
Other resources	0		0				
Other uses	0		0				
<b>Total Non-Operating</b>	<b>0</b>		<b>0</b>				
<b>Fund Balance (audited), 8-31-2021</b>	<b>839,406</b>		<b>839,406</b>				
<b>Fund Balance, Ending</b>	<b>839,406</b>		<b>430,448</b>				

<b>BELTON ISD</b>							
<b>Statement of Unaudited Revenues and Expenditures Budget Vs. Actual</b>							
<b>Capital Outlay - Fund 6XX</b>							
<b>Period Ending January 31, 2022</b>							
		<b>Amended</b>	<b>Y-T-D Actual</b>		<b>Balance</b>	<b>Percent</b>	<b>Prior Yr</b>
	<b>Budget</b>	<b>2021-22</b>				<b>of Total</b>	<b>Period</b>
<b>Revenues</b>							
Local Sources	-	-	545		(545)	0.0%	0.0%
State Sources	7,570	7,570	-		7,570	0.0%	22.9%
Federal Sources	-	-	-		-	0.0%	0.0%
Bond Proceeds	-	-	-		-	0.0%	0.0%
Total Revenues	7,570	7,570	545		7,025	7%	100.0%
<b>Expenditures</b>							
			<u>Expenditures</u>	<u>Encumbrances</u>			
11	26,645	26,645	26,111	-	534	98.0%	78.4%
12	25	25	-	-	25	0.0%	11.1%
36	-	-	-	-	-	0.0%	92.7%
41	-	-	-	-	-	0.0%	44.3%
51	449,092	449,092	283,997	55,615	109,480	75.6%	47.8%
52	879	879	-	-	879	0.0%	99.1%
53	-	-	-	-	-	0.0%	0.0%
81	5,012,860	5,012,860	925,265	258,685	3,828,909	23.6%	43.7%
Total Expenditures	5,489,501	5,489,501	1,235,374	314,300	3,939,827	28.2%	43.8%
<b>Non-Operating Revenue &amp; Expenditure</b>							
	<b>Budget Basis</b>		<b>Y-T-D Actual</b>				
Other resources	-	-	-				
Other uses	-	-	-				
Total Non-Operating	-	-	-				
Fund Balance (audited), 8-31-2021	5,600,266		5,600,266				
Fund Balance, Ending	118,335		4,051,136				

<b>BELTON ISD</b>							
<b>Statement of Unaudited Revenues and Expenditures Budget Vs. Actual</b>							
<b>Debt Service - Fund 511, 515</b>							
<b>Period Ending January 31, 2022</b>							
	<b>Adopted</b>	<b>Amended</b>	<b>Y-T-D Actual</b>		<b>Balance</b>	<b>Percent</b>	<b>Prior Yr</b>
	<b>Budget</b>	<b>2021-22</b>				<b>of Total</b>	<b>Period</b>
<b>Revenues</b>							
Local Sources	18,345,186	18,345,186	16,817,213		1,527,973	91.7%	87.4%
State Sources	882,009	882,009	610,092		271,917	69.2%	522.9%
Federal Sources							
<b>Total Revenues</b>	<b>19,227,195</b>	<b>19,227,195</b>	<b>17,427,305</b>		<b>1,799,890</b>	<b>90.6%</b>	<b>100.0%</b>
<b>Expenditures</b>			<b>Expenditures</b>	<b>Encumbrances</b>			
Debt Service	19,227,195	19,227,195	29,155	-	19,198,040	0.2%	1.4%
<b>Total Expenditures</b>	<b>19,227,195</b>	<b>19,227,195</b>	<b>29,155</b>	<b>-</b>	<b>19,198,040</b>	<b>0.2%</b>	<b>1.4%</b>
<b>Non-Operating Revenue &amp; Expenditure</b>	<b>Budget Basis</b>		<b>Y-T-D Actual</b>				
Other resources	0		0				
Other uses	0		0				
<b>Total Non-Operating</b>	<b>0</b>		<b>0</b>				
<b>Fund Balance (audited), 8-31-2021</b>	<b>8,682,367</b>		<b>8,682,367</b>				
<b>Fund Balance, Ending</b>	<b>8,682,367</b>		<b>26,080,518</b>				

**BELTON ISD****Combined Budget Summary - Amended**

Fund 199, 2XX, 5XX, 6XX

Period Ending January 31, 2022

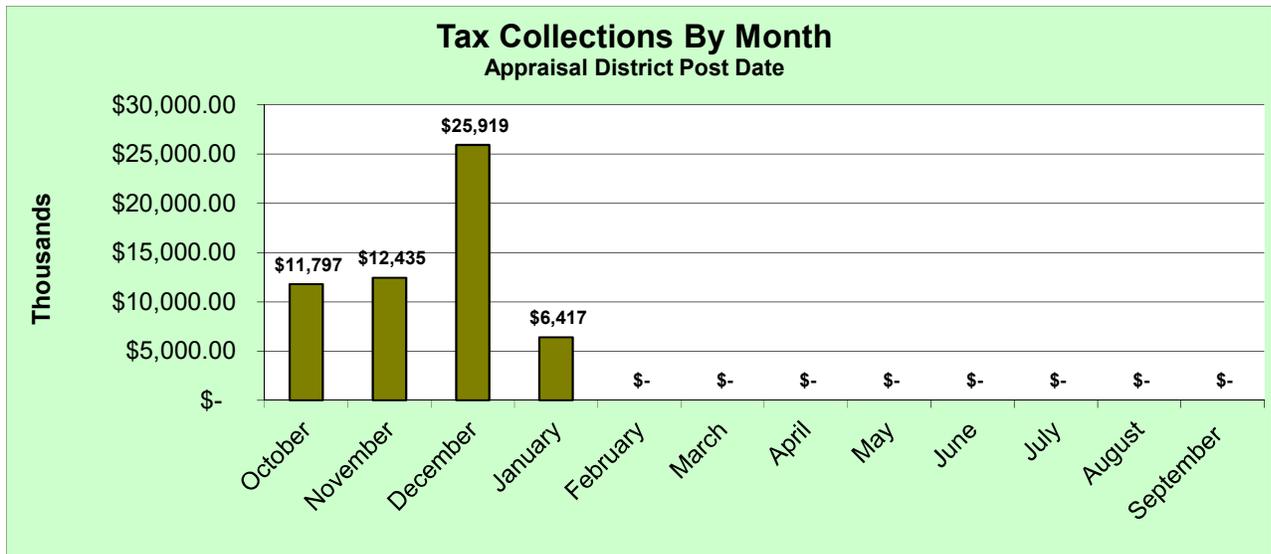
	199 General Fund	240, 242 Child Nutrition	6XX Capital Projects	5XX Debt Service	Combined Total
<b>Revenues</b>					
Local Sources	44,660,618	1,100,000	0	18,345,186	64,105,804
State Sources	84,836,109	43,000	7,570	882,009	85,768,688
Federal Sources	2,608,000	5,700,000	0	-	8,308,000
<b>Total Revenues</b>	<b>132,104,727</b>	<b>6,843,000</b>	<b>7,570</b>	<b>19,227,195</b>	<b>158,182,492</b>
<b>Expenditures</b>					
Instruction-11	76,442,497	-	26,645	-	76,469,142
Instructional resources & media -12	1,636,191	-	25.00	-	1,636,216
Curriculum & staff development-13	4,572,704	-	-	-	4,572,704
Instructional leadership-21	2,248,166	-	-	-	2,248,166
School leadership-23	8,063,976	-	-	-	8,063,976
Guidance, counseling, & evaluation - 31	6,110,558	-	-	-	6,110,558
Social work services-32	176,315	-	-	-	176,315
Health services-33	2,299,901	-	-	-	2,299,901
Student transportation-34	5,105,661	-	-	-	5,105,661
School Nutrition-35	0	6,843,000	-	-	6,843,000
Cocurricular/extracurricular -36	5,947,745	-	-	-	5,947,745
General administration-41	4,080,397	-	-	-	4,080,397
Plant maintenance and operations-51	13,430,711	-	449,092	-	13,879,803
Security and monitoring services-52	1,498,346	-	879	-	1,499,225
Data processing services-53	4,799,040	-	-	-	4,799,040
Community services-61	9,000	-	-	-	9,000
Debt Service-71	68,250	-	-	19,227,195	19,295,445
Facilities acquisition & construction - 81	0	-	5,012,860	-	5,012,860
Payments to fiscal agent - 93	0	-	-	-	-
Payments to JJAEP - 95	15,000	-	-	-	15,000
Increment Fund Payments - 97	216,000	-	-	-	216,000
Intergovernmental Charges-99	636,679.00	-	-	-	636,679
<b>Total Expenditures</b>	<b>137,357,137</b>	<b>6,843,000</b>	<b>5,489,501</b>	<b>19,227,195</b>	<b>168,916,833</b>
-					
<b>Non-Operating Revenue &amp; Expenditure</b>					
Other resources	0	0	0	0	0
Other uses	0	0	0	0	0
<b>Total Non-Operating</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
-					
<b>Fund Balance (audited), 8-31-2021</b>	<b>39,459,420</b>	<b>839,406</b>	<b>5,600,266</b>	<b>8,682,367</b>	<b>54,581,459</b>
-					
<b>Fund Balance, Ending</b>	<b>34,207,010</b>	<b>839,406</b>	<b>118,335</b>	<b>8,682,367</b>	<b>43,847,118</b>

**Tax Collection Report**

<b>Total Tax Levy</b>		<b>\$ 61,745,252</b>
<b>Percent of Levy*</b>	<b>Current Year</b>	<b>91.28%</b>
<b>Percent of Levy**</b>	<b>Current &amp; Delinquent</b>	<b>91.47%</b>
<b>Total Checks</b>		<b>\$ 56,566,700</b>
<b>Balance to Collect</b>		<b>\$ 5,267,593</b>
<b><u>Total Collections</u></b>		
<b>Current*</b>		<b>\$ 56,360,448</b>
<b>Delinquent**</b>		<b>\$ 117,210</b>
<b>Penalties</b>		<b>\$ 89,041</b>
<b><u>Other Reconciled for Posting</u></b>		
<b>Total Checks</b>		<b>\$ 56,566,700</b>

**Collections By Category**

	<b>Current</b>	<b>Delinquent</b>	<b>Penalties</b>	<b>Other</b>	
<b>Maintenance &amp; Operating</b>	39,883,187	86,602	73,886	0	
<b>Interest &amp; Sinking</b>	16,477,261	30,608	15,155	0	<b>\$ 56,566,700</b>



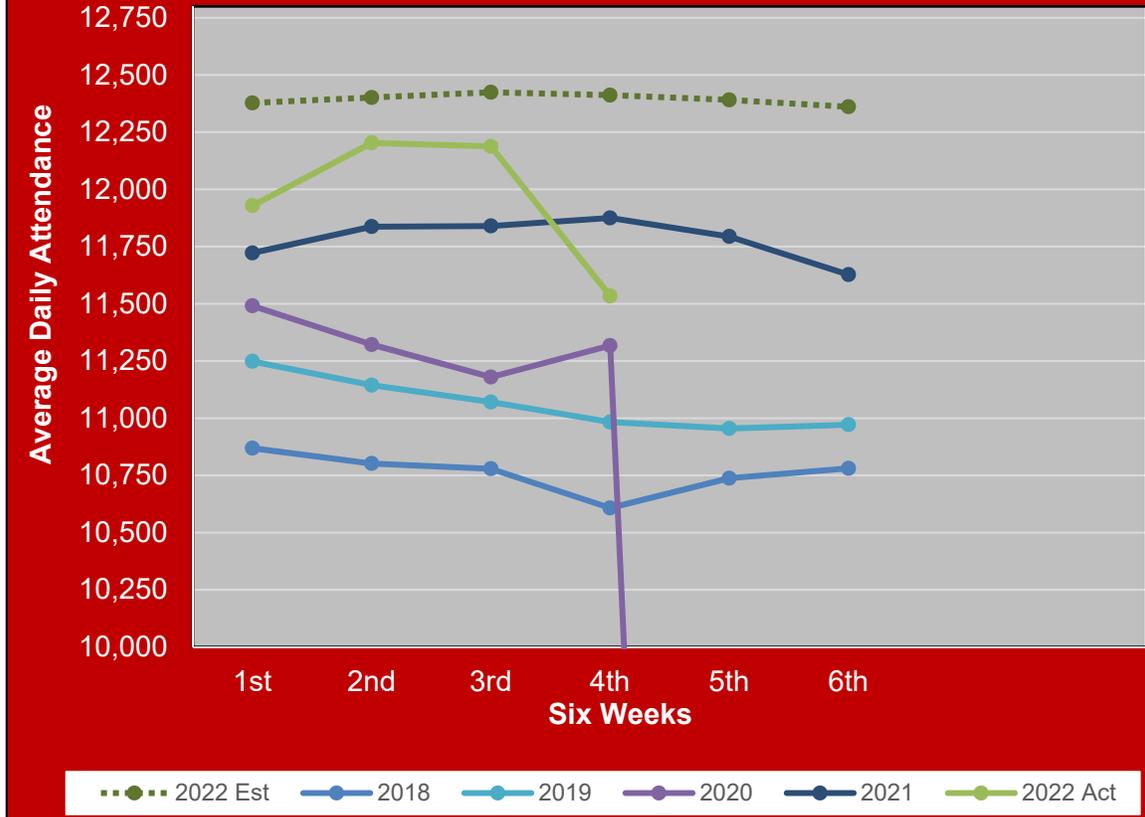
**Cash Flow Projections for BELTON ISD**

**2021-2022**

	(actual and/or projected)												TOTALS	BUDGET	DIFFERENCE	
	September	October	November	December	January	February	March	April	May	June	July	August				
	x Actual	X Actual	X Actual	X Actual	x Actual	Projected	Projected	Projected	Projected	Projected	Projected	Projected				
<b>General Fund and Grants</b>																
<i>Beginning General Fund and School Nutrition Cash Balance</i>	\$ 38,345,762	\$ 38,853,474	\$ 50,469,793	\$ 56,541,706	\$ 67,927,135	\$ 63,107,959	\$ 53,728,292	\$ 42,352,528	\$ 37,166,367	\$ 32,023,556	\$ 29,670,763	\$ 28,261,413				
<b>RECEIPTS</b>																
Tax Collections - Current	\$ 42,883	\$ 8,279,383	\$ 8,798,889	\$ 18,294,093	\$ 4,510,822	\$ 1,964,967	\$ 557,685	\$ 379,051	\$ 196,061	\$ 274,485	\$ 193,011	\$ 104,566	\$ 43,595,896	\$ 43,569,110	\$ 26,786	
Tax Collections - Delinquent	\$ 20,183	\$ 52,569	\$ (5,742)	\$ 20,422	\$ 19,354	\$ 40,000	\$ 60,000	\$ 27,950	\$ 18,487	\$ 1,330	\$ 2,014	\$ 15,354	\$ 271,920	\$ 220,603	\$ 51,317	
Penalties & Interest	\$ 20,858	\$ 18,221	\$ 5,944	\$ 35,240	\$ 14,481	\$ 33,454	\$ 44,639	\$ 41,926	\$ 27,730	\$ 53,044	\$ 30,212	\$ 23,031	\$ 348,780	\$ 330,905	\$ 17,875	
Other Local Revenue	\$ 206,404	\$ 270,993	\$ 205,590	\$ 282,224	\$ 234,123	\$ 45,000	\$ 45,000	\$ 45,000	\$ 45,000	\$ 45,000	\$ 45,000	\$ 45,000	\$ 1,514,334	\$ 540,000	\$ 974,334	
State Revenue - Available School Fund	\$ 231,064	\$ 185,038	\$ 186,206	\$ 436,195	\$ 164,536	\$ 231,064	\$ 231,064	\$ 231,064	\$ 231,064	\$ 231,064	\$ 231,064	\$ 231,064	\$ 2,820,487	\$ 2,364,650	\$ 455,837	
State Revenue - Foundation	\$ 11,072,357	\$ 12,817,424	\$ 6,819,696	\$ 0	\$ 0	\$ 0	\$ 0	\$ 6,500,000	\$ 6,750,000	\$ 9,217,332	\$ 11,384,397	\$ 10,840,597	\$ 75,401,803	\$ 75,596,425	\$ (194,622)	
Other State Revenue	\$ 540,686	\$ 564,727	\$ 0	\$ 1,096,722	\$ 142,126	\$ 572,920	\$ 572,920	\$ 572,920	\$ 750,920	\$ 750,920	\$ 750,920	\$ 6,710,701	\$ 6,875,034	\$ (164,333)		
Federal Revenue	\$ 256,918	\$ 688,288	\$ 155,994	\$ 4,636,300	\$ 369,270	\$ 259,918	\$ 259,918	\$ 259,918	\$ 259,918	\$ 259,918	\$ 259,918	\$ 259,918	\$ 7,926,196	\$ 2,608,000	\$ 5,318,196	
Other Sources	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	
<b>Total Revenue</b>	<b>\$ 12,391,353</b>	<b>\$ 22,876,643</b>	<b>\$ 16,166,577</b>	<b>\$ 24,801,196</b>	<b>\$ 5,454,711</b>	<b>\$ 3,147,323</b>	<b>\$ 1,771,226</b>	<b>\$ 8,057,829</b>	<b>\$ 8,101,179</b>	<b>\$ 10,833,093</b>	<b>\$ 12,896,536</b>	<b>\$ 12,092,450</b>	<b>\$ 138,590,117</b>	<b>\$ 132,104,727</b>	<b>\$ 6,485,390</b>	
<b>DISBURSEMENTS</b>																
Payroll	\$ 7,589,284	\$ 8,294,644	\$ 7,882,568	\$ 9,156,512	\$ 7,716,245	\$ 8,384,209	\$ 8,404,209	\$ 8,404,209	\$ 8,404,209	\$ 8,404,209	\$ 9,584,209	\$ 8,384,209	\$ 100,608,717	\$ 100,610,509	\$ 1,792	
Payroll Benefits	\$ 1,652,977	\$ 1,758,847	\$ 882,508	\$ 2,550,568	\$ 860,886	\$ 1,730,649	\$ 1,930,649	\$ 1,930,649	\$ 1,930,649	\$ 1,930,649	\$ 1,870,649	\$ 1,730,649	\$ 20,760,327	\$ 20,767,784	\$ 7,457	
Expenditures - Other Than Payroll	\$ 2,252,584	\$ 1,554,296	\$ 1,705,527	\$ 1,713,997	\$ 1,749,804	\$ 2,392,444	\$ 2,792,444	\$ 2,892,444	\$ 2,892,444	\$ 2,892,444	\$ 2,892,444	\$ 2,892,444	\$ 28,623,318	\$ 28,709,333	\$ 86,015	
<b>Total Disbursements</b>	<b>\$ 11,494,845</b>	<b>\$ 11,607,788</b>	<b>\$ 10,470,603</b>	<b>\$ 13,421,077</b>	<b>\$ 10,326,935</b>	<b>\$ 12,507,302</b>	<b>\$ 13,127,302</b>	<b>\$ 13,227,302</b>	<b>\$ 13,227,302</b>	<b>\$ 13,227,302</b>	<b>\$ 14,347,302</b>	<b>\$ 13,007,302</b>	<b>\$ 149,992,362</b>	<b>\$ 150,087,626</b>	<b>\$ 95,264</b>	
<b>Net Change in Cash from General Fund and Grants</b>	<b>\$ 896,508</b>	<b>\$ 11,268,855</b>	<b>\$ 5,695,974</b>	<b>\$ 11,380,119</b>	<b>\$ (4,872,223)</b>	<b>\$ (9,359,979)</b>	<b>\$ (11,356,076)</b>	<b>\$ (5,169,473)</b>	<b>\$ (5,126,123)</b>	<b>\$ (2,394,209)</b>	<b>\$ (1,450,766)</b>	<b>\$ (914,853)</b>	<b>\$ (11,402,246)</b>			
<b>School Nutrition</b>																
<b>RECEIPTS</b>																
Food Service Activity - Local	\$ 77,459	\$ 75,620	\$ 68,662	\$ 58,352	\$ 16,432	\$ 86,000	\$ 86,000	\$ 86,000	\$ 86,000	\$ 81,818	\$ 81,818	\$ 81,818	\$ 885,979	\$ 1,010,000	\$ (124,021)	
Food Service Activity - State	\$ 16,994	\$ 21,550	\$ 0	\$ 34,256	\$ 0	\$ 5,838	\$ 5,838	\$ 5,838	\$ 5,838	\$ 2,100	\$ 2,100	\$ 2,100	\$ 102,452	\$ 53,000	\$ 49,452	
Food Service Activity - Federal	\$ 0	\$ 941,996	\$ 887,188	\$ 760,584	\$ 604,463	\$ 605,000	\$ 605,000	\$ 605,000	\$ 605,000	\$ 175,000	\$ 175,000	\$ 175,000	\$ 6,139,231	\$ 5,780,000	\$ 359,231	
Others Sources	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	
<b>Total Receipts</b>	<b>\$ 94,453</b>	<b>\$ 1,039,166</b>	<b>\$ 955,850</b>	<b>\$ 853,192</b>	<b>\$ 620,895</b>	<b>\$ 696,838</b>	<b>\$ 696,838</b>	<b>\$ 696,838</b>	<b>\$ 696,838</b>	<b>\$ 258,918</b>	<b>\$ 258,918</b>	<b>\$ 258,918</b>	<b>\$ 7,127,662</b>	<b>\$ 6,843,000</b>	<b>\$ 284,662</b>	
<b>DISBURSEMENTS</b>																
Payroll	\$ 216,435	\$ 387,930	\$ 279,316	\$ 305,345	\$ 193,469	\$ 411,526	\$ 411,526	\$ 411,526	\$ 411,526	\$ 127,502	\$ 127,502	\$ 127,502	\$ 3,411,105	\$ 3,870,260	\$ (459,155)	
Expenditures other than payroll	\$ 266,814	\$ 303,772	\$ 300,595	\$ 542,537	\$ 374,379	\$ 305,000	\$ 305,000	\$ 302,000	\$ 302,000	\$ 90,000	\$ 90,000	\$ 90,000	\$ 3,272,097	\$ 2,972,740	\$ 299,357	
<b>Total Disbursements</b>	<b>\$ 483,249</b>	<b>\$ 691,702</b>	<b>\$ 579,911</b>	<b>\$ 847,882</b>	<b>\$ 567,848</b>	<b>\$ 716,526</b>	<b>\$ 716,526</b>	<b>\$ 713,526</b>	<b>\$ 713,526</b>	<b>\$ 217,502</b>	<b>\$ 217,502</b>	<b>\$ 217,502</b>	<b>\$ 6,683,202</b>	<b>\$ 6,843,000</b>	<b>\$ (159,798)</b>	
<b>Net Change in Cash from School Nutrition</b>	<b>\$ (388,796)</b>	<b>\$ 347,464</b>	<b>\$ 375,939</b>	<b>\$ 5,310</b>	<b>\$ 53,047</b>	<b>\$ (19,688)</b>	<b>\$ (19,688)</b>	<b>\$ (16,688)</b>	<b>\$ (16,688)</b>	<b>\$ 41,416</b>	<b>\$ 41,416</b>	<b>\$ 41,416</b>	<b>\$ 444,460</b>			
<i>Ending General Fund and School Nutrition Cash Balance</i>	<b>\$ 38,853,474</b>	<b>\$ 50,469,793</b>	<b>\$ 56,541,706</b>	<b>\$ 67,927,135</b>	<b>\$ 63,107,959</b>	<b>\$ 53,728,292</b>	<b>\$ 42,352,528</b>	<b>\$ 37,166,367</b>	<b>\$ 32,023,556</b>	<b>\$ 29,670,763</b>	<b>\$ 28,261,413</b>	<b>\$ 27,387,976</b>	<b>\$ (10,957,786)</b>			
<b>Debt Service Fund</b>																
<i>Beginning Debt Service Cash Balance</i>	\$ 9,907,586	\$ 10,007,033	\$ 13,542,364	\$ 17,800,732	\$ 25,432,859	\$ 27,305,737	\$ 14,967,534	\$ 15,151,970	\$ 15,334,406	\$ 15,496,290	\$ 15,681,171	\$ 15,826,522				
<b>RECEIPTS</b>																
Tax Collections - Current	\$ 17,381	\$ 3,420,915	\$ 3,636,051	\$ 7,558,610	\$ 1,861,685	\$ 805,766	\$ 155,436	\$ 155,436	\$ 80,398	\$ 80,500	\$ 51,151	\$ 42,879	\$ 17,866,208	\$ 17,866,208	\$ (0)	
Tax Collections - Delinquent	\$ 7,255	\$ 19,848	\$ (2,681)	\$ 7,261	\$ 6,160	\$ 9,031	\$ 8,000	\$ 8,000	\$ 7,486	\$ 7,400	\$ 6,200	\$ 6,217	\$ 90,198	\$ 89,331	\$ 867	
Penalties & Interest	\$ 7,550	\$ 5,841	\$ 2,157	\$ 3,125	\$ 4,033	\$ 20,000	\$ 19,000	\$ 17,000	\$ 12,000	\$ 21,480	\$ 12,500	\$ 9,326	\$ 134,012	\$ 133,997	\$ 15	
Interest Income	\$ 205	\$ 211	\$ 219	\$ 210	\$ 11,948	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 12,793	\$ 5,650	\$ 7,143	
Other Local Revenue	\$ 69,238	\$ 91,524	\$ 14,768	\$ 62,870	\$ 10,810	\$ 2,000	\$ 2,000	\$ 2,000	\$ 2,000	\$ 2,000	\$ 2,000	\$ 2,000	\$ 263,210	\$ 250,000	\$ 13,210	
State Revenue	\$ 0	\$ 0	\$ 610,092	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 60,000	\$ 73,501	\$ 73,501	\$ 73,501	\$ 890,594	\$ 882,009	\$ 8,585	
<b>Total Receipts</b>	<b>\$ 101,629</b>	<b>\$ 3,538,339</b>	<b>\$ 4,260,626</b>	<b>\$ 7,632,076</b>	<b>\$ 1,894,636</b>	<b>\$ 836,797</b>	<b>\$ 184,436</b>	<b>\$ 182,436</b>	<b>\$ 161,884</b>	<b>\$ 184,880</b>	<b>\$ 145,352</b>	<b>\$ 133,923</b>	<b>\$ 19,257,015</b>	<b>\$ 19,227,195</b>	<b>\$ 29,820</b>	
<b>DISBURSEMENTS</b>																
Bond Payments and Fees	\$ 2,182	\$ 3,008	\$ 2,258	\$ (51)	\$ 21,758	\$ 13,175,000	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0	\$ 6,040,070	\$ 19,244,225	\$ 19,227,195	\$ 17,030
<b>Total Disbursements</b>	<b>\$ 2,182</b>	<b>\$ 3,008</b>	<b>\$ 2,258</b>	<b>\$ (51)</b>	<b>\$ 21,758</b>	<b>\$ 13,175,000</b>	<b>\$ 0</b>	<b>\$ 0</b>	<b>\$ 0</b>	<b>\$ 0</b>	<b>\$ 0</b>	<b>\$ 0</b>	<b>\$ 6,040,070</b>	<b>\$ 19,244,225</b>	<b>\$ 19,227,195</b>	<b>\$ 17,030</b>
<b>Net Change in Cash</b>	<b>\$ 99,447</b>	<b>\$ 3,535,331</b>	<b>\$ 4,258,368</b>	<b>\$ 7,632,127</b>	<b>\$ 1,872,878</b>	<b>\$ (12,338,203)</b>	<b>\$ 184,436</b>	<b>\$ 182,436</b>	<b>\$ 161,884</b>	<b>\$ 184,880</b>	<b>\$ 145,352</b>	<b>\$ (5,906,147)</b>	<b>\$ 12,790</b>			
<i>Ending Debt Service Cash Balance</i>	<b>\$ 10,007,033</b>	<b>\$ 13,542,364</b>	<b>\$ 17,800,732</b>	<b>\$ 25,432,859</b>	<b>\$ 27,305,737</b>	<b>\$ 14,967,534</b>	<b>\$ 15,151,970</b>	<b>\$ 15,334,406</b>	<b>\$ 15,496,290</b>	<b>\$ 15,681,171</b>	<b>\$ 15,826,522</b>	<b>\$ 9,920,376</b>	<b>\$ 12,790</b>			
<b>Ending Cash Grand Total</b>	<b>48,860,507</b>	<b>64,012,157</b>	<b>74,342,438</b>	<b>93,359,994</b>	<b>90,413,696</b>	<b>68,695,826</b>	<b>57,504,498</b>	<b>52,500,773</b>	<b>47,519,846</b>	<b>45,351,934</b>	<b>44,087,935</b>	<b>37,308,352</b>	<b>(10,944,996)</b>			

**Note: This schedule estimates the cash position, not projected fund balance.**

## Average Daily Attendance



School Year	1st	2nd	3rd	4th	5th	6th	Annual	Change
2018	10,869	10,802	10,779	10,608	10,737	10,780	10,762	400
2019	11,248	11,144	11,071	10,983	10,955	10,972	11,062	300
2020	11,491	11,322	11,179	11,317	C-19	C-19	11,282	220
2021	11,722	11,837	11,840	11,875	11,794	11,627	11,783	501
* 2022 Act	11,929	12,203	12,188	11,534				
** 2022 Est	12,378	12,401	12,424	12,412	12,391	12,361	12,394	1,332

\*Actual six-weeks ADA count from the District student accounting system.

\*\*Initial projected six-weeks data for budgeted ADA.



# Monthly Investment Report

PREPARED FOR BELTON ISD

JANUARY 31, 2021



**PATTERSON  
& ASSOCIATES**

A MEEDER INVESTMENT MANAGEMENT COMPANY

WITH YOU. FOR YOU.

# The Fed Looks for Balance

The Federal Reserve is definitely in a hawkish mood. The economy continues to grow solidly at a 7% pace. That means the time for accommodation has passed with little reason to initiate new stimulus or maintain pandemic level support. The “solid” recovery means a faster move to less accommodation and faster rate hikes.

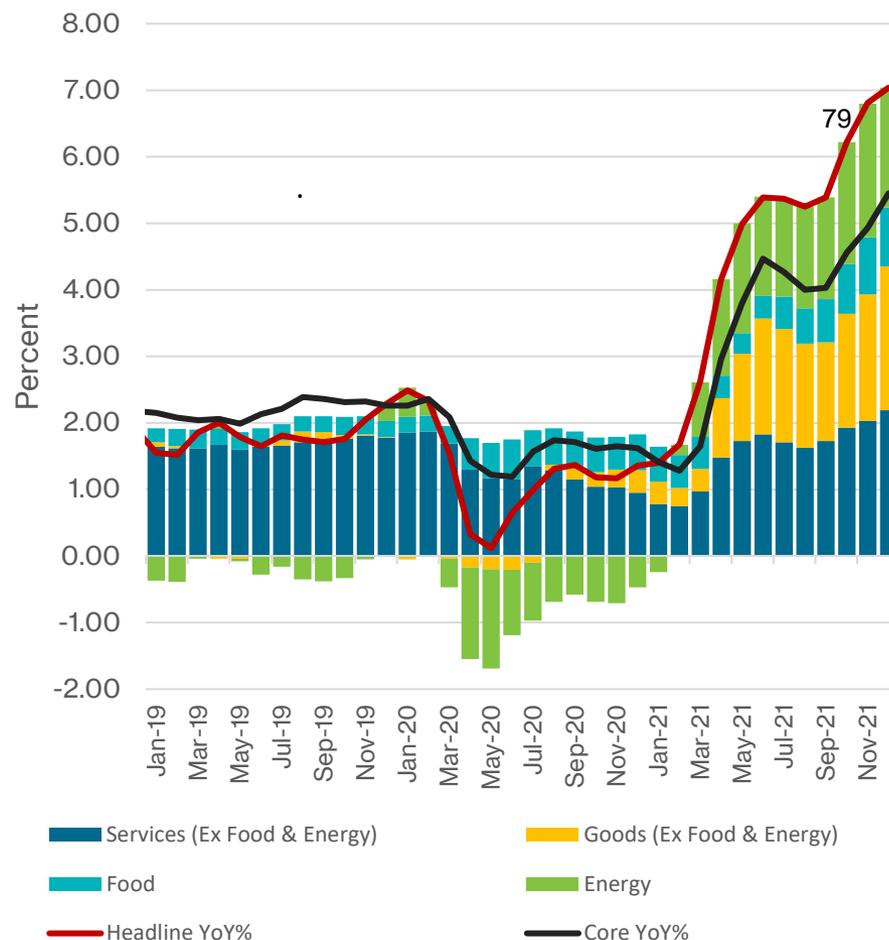
Chair Powell has indicated that the taper will be complete in March 2022 but questions remain whether asset sales or maturity run-off will produce the needed results.

The first tool the Fed uses is communication to provide the markets guidance allowing further actions to be enacted appropriately. The urgency comes from the mounting inflation which now stands at 5%; 2% above the Fed target. The second tool this time will be to eliminate the accommodative buying of securities. This should end in March. An actual rate hike of the overnight rate should start thereafter.

The price of oil (above \$100) is one element in the pace of the move as its impact on inflation and consumer psyche is immense.

The liquidity cure has now become the disease. Can this inflation be tamed? A key question is whether inflation is primarily cyclical or covid driven. If covid driven, raising rates too fast and large a rate increase could result in recession. If cyclical, continued reduction is appropriate. How fast and how much the Fed can raise rates before throttling growth is their balancing question.

## Consumer Price Index (CPI) Year over Year



# Global Recovery at the Mercy of Covid

All Fed actions will focus on inflation and employment. But there several other issues with major implications.

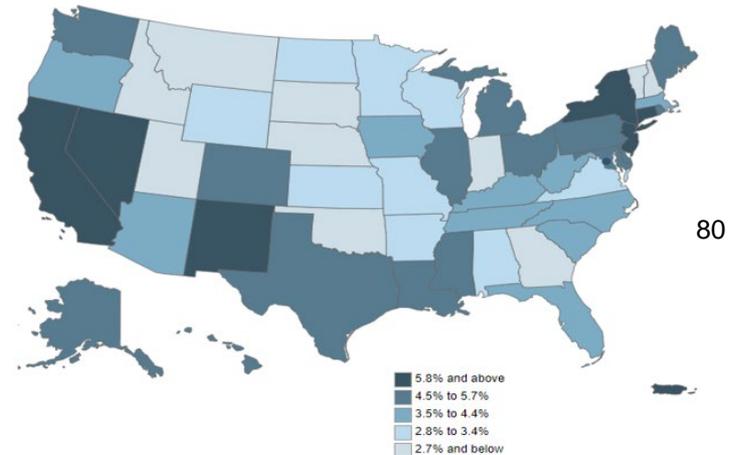
According to the US Treasury, US national debt has topped \$30T (125% of GDP) for the first time in history so servicing that debt becomes a real consideration. It affects the value of the dollar as a reserve currency and its global confidence in the dollar. Elevated inflation and slower growth would be a massive problem especially with interest rates increasing, elevated healthcare costs on an aging population, declining workforce participation, and DC's expenditures outpacing tax receipts. Covid was the major issue in rising debt with \$5.7T added in two administrations. This is not dangerous if we can indefinitely outpace GDP so the economy must be supported.

Employment remains a big question mark. The jobs opening and turnover index (JOLTS) rose in December and quit rates (10.9M) remain at a scary 2.9%.

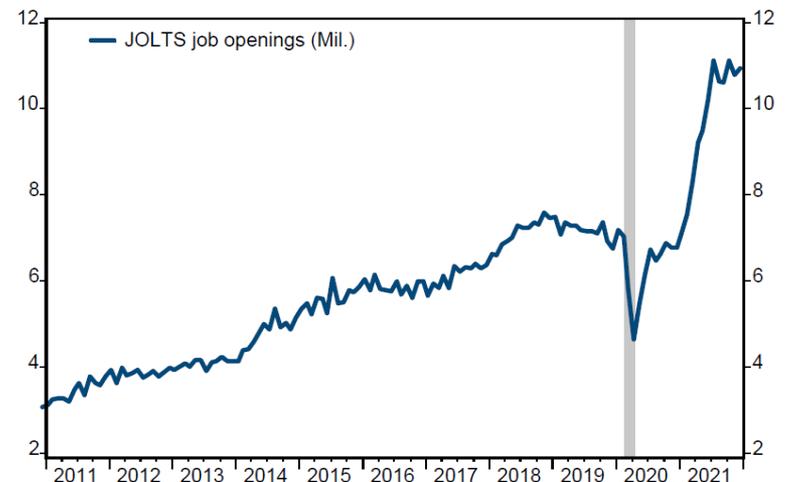
In addition, geo-politics add a measure of uncertainty and could force investors back into the bond markets for safety, thereby lowering rates. China and North Korea continue to rattle swords and Russia has drawn its sword in Ukraine where both sides are mounting 'defenses'. 'Russia's Roulette' (as termed by The Economist) may result in stiff sanctions including fiscal financial institution blocks and resulting stress on our European allies.

All this adds to the balance that the Fed must achieve in timely and reasonable actions.

State unemployment rates, December 2021, seasonally adjusted



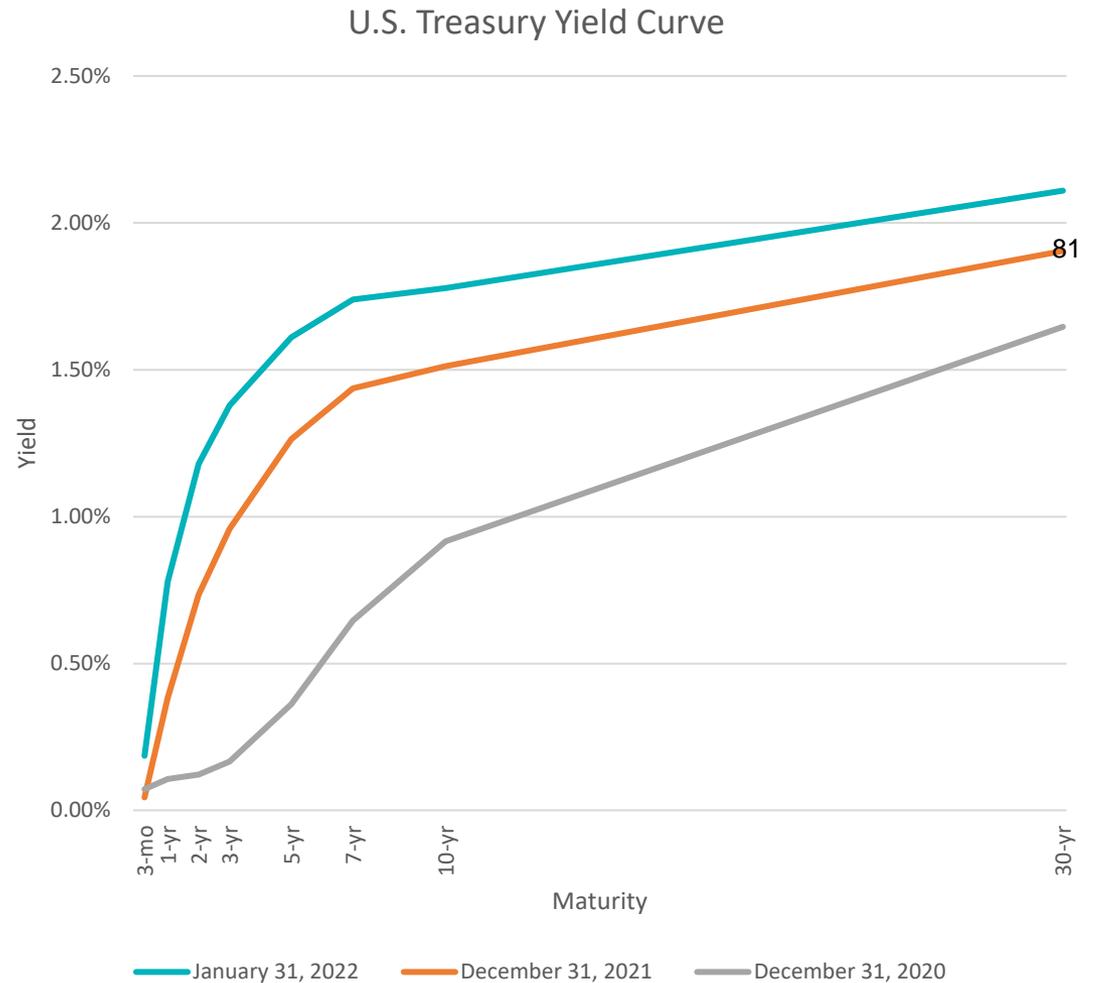
Source: Bureau of Labor Statistics 2/4/2022



Source: Bureau of Labor Statistics/Haver Analytics

# The Fed's Planned Taper has Its Uplifting Effect

- The Fed's announcements to taper quickly and decisively raised the entire curve as longer-term investors fled decreasing bond prices
- The markets anticipate rate hikes starting in March, even expecting four 0.25% hikes this year.
- Some expectations are for a 0.50% hike initially, but the Fed has many factors to consider before making a major jump (moves are normally 0.25% each).
- The market as shown does the Fed's work as rates across the curve rise – but not a parallel move. That will depend crucially on the first overnight rate size in March.



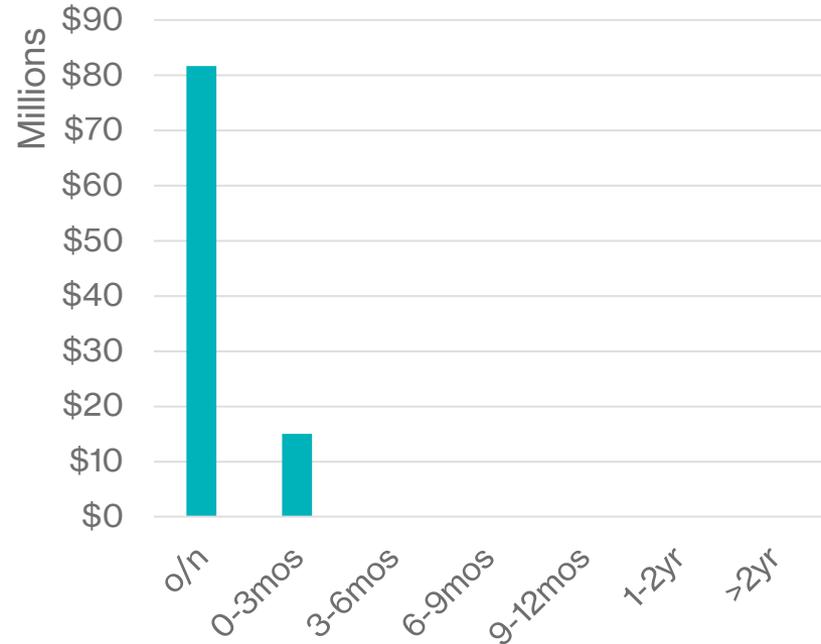
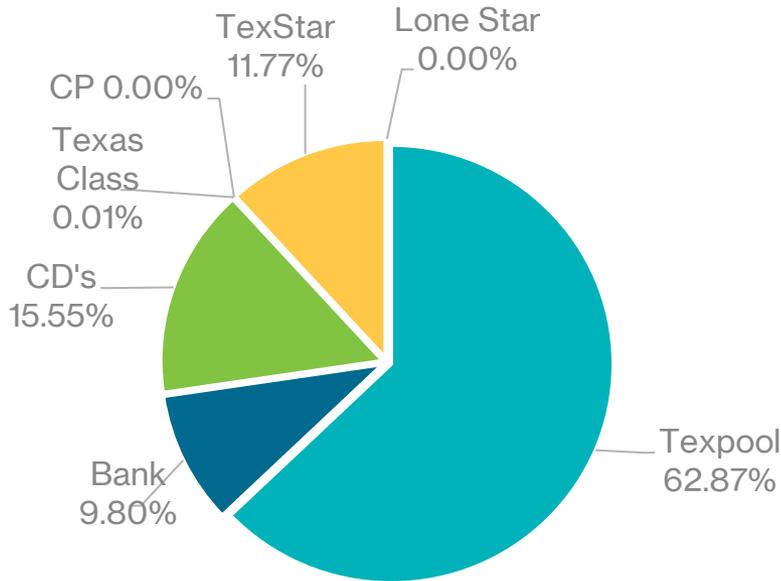
End of Month Rates - Full Yield Curve – Fed Funds to 30yr

# Portfolio Overview

As of January 31, 2022

- P&A constantly reviews your portfolio for optimal asset allocation and a controlled average maturity because a diversified portfolio can better adjust to volatile market conditions. These are unusual times and where extensions can be made it is important to make them to find any available safe value in the markets.
- The graphs below show asset allocations by market sector and by maturity in your portfolio. Liquidity has been reduced to little or no value but with a flat short curve it may be the only sector available out to twelve months without the use of CP. Our expectation is of continuing dimly low rates, but we look for value in your authorized sectors to capture the yield available as markets change.
- The non-cash portion of your portfolio is yielding 0.21%.

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**Belton ISD  
Portfolio Management  
Portfolio Summary  
January 31, 2022**

Investments	Par Value	Market Value	Book Value	% of Portfolio	Term	Days to Maturity	YTM 365 Equiv.
Texas Class	11,612.86	11,612.86	11,612.86	0.01	1	1	0.097
Texpool/Texpool Prime	60,826,273.90	60,826,273.90	60,826,273.90	62.87	1	1	0.070
TexStar	11,387,484.55	11,387,484.55	11,387,484.55	11.77	1	1	0.010
Lone Star	464.98	464.98	464.98	0.00	1	1	0.000
Bank Accounts/CD's int pd monthly	24,525,521.85	24,525,521.85	24,525,521.85	25.35	56	53	0.129
	<b>96,751,358.14</b>	<b>96,751,358.14</b>	<b>96,751,358.14</b>	<b>100.00%</b>	<b>15</b>	<b>14</b>	<b>0.078</b>

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Total Earnings	January 31 Month Ending	Fiscal Year To Date
Current Year	4,773.35	19,533.78

The following reports are submitted in accordance with the Public Funds Investment Act (Texas Gov't Code 2256). The reports also offer supplemental information not required by the Act in order to fully inform the governing body of Belton ISD of the position and activity within the District's portfolio of investment. The reports include a management summary overview, a detailed inventory report for the end of the period, a transaction report, as well as graphic representations of the portfolio to provide full disclosure to the governing body.

*Kerri X. Pridemore*      *2/14/2022*  
Kerri Pridemore, Director of Finance

**Belton ISD  
Summary by Type  
January 31, 2022  
Grouped by Fund**

Patterson & Associates  
901 S. MoPac  
Suite 195  
Austin, TX 78746  
-

<b>Security Type</b>	<b>Number of Investments</b>	<b>Par Value</b>	<b>Book Value</b>	<b>% of Portfolio</b>	<b>Average YTM 365</b>	<b>Average Days to Maturity</b>
<b>Fund: Construction Funds</b>						
Bank Accounts/CD's int pd monthly	4	1,402,105.65	1,402,105.65	1.45	0.008	1
Logic	1	0.00	0.00	0.00	0.000	0
Lone Star	1	0.00	0.00	0.00	0.000	0
Texas Class	1	0.00	0.00	0.00	0.000	0
Texpool/Texpool Prime	4	3,728,142.31	3,728,142.31	3.85	0.038	1
TexStar	2	0.00	0.00	0.00	0.000	0
<b>Subtotal</b>	<b>13</b>	<b>5,130,247.96</b>	<b>5,130,247.96</b>	<b>5.30</b>	<b>0.029</b>	<b>1</b>
<b>Fund: Capital Projects Fund</b>						
Bank Accounts/CD's int pd monthly	1	146,054.08	146,054.08	0.15	0.000	1
<b>Subtotal</b>	<b>1</b>	<b>146,054.08</b>	<b>146,054.08</b>	<b>0.15</b>	<b>0.000</b>	<b>1</b>
<b>Fund: Debt Service Funds</b>						
Bank Accounts/CD's int pd monthly	2	5,129,025.13	5,129,025.13	5.30	0.205	83
Texpool/Texpool Prime	1	16,227,311.42	16,227,311.42	16.77	0.097	1
TexStar	1	569,406.51	569,406.51	0.59	0.010	1
<b>Subtotal</b>	<b>4</b>	<b>21,925,743.06</b>	<b>21,925,743.06</b>	<b>22.66</b>	<b>0.120</b>	<b>20</b>
<b>Fund: General Fund</b>						
Bank Accounts/CD's int pd monthly	4	17,848,336.99	17,848,336.99	18.45	0.118	49
Lone Star	1	464.98	464.98	0.00	0.000	1
Texas Class	1	11,612.86	11,612.86	0.01	0.096	1
Texpool/Texpool Prime	3	40,870,820.17	40,870,820.17	42.24	0.061	1
TexStar	1	10,818,078.04	10,818,078.04	11.18	0.010	1
<b>Subtotal</b>	<b>10</b>	<b>69,549,313.04</b>	<b>69,549,313.04</b>	<b>71.88</b>	<b>0.068</b>	<b>13</b>
<b>Total and Average</b>	<b>28</b>	<b>96,751,358.14</b>	<b>96,751,358.14</b>	<b>100.00</b>	<b>0.078</b>	<b>14</b>

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**Belton ISD**  
**Fund CON - Construction Funds**  
**Investments by Fund**  
**January 31, 2022**

Patterson & Associates  
901 S. MoPac  
Suite 195  
Austin, TX 78746  
-

CUSIP	Investment #	Issuer	Purchase Date	Book Value	Par Value	Market Value	Current Rate	YTM 360	YTM 365	Maturity Days To Date Maturity
<b>Texas Class</b>										
6550001	10007	Texas Class	09/01/2021	0.00	0.00	0.00	0.051	0.049	0.050	1
<b>Subtotal and Average</b>				<b>0.00</b>	<b>0.00</b>	<b>0.00</b>		<b>0.000</b>	<b>0.000</b>	<b>85</b>
<b>Logic</b>										
54001	10002	Logic	10/01/2017	0.00	0.00	0.00				1
<b>Subtotal and Average</b>				<b>0.00</b>	<b>0.00</b>	<b>0.00</b>		<b>0.000</b>	<b>0.000</b>	<b>0</b>
<b>Texpool/Texpool Prime</b>										
500007	10011	Texpool	10/01/2017	615,361.38	615,361.38	615,361.38	0.038	0.037	0.037	1
500008	10012	Texpool	10/01/2017	0.00	0.00	0.00				1
500010	10070	Texpool	04/15/2020	3,112,780.93	3,112,780.93	3,112,780.93	0.038	0.037	0.037	1
500009A	10040	Texpool Prime	06/06/2018	0.00	0.00	0.00				1
<b>Subtotal and Average</b>				<b>3,728,142.31</b>	<b>3,728,142.31</b>	<b>3,728,142.31</b>		<b>0.037</b>	<b>0.038</b>	<b>1</b>
<b>TexStar</b>										
20170	10004	TexStar	10/01/2017	0.00	0.00	0.00	0.010	0.009	0.010	1
20120	10006	TexStar	10/01/2017	0.00	0.00	0.00				1
<b>Subtotal and Average</b>				<b>0.00</b>	<b>0.00</b>	<b>0.00</b>		<b>0.000</b>	<b>0.000</b>	<b>0</b>
<b>Lone Star</b>										
14903	10000	Lone Star Govt ON	10/01/2017	0.00	0.00	0.00				1
<b>Subtotal and Average</b>				<b>0.00</b>	<b>0.00</b>	<b>0.00</b>		<b>0.000</b>	<b>0.000</b>	<b>0</b>
<b>Bank Accounts/CD's int pd monthly</b>										
06216	10062	BBVA Public Fd Interest Chkg	10/01/2019	1,101,570.48	1,101,570.48	1,101,570.48	0.010	0.009	0.010	1
58524	10030	BBVA Treasury Mngmt Anal. Chkg	10/01/2017	6.93	6.93	6.93				1
98610	10031	BBVA Treasury Mngmt Anal. Chkg	10/01/2017	300,528.24	300,528.24	300,528.24				1
38508	10032	BBVA Treasury Mngmt Anal. Chkg	10/01/2017	0.00	0.00	0.00				1
<b>Subtotal and Average</b>				<b>1,402,105.65</b>	<b>1,402,105.65</b>	<b>1,402,105.65</b>		<b>0.008</b>	<b>0.008</b>	<b>1</b>
<b>Total Investments and Average</b>				<b>5,130,247.96</b>	<b>5,130,247.96</b>	<b>5,130,247.96</b>		<b>0.029</b>	<b>0.029</b>	<b>1</b>

**Fund CP - Capital Projects Fund  
Investments by Fund  
January 31, 2022**

CUSIP	Investment #	Issuer	Purchase Date	Book Value	Par Value	Market Value	Current Rate	YTM 360	YTM 365	Maturity Days To Date Maturity
<b>Bank Accounts/CD's int pd monthly</b>										
22689	10035	BBVA Treasury Mngmt Anal. Chkg	10/01/2017	146,054.08	146,054.08	146,054.08				1
<b>Subtotal and Average</b>				<b>146,054.08</b>	<b>146,054.08</b>	<b>146,054.08</b>	<b>0.000</b>	<b>0.000</b>		<b>1</b>
<b>Total Investments and Average</b>				<b>146,054.08</b>	<b>146,054.08</b>	<b>146,054.08</b>	<b>0.000</b>	<b>0.000</b>		<b>86</b>

**Fund DS - Debt Service Funds  
Investments by Fund  
January 31, 2022**

CUSIP	Investment #	Issuer	Purchase Date	Book Value	Par Value	Market Value	Current Rate	YTM 360	YTM 365	Maturity Days To Date Maturity
<b>Texpool/Texpool Prime</b>										
500004A	10041	Texpool Prime	06/06/2018	16,227,311.42	16,227,311.42	16,227,311.42	0.098	0.096	0.097	1
<b>Subtotal and Average</b>				<b>16,227,311.42</b>	<b>16,227,311.42</b>	<b>16,227,311.42</b>		<b>0.096</b>	<b>0.098</b>	<b>1</b>
<b>TexStar</b>										
33330	10003	TexStar	10/01/2017	569,406.51	569,406.51	569,406.51	0.010	0.009	0.010	87 1
<b>Subtotal and Average</b>				<b>569,406.51</b>	<b>569,406.51</b>	<b>569,406.51</b>		<b>0.010</b>	<b>0.010</b>	<b>1</b>
<b>Bank Accounts/CD's int pd monthly</b>										
57670	10033	BBVA Treasury Mngmt Anal. Chkg	10/01/2017	117,570.99	117,570.99	117,570.99				1
172250207D	10081	East West Bank	01/27/2022	5,011,454.14	5,011,454.14	5,011,454.14	0.210	0.207	0.210	04/27/2022 85
<b>Subtotal and Average</b>				<b>5,129,025.13</b>	<b>5,129,025.13</b>	<b>5,129,025.13</b>		<b>0.202</b>	<b>0.205</b>	<b>83</b>
<b>Total Investments and Average</b>				<b>21,925,743.06</b>	<b>21,925,743.06</b>	<b>21,925,743.06</b>		<b>0.119</b>	<b>0.120</b>	<b>20</b>

**Fund GEN - General Fund  
Investments by Fund  
January 31, 2022**

CUSIP	Investment #	Issuer	Purchase Date	Book Value	Par Value	Market Value	Current Rate	YTM 360	YTM 365	Maturity Date	Days To Maturity
<b>Texas Class</b>											
6550003	10073	Texas Class	09/01/2021	11,612.86	11,612.86	11,612.86	0.097	0.095	0.096		1
<b>Subtotal and Average</b>				<b>11,612.86</b>	<b>11,612.86</b>	<b>11,612.86</b>		<b>0.095</b>	<b>0.097</b>		<b>1</b>
<b>Texpool/Texpool Prime</b>											
500001	10008	Texpool	10/01/2017	24,647,117.88	24,647,117.88	24,647,117.88	0.038	0.037	0.037		88
500005	10010	Texpool	10/01/2017	0.00	0.00	0.00					1
500001A	10048	Texpool Prime	10/26/2018	16,223,702.29	16,223,702.29	16,223,702.29	0.098	0.096	0.097		1
<b>Subtotal and Average</b>				<b>40,870,820.17</b>	<b>40,870,820.17</b>	<b>40,870,820.17</b>		<b>0.061</b>	<b>0.061</b>		<b>1</b>
<b>TexStar</b>											
22210	10005	TexStar	10/01/2017	10,818,078.04	10,818,078.04	10,818,078.04	0.010	0.009	0.010		1
<b>Subtotal and Average</b>				<b>10,818,078.04</b>	<b>10,818,078.04</b>	<b>10,818,078.04</b>		<b>0.010</b>	<b>0.010</b>		<b>1</b>
<b>Lone Star</b>											
14903A	10001	Lone Star Govt ON	10/01/2017	464.98	464.98	464.98					1
<b>Subtotal and Average</b>				<b>464.98</b>	<b>464.98</b>	<b>464.98</b>		<b>0.000</b>	<b>0.000</b>		<b>1</b>
<b>Bank Accounts/CD's int pd monthly</b>											
57696	10027	BBVA Treasury Mngmt Anal. Chkg	10/01/2017	1,020,325.11	1,020,325.11	1,020,325.11					1
38955	10028	BBVA Treasury Mngmt Anal. Chkg	10/01/2017	127,807.32	127,807.32	127,807.32					1
57661	10029	BBVA Treasury Mngmt Anal. Chkg	10/01/2017	6,667,147.35	6,667,147.35	6,667,147.35					1
172875624B	10082	East West Bank	01/28/2022	10,033,057.21	10,033,057.21	10,033,057.21	0.210	0.207	0.210	04/28/2022	86
<b>Subtotal and Average</b>				<b>17,848,336.99</b>	<b>17,848,336.99</b>	<b>17,848,336.99</b>		<b>0.116</b>	<b>0.118</b>		<b>48</b>
<b>Total Investments and Average</b>				<b>69,549,313.04</b>	<b>69,549,313.04</b>	<b>69,549,313.04</b>		<b>0.067</b>	<b>0.068</b>		<b>13</b>

**Belton ISD**  
**Cash Reconciliation Report**  
**For the Period January 1, 2022 - January 31, 2022**  
**Grouped by Fund**

Patterson & Associates  
901 S. MoPac  
Suite 195  
Austin, TX 78746  
-

Trans. Date	Investment #	Fund	Trans. Type	Security ID	Par Value	Security Description	Maturity Date	Purchases	Interest	Redemptions	Cash
<b>Debt Service Funds</b>											
01/27/2022	10079	DS	Interest	172250207C	5,009,920.74	EWB 5.0M 0.11% Mat. 01/27/2022	01/27/2022	0.00	392.65	0.00	392.65
01/27/2022	10079	DS	Interest	172250207C	5,009,920.74	EWB 5.0M 0.11% Mat. 01/27/2022	01/27/2022	-392.65	0.00	0.00	-392.65
01/27/2022	10081	DS	Purchase	172250207D	5,011,309.98	EWB 5.0M 0.21% Mat. 04/27/2022	04/27/2022	-5,011,309.98	0.00	0.00	-5,011,309.98
01/31/2022	10081	DS	Interest	172250207D	5,011,309.98	EWB 5.0M 0.21% Mat. 04/27/2022	04/27/2022	0.00	144.16	0.00	144.16
01/31/2022	10081	DS	Interest	172250207D	5,011,309.98	EWB 5.0M 0.21% Mat. 04/27/2022	04/27/2022	-144.16	0.00	0.00	8944.16
<b>Subtotal</b>								<b>-5,011,846.79</b>	<b>536.81</b>	<b>0.00</b>	<b>-5,011,309.98</b>
<b>General Fund</b>											
01/28/2022	10080	GEN	Interest	172875624A	10,030,045.00	EWB 10.0M 0.11% Mat. 01/28/2022	01/28/2022	0.00	816.34	0.00	816.34
01/28/2022	10080	GEN	Interest	172875624A	10,030,045.00	EWB 10.0M 0.11% Mat. 01/28/2022	01/28/2022	-816.34	0.00	0.00	-816.34
01/28/2022	10082	GEN	Purchase	172875624B	10,032,826.32	EWB 10.0M 0.21% Mat. 04/28/2022	04/28/2022	-10,032,826.32	0.00	0.00	-10,032,826.32
01/31/2022	10082	GEN	Interest	172875624B	10,032,826.32	EWB 10.0M 0.21% Mat. 04/28/2022	04/28/2022	0.00	230.89	0.00	230.89
01/31/2022	10082	GEN	Interest	172875624B	10,032,826.32	EWB 10.0M 0.21% Mat. 04/28/2022	04/28/2022	-230.89	0.00	0.00	-230.89
<b>Subtotal</b>								<b>-10,033,873.55</b>	<b>1,047.23</b>	<b>0.00</b>	<b>-10,032,826.32</b>
<b>Total</b>								<b>-15,045,720.34</b>	<b>1,584.04</b>	<b>0.00</b>	<b>-15,044,136.30</b>



**Belton ISD**  
**Purchases Report**  
**Sorted by Fund - Fund**  
**January 1, 2022 - January 31, 2022**

Patterson & Associates  
 901 S. MoPac  
 Suite 195  
 Austin, TX 78746  
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CUSIP	Investment #	Fund	Sec. Type	Issuer	Original Par Value	Purchase Date	Payment Periods	Principal Purchased	Accrued Interest at Purchase	Rate at Purchase	Maturity Date	YTM	Ending Book Value
<b>Debt Service Funds</b>													
172250207D	10081	DS	RR5	EWB	5,011,309.98	01/27/2022	/ - Monthly	5,011,309.98		0.210	04/27/2022	0.210	5,011,454.14
				<b>Subtotal</b>	<b>5,011,309.98</b>			<b>5,011,309.98</b>	<b>0.00</b>				<b>5,011,454.14</b>
<b>General Fund</b>													
172875624B	10082	GEN	RR5	EWB	10,032,826.32	01/28/2022	/ - Monthly	10,032,826.32		0.210	04/28/2022	0.210	10,033,057.21
				<b>Subtotal</b>	<b>10,032,826.32</b>			<b>10,032,826.32</b>	<b>0.00</b>				<b>10,033,057.21</b>
				<b>Total Purchases</b>	<b>15,044,136.30</b>			<b>15,044,136.30</b>	<b>0.00</b>				<b>15,044,511.35</b>

**Belton ISD**  
**Interest Earnings**  
**Sorted by Fund - Fund**  
**January 1, 2022 - January 31, 2022**  
**Yield on Average Book Value**

CUSIP	Investment #	Fund	Security Type	Ending Par Value	Beginning Book Value	Average Book Value	Maturity Date	Current Rate	Annualized Yield	Adjusted Interest Earnings		
										Interest Earned	Amortization/ Accretion	Adjusted Interest Earnings
<b>Fund: Construction Funds</b>											<b>91</b>	
500007	10011	CON	RR2	615,361.38	615,341.71	615,342.34		0.038	0.038	19.67	0.00	19.67
500010	10070	CON	RR2	3,112,780.93	3,112,681.63	3,112,684.83		0.038	0.038	99.30	0.00	99.30
06216	10062	CON	RR5	1,101,570.48	1,532,024.08	1,379,147.51		0.010	0.010	11.71	0.00	11.71
98610	10031	CON	RR5	300,528.24	292,201.64	294,682.94				0.00	0.00	0.00
58524	10030	CON	RR5	6.93	6.93	6.93				0.00	0.00	0.00
<b>Subtotal</b>				<b>5,130,247.96</b>	<b>5,552,255.99</b>	<b>5,401,864.56</b>			<b>0.028</b>	<b>130.68</b>	<b>0.00</b>	<b>130.68</b>
<b>Fund: Capital Projects Fund</b>												
22689	10035	CP	RR5	146,054.08	164,566.16	163,318.04				0.00	0.00	0.00
<b>Subtotal</b>				<b>146,054.08</b>	<b>164,566.16</b>	<b>163,318.04</b>				<b>0.00</b>	<b>0.00</b>	<b>0.00</b>
<b>Fund: Debt Service Funds</b>												
33330	10003	DS	RR3	569,406.51	569,401.61	569,401.77		0.010	0.010	4.90	0.00	4.90
57670	10033	DS	RR5	117,570.99	69,570.99	86,603.25				0.00	0.00	0.00
500004A	10041	DS	RR2	16,227,311.42	2,196,917.18	7,175,246.29		0.098	0.101	613.41	0.00	613.41
172250207D	10081	DS	RR5	5,011,454.14	0.00	808,280.45	04/27/2022	0.210	0.210	144.16	0.00	144.16
172250207C	10079	DS	RR5	0.00	5,010,917.33	4,202,704.86	01/27/2022	0.110	0.110	392.65	0.00	392.65
<b>Subtotal</b>				<b>21,925,743.06</b>	<b>7,846,807.11</b>	<b>12,842,236.62</b>			<b>0.106</b>	<b>1,155.12</b>	<b>0.00</b>	<b>1,155.12</b>
<b>Fund: General Fund</b>												
500001	10008	GEN	RR2	24,647,117.88	18,452,348.59	31,621,638.12		0.038	0.037	1,003.47	0.00	1,003.47
22210	10005	GEN	RR3	10,818,078.04	10,817,986.22	10,817,989.18		0.010	0.010	91.82	0.00	91.82
6550003	10073	GEN	LA1	11,612.86	11,611.94	11,611.97		0.097	0.093	0.92	0.00	0.92
38955	10028	GEN	RR5	127,807.32	127,807.32	127,807.32				0.00	0.00	0.00
57696	10027	GEN	RR5	1,020,325.11	1,470,500.83	1,455,979.03				0.00	0.00	0.00
57661	10029	GEN	RR5	6,667,147.35	9,236,495.44	9,153,613.24				0.00	0.00	0.00
14903A	10001	GEN	RR4	464.98	464.98	464.98				0.00	0.00	0.00
500001A	10048	GEN	RR2	16,223,702.29	16,222,358.18	16,222,401.54		0.098	0.098	1,344.11	0.00	1,344.11
172875624B	10082	GEN	RR5	10,033,057.21	0.00	1,294,565.68	04/28/2022	0.210	0.210	230.89	0.00	230.89

Portfolio BELT  
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**Belton ISD**  
**Interest Earnings**  
**January 1, 2022 - January 31, 2022**

CUSIP	Investment #	Fund	Security Type	Ending Par Value	Beginning Book Value	Average Book Value	Maturity Date	Current Rate	Annualized Yield	Adjusted Interest Earnings		
										Interest Earned	Amortization/ Accretion	Adjusted Interest Earnings
<b>Fund: General Fund</b>												
172875624A	10080	GEN	RR5	0.00	10,032,009.98	8,737,557.08	01/28/2022	0.110	0.110	816.34	0.00	816.34
			<b>Subtotal</b>	<b>69,549,313.04</b>	<b>66,371,583.48</b>	<b>79,443,628.15</b>			<b>0.052</b>	<b>3,487.55</b>	<b>0.00</b>	<b>3,487.55</b>
			<b>Total</b>	<b>96,751,358.14</b>	<b>79,935,212.74</b>	<b>97,851,047.37</b>			<b>0.057</b>	<b>4,773.35</b>	<b>0.00</b>	<b>4,773.35</b>

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**Patterson & Associates**  
Barton Oaks Plaza  
Building II  
901 S. MoPac, Suite 195  
Austin, TX 78746  
800.817.2442

**Belton Independent School District**  
***Board of Trustee Meeting Agenda Item***  
***February 21, 2022***

**Item:** Gifts, Grants, and Bequests

**Contact Person:** Kerri Pridemore

**Presented for:**  Action     Report Only

**Supporting Documents:**     None     Attached     Provided Later

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**District Goal or Objective Addressed:**

Goal 5: Maximize our use of resources for both current priorities and plans for the future.

**Background Information:**

The District accepts gifts, grants, and bequests from many different sources each school year for the benefit of its students and programs. Policy CDC(LOCAL) gives authority to the Superintendent to accept most gifts, grants, or bequests.

**Fiscal Implications:**

Attached for your information is a list of donations that have been accepted. Budget amendments required for the expenditure of these funds will be presented as needed.

**Administrative Recommendation(s):**

Information only.

**Gifts, Grants, and Bequests  
February 21, 2022**

<b>Source of Other Revenue/In Kind Donations</b>	<b>Type</b>	<b>Amount/ Value</b>	<b>Date</b>	<b>District, Campus, or Program</b>	<b>Intended Use</b>
Belton Tiger Athletic Booster Club	Check	\$500	12/06/21	Belton Middle School/AVID	Concessions
Mound Cowboy Church Inc.	Check	\$500	12/14/21	North Belton Middle School	FCA
Power Lift	Check	\$250	01/20/22	Lake Belton High School Athletics	Sponsorship for Strength Clinic
Belton Church of Christ & Various Donors	Check	\$340	01/21/22	Belton High School - CTE	Preschool Christmas Program DVDs
High Point PTA	Check	\$50	01/24/22	High Point Elementary	Mr. Conde's Element 2 classroom for sensory
Bronco Cheer Booster Club	Check	\$1,000	01/25/22	Lake Belton High School	LBHS Cheer
Photo Texas Photography	Check	\$2,171	01/25/22	Lake Belton High School	Commission for LBHS
Wallace & Charlotte Elbe	Check	\$300	01/28/22	Administration/Federal Program	Project HEARTBEAT
Elm Grove Baptist Church	Check	\$150	02/01/22	Administration/Federal Program	Project HEARTBEAT
Box Tops	Check	\$25	02/01/22	Belton Middle School	December 2021 Payout
Taylor's Valley Baptist Church	Check	\$400	02/08/22	Administration/Federal Program	Project HEARTBEAT
Kollin Mullins	Cash	\$100	02/08/22	Leon Heights Elementary	Counselor/Students

**Belton Independent School District**  
**Board of Trustee Meeting Agenda Item**  
**February 21, 2022**

**Item:** Budget Amendment #4 for 2021-2022

**Contact Person:** Kerri Pridemore

**Presented for:**  Action  Report Only

**Supporting Documents:**  None  Attached  Provided Later

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**District Goal or Objective Addressed:**

Goal 5: Maximize our use of resources for both current priorities and plans for the future.

**Background Information:**

The TEA Financial Accountability System Resource Guide sets forth guidelines on budget amendments. Budget amendments are required by the State to reclassify appropriations at the level at which the budget is adopted. Belton ISD adopts budgets for the required funds at the functional level. Amendments which reclassify appropriations from one functional level to another should be approved by the Board. The budget may also be amended by the Board for changes in the level of its Revenue and Expenditures, CE(Legal/Local). Amendments are recorded in the District's Board minutes.

Budget amendments are presented monthly, as needed. Changes are described below.

**Fiscal Implications:**

**General Fund**

Expenditures

- ***Instruction (11): (\$5,000)***
  - (\$5,000): Redistribute funds to purchase additional teacher development supplies
- ***Library & Media Services (12): \$694***
  - \$694: Redistribute funds for medical costs
- ***Curriculum & Staff Development (13): \$4,306***
  - \$5,000: Purchase additional teacher development supplies
  - (\$694): Redistribute funds for medical costs

The effect of these amendments to expenditures is zero.

**Administrative Recommendation(s):**

Approve amendments as presented.

**2021-22 Budget Amendment Proposed For Adoption By The Board Of Trustees**  
**Belton ISD - February 21, 2022**

Function	General Fund			
	Original Adopted Budget	Previously Amended Budget	Summary of Proposed Amendments	Proposed Amended Budget
<b>REVENUES</b>				
Local	\$ 44,660,618		-	\$ 44,660,618
State	84,836,109		-	84,836,109
Federal	2,608,000		-	2,608,000
	<b>132,104,727</b>	<b>-</b>	<b>-</b>	<b>132,104,727</b>
<b>EXPENDITURES</b>				
11 Instruction	76,338,573	76,442,497	(5,000)	76,437,497
12 Library & Media Services	1,635,915	1,636,191	694	1,636,885
13 Curriculum & Staff Development	4,578,445	4,572,704	4,306	4,577,010
21 Instructional Leadership	2,233,110	2,248,166		2,248,166
23 School Leadership	8,005,019	8,063,976		8,063,976
31 Guidance and Counseling Services	6,106,773	6,110,558		6,110,558
32 Social Work Services	176,315	176,315		176,315
33 Health Services	2,295,465	2,299,901		2,299,901
34 Student Transportation	5,126,166	5,105,661		5,105,661
35 School Nutrition	-	-		-
36 Co-curricular Activities	5,943,297	5,947,745		5,947,745
41 General Administration	4,282,871	4,080,397		4,080,397
51 Facilities Maintenance & Operations	13,396,702	13,430,711		13,430,711
52 Security and Monitoring	1,489,746	1,498,346		1,498,346
53 Data Processing Services	4,794,740	4,799,040		4,799,040
61 Community Services	9,000	9,000		9,000
71 Debt Service	69,000	68,250		68,250
81 Facilities Acquisition & Construction	-	-		-
93 Payments to fiscal agent	-	-		-
95 Payments to JJAEP	15,000	15,000		15,000
97 Tax Increment	216,000	216,000		216,000
99 Other Intergovernmental Charges	645,000	636,679		636,679
<b>Total Expenditures</b>	<b>137,357,137</b>	<b>137,357,137</b>	<b>-</b>	<b>137,357,137</b>
<b>Revenues Over (Under) Expenditures</b>	<b>(5,252,410)</b>	<b>-</b>	<b>-</b>	<b>(5,252,410)</b>
Other Resources	-			
Other Uses	-			
<b>Budgeted/Estimated Change in Fund Balance</b>	<b>\$ (5,252,410)</b>	<b>\$ -</b>	<b>\$ -</b>	<b>\$ (5,252,410)</b>

Budget amendments for these funds are required to be adopted by the Board of Trustees.

**Belton Independent School District**  
**Board of Trustee Meeting Agenda Item**  
**February 21, 2021**

**Item:** Expenditures over \$50,000

**Contact Person:** Kerri Pridemore

**Presented for:**  Action     Report Only

**Supporting Documents:**  None     Attached     Provided Later

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**District Goal or Objective Addressed:**

Goal 5: Maximize our use of resources for both current priorities and plans for the future.

**Background Information:**

Board Policy CH(LOCAL) requires that any single, budgeted purchase of goods or services that costs \$50,000 or more shall require Board approval before a transaction may take place. The following list of proposed purchases is submitted for your consideration:

**Power Lift**

The Athletics department wishes to purchase weight room equipment for Belton New Tech @Waskow for up to \$95,000 from Power Lift. The equipment includes weights, medicine balls, dumbbells, and other training equipment to support the athletic programs at Belton New Tech @Waskow. Funding for these services will be paid using funds currently budgeted in the general fund.

**Fiscal Implications:**

Power Lift will be paid with funds allocated in the 2021-2022 general fund budget.

**Administrative Recommendation(s):**

Approve the requested expenditure.

**Belton Independent School District**  
**Board of Trustee Meeting Agenda Item**

**February 21, 2022**

**Item:** RFP #2111-450-272 for Books - All Types (Supplemental I)

**Contact Person:** Tammy Shannon

**Presented for:**  Action     Report Only

**Supporting Documents:**  None     Attached     Provided Later

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**District Goal or Objective Addressed:**

Goal 5: Maximize our use of resources for both current priorities and plans for the future.

**Background Information:**

RFP #2111-450-272 for Books - All Types (Supplemental I) was posted on December 5, 2021. This proposal allows the purchase of goods and services on an as-needed basis. Pursuant to Section 2252.908 of Government Code, HB 1295 form has been received and will be acknowledged on the Texas Ethics Commission website.

**Fiscal Implications:**

Funds for Books - All Types (Supplemental I) are allocated in the annual budget.

**Administrative Recommendation(s):**

Approve the vendor list for Books - All Types (Supplemental I). This contract will be effective through February 28, 2022 and will automatically renew for two (2) years, one (1) year at a time.

**Books – All Types (Supplemental I)**  
**RFP #2111-450-272**

Bedford, Freeman & Worth Publishing Group, LLC  
Benchmark Education Company, LLC  
Booksource  
Carson Dellosa Education  
Cengage Learning, Inc.  
Children Bilingual Books  
EastWest Books  
Great Minds, PBC  
Lakeshore Learning Materials  
Lakeview Books  
Lectura Books, DBA The Latino Family Literacy Project  
Maitri Learning  
Mathspace  
NCCER (National Center for Construction Education and Research)  
No Tears Learning, Inc.  
NSTA (National Science Teachers Association)  
Savvas Learning Company, LLC  
Scholastic Library Publishing, Inc.  
Summit International, Inc.  
Superior Text  
Teacher's Discovery, Inc.  
Tumbleweed Press, Inc.  
Youthlight, Inc.

**Belton Independent School District**  
**Board of Trustee Meeting Agenda Item**

**February 21, 2022**

**Item:** RFP #2111-600-273 for Fine Arts Contracted Services

**Contact Person:** Tammy Shannon

**Presented for:**  Action     Report Only

**Supporting Documents:**  None     Attached     Provided Later

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**District Goal or Objective Addressed:**

Goal 5: Maximize our use of resources for both current priorities and plans for the future.

**Background Information:**

RFP #2111-600-273 for Fine Arts Contracted Services was posted on November 14, 2021. This proposal gives the District flexibility to engage with qualified persons and/or companies to provide services for Fine Arts within the District. Pursuant to Section 2252.908 of Government Code, HB 1295 form has been received and will be acknowledged on the Texas Ethics Commission website.

**Fiscal Implications:**

Funds for Fine Arts Contracted Services are allocated in the annual budget.

**Administrative Recommendation(s):**

Approve the vendor list for Fine Arts Contracted Services. This contract will be effective March 1, 2022, through February 28, 2023, and will automatically be extended for three (3) additional years, one (1) renewal year at a time. Additional proposals may be accepted on an as-needed type basis throughout the term of this contract. Vendor listings may be presented monthly to the Board through a Purchasing Department Report.

**Fine Arts Contracted Services  
RFP #2111-600-273**

Bryan Christian  
Marie DeBellis  
MJM Works, LLC  
My Design Team, Inc.  
TMI Design and Consulting, LLC  
Jessica Wilson

**Belton Independent School District**  
**Board of Trustee Meeting Agenda Item**

**February 21, 2022**

**Item:** RFP #2111-775-272 for Transportation Parts, Supplies, Equipment and Services

**Contact Person:** Tammy Shannon

**Presented for:**  Action     Report Only

**Supporting Documents:**     None     Attached     Provided Later

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**District Goal or Objective Addressed:**

Goal 5: Maximize our use of resources for both current priorities and plans for the future.

**Background Information:**

RFP #2111-775-272 for Transportation Parts, Supplies, Equipment and Services was posted on November 14, 2021. This proposal allows for the purchase of goods and services on an as-needed basis. Pursuant to Section 2252.908 of Government Code, HB 1295 forms have been received and will be acknowledged on the Texas Ethics Commission website.

**Fiscal Implications:**

The funds for transportation parts, supplies, equipment and services are allocated in the annual budget.

**Administrative Recommendation(s):**

Approve the vendor list for transportation parts, supplies, equipment and services. This contract will be effective through February 28, 2023 with four (4) automatic renewal options.

**Transportation Parts, Supplies, Equipment and Services  
RFP #2111-775-272**

Arnold Oil Company of Austin  
Avenue Auto Glass Center, Inc.  
Battery Systems Inc  
Buck's Wheel & Equipment Co.  
Cap-A-Bus, Inc.  
Capital Filtrations Inc  
Chalk's Truck Parts  
Competitive Choice, Inc.  
Don Ringler Chevrolet-Toyota  
Heavy duty Bus Inc  
Kyrish Truck Center of Temple  
Lawson Products, Inc.  
McGregor Welding Supply  
McGuire Tire LLC  
Napa Auto Parts  
O'Reilly Auto Parts  
Reliable Transmission Service-Texas, LLC.  
Sun Coast Resources, Inc.  
Texas Alternator

**Belton Independent School District**  
**Board of Trustee Meeting Agenda Item**

**February 21, 2022**

**Item:** RFP #2111-472-270 for Maintenance, Repair and Operations Services, Equipment and Supplies Supplemental II

**Contact Person:** Tammy Shannon

**Presented for:**  Action     Report Only

**Supporting Documents:**     None     Attached     Provided Later

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**District Goal or Objective Addressed:**

Goal 5: Maximize our use of resources for both current priorities and plans for the future.

**Background Information:**

RFP #2111-472-270 for Maintenance, Repair and Operations Services, Equipment and Supplies Supplemental II was posted on November 14, 2021 to acquire additional vendors for miscellaneous contracted services and equipment. This proposal allows for the purchase of goods and services on an as-needed basis. Pursuant to Section 2252.908 of Government Code, HB 1295 forms have been received and will be acknowledged on the Texas Ethics Commission website.

**Fiscal Implications:**

The funds for maintenance, repair and operations services and equipment are allocated in the annual budget.

**Administrative Recommendation(s):**

Approve the vendor list for maintenance, repair and operations services and equipment. This contract will be effective through March 31, 2023 with one (1) automatic renewal.

**Maintenance, Repair and Operations Services, Equipment and Supplies Supplemental II  
RFP #2111-472-270**

Allied Electric Services, Inc.  
American Fence & Supply Co.  
Charles Kirk Services & Supplies  
Child's Play, Inc.  
Circle Saw Builders Supply, Inc  
Competitive Choice Inc.  
Complete Supply  
Epic Solar Control, LLC  
Fissco Supply  
Foundation Building Materials  
Green Planet, Inc.  
Ham & McCreight Supply, Inc.  
John W. Gasparini, Inc.  
Lawson Products, Inc.  
Nets of Texas  
Perry Office Plus  
Playground Solutions of Texas, Inc.  
Plumbmaster Inc.  
Ponder Company, Inc.  
Progressive Commercial Aquatics, Inc.  
Ranger Elite Management, LLC  
Texas Filter Service, LLC  
Texas Traditions Roofing  
The Brandt Companies  
United Ag and Turf

**Belton Independent School District**  
**Board of Trustee Meeting Agenda Item**

**February 21, 2022**

**Item:** RFP #2201-600-277 for Survey Services

**Contact Person:** Malinda Golden

**Presented for:**  Action     Report Only

**Supporting Documents:**  None     Attached     Provided Later

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**District Goal or Objective Addressed:**

Goal 5: Maximize our use of resources for both current priorities and plans for the future.

**Background Information:**

RFP #2201-600-277 was published on January 16, 2022 for the solicitation of Survey Services. Belton ISD intends to prequalify firms for survey services to support District projects. Requests for specific survey projects will be solicited on a task-request basis. Five firms submitted proposals and the Administration recommends the Board approve the top two ranking vendors for these services. Pursuant to Section 2252.908 of Government Code, HB 1295 forms have been received and will be acknowledged on the Texas Ethics Commission website.

**Fiscal Implications:**

None

**Administrative Recommendation(s):**

Approve the top two ranking firms, Gibson Consulting Services and Gallup Inc., to provide BISD with survey services for one (1) year with the option to renew up to three (3) additional years in one (1) year increments unless either party provides a 30-day notice not to renew.

**Belton Independent School District**  
**Board of Trustee Meeting Agenda Item**

**February 21, 2022**

**Item:** Contract with Huckabee for Architectural Services of Elementary School #13

**Contact Person:** Michael Morgan

**Presented for:**  Action     Report Only

**Supporting Documents:**     None     Attached     Provided Later

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**District Goal or Objective Addressed:**

Goal 5: Maximize our use of resources for both current priorities and plans for the future.

**Background Information:**

As a fast-growth district, it is anticipated that Belton ISD will grow by approximately 360 elementary students per year for the foreseeable future. At the June 2021 meeting, the Board approved a contract for architectural design of a new elementary school. At the direction of the Board, the Administration has been asked to pursue the development of a second set of elementary school design plans with Huckabee that would be construction ready when needed.

A fair and reasonable agreement has been negotiated with Huckabee. A copy of the agreement is attached hereto for the Board's reference.

**Fiscal Implications:**

The proposed contract for architectural services is 5.5% of the total cost of the project. Appropriate funds will be used for these services.

**Administrative Recommendation(s):**

Approve the contract with Huckabee for Architectural Services for Elementary School #13 as presented.



# AIA<sup>®</sup> Document B101<sup>™</sup> – 2017

## Standard Form of Agreement Between Owner and Architect

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

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

Belton Independent School District  
411 North Wall Street  
Belton, TX 76513

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

Huckabee & Associates, Inc.  
801 Cherry Street, Suite 500  
Fort Worth, TX 76102  
Phone: 817-377-2969

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

New Elementary School #13

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.

TABLE OF ARTICLES

1 INITIAL INFORMATION

2 ARCHITECT’S RESPONSIBILITIES

3 SCOPE OF ARCHITECT’S BASIC SERVICES

4 SUPPLEMENTAL AND ADDITIONAL SERVICES

5 OWNER’S RESPONSIBILITIES

6 COST OF THE WORK

7 COPYRIGHTS AND LICENSES

8 CLAIMS AND DISPUTES

9 TERMINATION OR SUSPENSION

10 MISCELLANEOUS PROVISIONS

11 COMPENSATION

12 SPECIAL TERMS AND CONDITIONS

13 SCOPE OF THE AGREEMENT

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.)*

\$38,000,000

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

- .1 Design phase milestone dates, if any:  
Construction Documents – June 2022
- .2 Construction commencement date:  
TBD
- .3 Substantial Completion date or dates:  
TBD
- .4 Other milestone dates:  
TBD

Time is of the essence of this Agreement. Neither the inclusion nor the exclusion of any milestone dates in this section relieves the Architect of its duty 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.)*

Geotechnical  
Surveyor

*(Paragraphs deleted)*

Others noted in Section 4.1.1, if any

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

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

Mike Boyle, AIA

§ 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: All those necessary for the Project unless specifically identified in section 1.1.9 above, including ,but not limited to, the following:

*(Paragraphs deleted)*

Structural Engineer - Huckabee

*(Paragraphs deleted)*

Mechanical Engineer – Baird Hampton & Brown

*(Paragraphs deleted)*

Electrical Engineer – Baird Hampton & Brown

Landscape Design – Kimley Horn

Telecommunication/Data Design - CRUX

Security Evaluation and Planning - CRUX

Roof Consultant – Hollon Cannon

Building Envelope – Hollon Cannon

Kitchen Services – Cosper & Associates

§ 1.1.11.2 Consultants retained under Supplementary/Additional Services:

As noted in section 4.1.1

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

All Architect’s consultants, whether retained under Basic Services or under Additional Services, shall be subject to the approval of the Owner. Owner’s approval will not be unreasonably withheld, conditioned, or delayed. Owner’s approval does not relieve the Architect of any responsibility for the actions of Architect’s consultants.

§ 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 advanced, 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 shall draft 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

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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 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. 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. In compliance with 19 Texas Administrative Code ("TAC") Section 61.1036, 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. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 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 until termination of this Agreement. The Architect shall maintain the following insurance for the duration of this Agreement. 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.

*(Paragraph 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 completion 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 years from the Final Completion of all construction of this Project (or twelve 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. Worker's Compensation:
  - a. State: Statutory
  - b. Applicable Federal: Statutory

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

The District 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 District, 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 District, the Architect shall exercise reasonable efforts to accomplish such changes in policy coverage, and shall pay the cost thereof.

**§ 2.5.2 Texas Workers Compensation Insurance.** Because Architect will be performing services on-site, a copy of a certificate of insurance, a certificate of authority to self-insure issued by the Texas Department of Insurance (TDI), or a coverage agreement (DWC-81, DWC-82, DWC-83, or DWC-84), showing statutory workers' compensation insurance coverage for the Architect or his employees providing services on a Project is required for the duration of the Project.

- .1 Duration of the Project includes the time from the beginning of the Work on the Project until the Architect's Services on the Project have been completed and accepted by the Owner.
- .2 Persons providing services on the Project include all persons or entities performing all or part of the services the Architect has undertaken to perform on the Project, regardless of whether that person contracted directly with the Architect, and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity that furnishes persons to provide services on the Project.
- .3 Services include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other services related to the Project to the extent performed by the Architect or its consultants. Services do not include activities unrelated to the Project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.
- .4 The Architect shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas

- Labor Code §401.011(44) for all employees of the Architect providing services on the Project for the duration of the Project.
- .5 The Architect must provide a certificate of coverage to the Owner prior to being awarded the contract.
  - .6 If the coverage period shown on the Architect's current certificate of coverage ends during the duration of the Project, the Architect must, prior to the end of the coverage period, file a new certificate of coverage with the Owner showing that coverage has been extended.
  - .7 The Architect shall obtain from each person providing services on a project, and provide to the Owner:
    - a. A certificate of coverage, prior to that person beginning work on the Project, so the Owner will have on file certificates of coverage showing coverage for all persons providing services on the Project; and
    - b. No later than seven days after receipt by the Architect, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the Project.
  - .8 The Architect shall retain all required certificates of coverage for the duration of the Project and for one year thereafter.
  - .9 The Architect shall notify the Owner in writing by certified mail or personal delivery, within ten days after the Architect knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the Project.
  - .10 The Architect shall post on each project site a notice, in the text, form and manner prescribed by the Texas Department of Insurance, informing all persons providing services on the Project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
  - .11 The Architect shall contractually require each person with whom it contracts to provide services on a project, to:
    - a. Provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code § 401.011(44) for all of its employees providing services on the Project for the duration of the Project;
    - b. Provide to the Architect, prior to that person beginning work on the Project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the Project for the duration of the Project;
    - c. Provide the Architect, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the Project;
    - d. Obtain from each other person with whom it contracts, and provide to the Architect:
      - 1) A certificate of coverage, prior to the other person beginning work on the Project; and
      - 2) A new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the Project;
    - e. Retain all required certificates of coverage on file for the duration of the Project and for one year thereafter;

- f. Notify the Owner in writing by certified mail or personal delivery, within ten days after the person knew or should have known, of any change that materially affects the provision of coverage for any person providing services on the Project; and
  - g. Contractually require each person with whom it contracts to perform as required by items a-g, with the certificates of coverage to be provided to the person for whom they are providing services.
- .12 By signing this contract or providing or causing to be provided a certificate of coverage, the Architect is acknowledging to the Owner that all employees of the Architect who will provide services on the Project will be covered by workers' compensation 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 Texas Department of Insurance's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Architect to administrative penalties, criminal penalties, civil penalties, or other civil actions.
  - .13 The Architect's failure to comply with any of these provisions is a breach of contract by the Architect that entitles the Owner to declare the contract void if the Architect does not remedy the breach within ten (10) days after receipt of notice of breach from the Owner.
  - .14 The coverage requirement recited above does not apply to sole proprietors, partners, and corporate officers who are excluded from coverage in an insurance policy or certificate of authority to self-insure that is delivered, issued for delivery, or renewed on or after January 1, 1996. 28 TAC §110.110(i).

*(Paragraphs deleted)*

**§ 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, which carrier 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 on 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.

*(Paragraph deleted)*

**§ 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")**

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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, ANY OF ARCHITECT'S CONSULTANTS OR SUBCONSULTANTS, OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM OR ANYONE THAT THEY CONTROL OR EXERCISE CONTROL OVER (COLLECTIVELY, "THE LIABILITIES"). IN THE EVENT OR 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, MAY 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 BY THE JUDGMENT UNDER THE LAWS OF THE STATE OF TEXAS. THIS INDEMNIFICATION PARAGRAPH SHALL NOT BE LIMITED TO DAMAGES COMPENSATION OR BENEFITS PAYABLE UNDER INSURANCE POLICIES, WORKER'S COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEE BENEFIT ACTS.

ARCHITECT SHALL PROTECT AND INDEMNIFY THE DISTRICT 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 DISTRICT 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, DISTRICT 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 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 19 TAC Section 61.1036, and Texas Health and Safety Code Chapter 341. 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 certify that he has reviewed the standards contained in 19 TAC Section 61.1036, and use 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. Architect shall also certify that the Construction Documents conform to the provisions of 19 TAC Section 61.1036, except as indicated on the certification. 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, as required by 19 TAC Section 61.1036(c). Architect shall also certify that the facilities have been designed according to the provisions of 19 TAC Section 61.1036, based on the educational

program long-range school facility plan, educational specifications, building code specifications, and all documented changes to the Construction Documents provided by the District, as required by 19 TAC Section 61.1036.

§ 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 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. If Owner is using instructional facilities allotment funds for the Project, which are allotted to Owner under Subchapter A of Chapter 46 of the Texas Education Code, then Architect shall consider, in the design of the Project, the security criteria developed by the Texas School Safety Center under Texas Education Code Section 37.2051. 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.

§ 2.9 The Architect shall incorporate sustainable design concepts into the Project design and contract documents, as directed by the Owner. All services required to demonstrate compliance with the Collaborative for High Performance Schools – Texas Design Criteria as "CHPS Designed" are a Supplemental Service, if agreed by the parties.

§ 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 § 61.1036 regarding Architect's seal 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 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 61.1036. 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.

### § 3.2 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.

§ 3.2.5.1 The Architect shall consider and consult with the Owner's Construction Manager, in Construction Manager—at Risk ("CMAR") projects, regarding 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.

§ 3.2.5.2 The Architect shall consider and, in CMAR projects, consult with the Owner's Construction Manager regarding 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 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

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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 61.1036, 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 F1487-07a<sup>1</sup>, "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 F2223-04e<sup>1</sup>, "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 Government Code - Chapter 425.

**§ 3.4.2.4** All ventilation and indoor air quality systems designed by Architect, if any, shall meet the indoor air quality voluntary guidelines established by the Texas Department of State Health Services, Texas Health and Safety Code - Chapter 385.

**§ 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 44.0432.

**§ 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 agrees 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 offices, 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:

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- .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;
- .6 evaluating the bids/proposals based on the approved criteria;
- .7 organizing and participating in selection interviews with prospective contractors;
- .8 participating in negotiations with prospective contractors and subsequently preparing a summary report of the negotiations results, as directed by the Owner; and
- .9 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™ (either 2007 or 2017, whichever is used by Owner), 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. 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 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 Architect's responsibilities related to the pre-construction conference shall not include the Contractor's means, methods, techniques, or site safety as these items are the sole responsibility of the Contractor. 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

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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 due to Architect's failure to discover a construction defect or nonconforming Work, as required by this Agreement or the standard of care, shall be at no additional cost to Owner. 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 (1) year after Substantial Completion. 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 months from the date of Substantial Completion and, again, prior to the expiration of ten 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 Substantial Completion, at the request of Owner, 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 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) and 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, 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. 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 due to Architect failure to discover a construction defect or nonconforming Work as required by this agreement or the standard of care shall be at no additional cost to Owner. 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. 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, as amended, the Architect shall promptly within the time frame established in AIA 201 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 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 Document 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 inspection and 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:

- .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 on 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.

§ 3.8.1 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.

§ 3.8.3 The Owner reserves the right to apply the Collaborative of High Performance Schools – Texas Criteria (CHPS-TX) to this project and require that the Architect follow and document compliance with said criteria, including energy modeling and other studies required by TX-CHPS "Designed." Any such services shall be Supplemental Services, if agreed by the parties.

**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 as a Basic Service. 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.)*

<b>Supplemental Services</b>	<b>Responsibility</b> <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.1 Programming	Architect, as a Basic Service
§ 4.1.1.2 Multiple preliminary designs	Architect, as a Basic Service
§ 4.1.1.3 Measured drawings	Architect
§ 4.1.1.4 Existing facilities surveys	Architect
§ 4.1.1.5 Site evaluation and planning	Architect, as a Basic Service
§ 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 On-site and Off-site civil engineering	Architect
§ 4.1.1.9 Landscape design	Architect, as a Basic Service
§ 4.1.1.10 Architectural interior design	Architect, as a Basic Service
§ 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	Architect, as a Basic Service
§ 4.1.1.15 As-designed record drawings	Architect, as a Basic Service
§ 4.1.1.16 As-constructed record drawings	Not Provided
§ 4.1.1.17 Post-occupancy evaluation	Architect
§ 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	Architect, as a Basic Service
§ 4.1.1.22 Security evaluation and planning	Architect, as a Basic Service

<b>Supplemental Services</b>	<b>Responsibility</b> <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.23 Commissioning	Owner
§ 4.1.1.24 Sustainable Project Services	Architect
§ 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	Owner
§ 4.1.1.29 Acoustical Consultant; Traffic Engineer; Environmental Graphics/Wayfinding; ADA Review and Inspection; Third-Party Energy Code Review; Visualization	Architect,

*(Row deleted)*

	Kitchen Services Consultant – Architect, as a Basic Service Roof Consultant – Architect, as a Basic Service Building Envelope Consultant – Architect, as a Basic Service Archeological Survey—Architect, as a Basic Service
§ 4.1.1.30 Other Supplemental Services	

*(Row deleted)*

**§ 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;  
*(Paragraphs deleted)*
- .5 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner-authorized recipients;
- .10 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 Two ( 2 ) 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 61.1036. 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 estimate of the Cost of the Work for 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;

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- .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, 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.

*(Paragraphs deleted)*

§ 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. 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.

Anything else to the contrary notwithstanding, the Construction Documents may be used by Owner and other architects hired by Owner as a prototype for other facilities by the Owner. 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 so, then the Architect agrees to perform the work for an additional compensation that will fairly compensate the Architect and its consultants only for the additional work involved. It is reasonable to expect that the fair additional compensation will be less than the fee provided for under this Agreement. 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.

§7.4 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 for all Claims and Disputes by Architect

- .1 The requirements of this section 8.1.2 shall constitute an independent "contractual adjudication procedure" as that term is used in Texas Local Government Code Chapter 271 Subchapter I.
- .2 **Pre-Litigation Grievance and Mediation.** Any claim, dispute or other matter in question that Architect has against Owner shall be subject to full exhaustion of the grievance procedure found in Owner's GF (LOCAL) policy and non-binding mediation as a condition precedent to the institution of legal or equitable proceedings by Architect. In the case of any such claim, dispute, or other matter, by the Architect against the 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 GF (LOCAL) policy 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 Article 8, or otherwise fully exhaust policy GF (LOCAL) in accordance with the policy's requirements is a failure to adhere to contractual adjudication procedures, a failure to exhaust remedies, a failure to fulfill conditions precedent, constitutes waiver, and 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 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, will have failed to adhere to this contractual adjudication procedure, will have failed to fulfill conditions precedent to suit, will have waived the complaint, and will be barred from suing the Owner.
  - b. Architect agrees that, in order to fully exhaust its remedies under policy GF (LOCAL) and otherwise comply with this section 8.1.2, 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. The following are each an independent condition 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 GF (LOCAL) procedure, 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. Owner's voluntary participation in any mediation or any other settlement discussions shall not be construed as a waiver of any failure by Architect to exhaust remedies, follow contractual adjudication procedures, or otherwise comply with this Agreement. If the parties participate in mediation, the parties shall share the mediator's fee and any filing fees equally.

§ 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 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 days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven 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 days' written notice to the Architect for the Owner's convenience and without cause. The Owner may also terminate this Agreement on (7) seven 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.

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*(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 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 obtain all criminal history information required by Texas Education Code Chapter 22 regarding its "covered employees", as defined below. If Architect is required by Chapter 22 to obtain the information from the Fingerprint-based Applicant Clearinghouse of Texas, then Architect will also subscribe to that person's criminal history record information. Before beginning any Work on the Project, Architect will provide written certification to the District that Architect has complied with the statutory requirements as of that date. Upon request by Owner, Architect will provide, in writing: updated certifications and the names and any other requested information regarding covered employees, so that the Owner may obtain criminal history recommended information on the covered employees. Architect shall assume all expenses associated with obtaining criminal history record information.

**§ 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

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contracted services are provided.

**§ 10.16.3** For the purposes of this Section, "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 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](http://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)
- .2 Percentage Basis  
(Insert percentage value)

For a new design: Six Percent (6) % of the Cost of the Work, as calculated in accordance with Section 11.5

For a prototype site adapt of Elementary School #12 design: Five Percent (5%) of the Cost of the Work, as calculated in accordance with Section 11.5

For a two-story prototype site adapt of Elementary School #12 design: Five and One-Half Percent (5.5%) of the Cost of the Work, as calculated in accordance with Section 11.5

Before billing any amount, the Architect shall secure the Owner's written agreement of the applicable fee based on the information included in this section.

- .3 Other

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(Describe the method of compensation)

n/a

§ 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	thirty	percent (	30	%)
Design Development Phase	twenty	percent (	20	%)
Construction Documents Phase	twenty-five	percent (	25	%)
Procurement Phase	five	percent (	5	%)
Construction Phase (no less than 3% of the Architect’s fee is attributable to Basic Services that occur after Substantial Completion)	twenty	percent (	20	%)
<b>Total Basic Compensation</b>	<b>one hundred</b>	<b>percent (</b>	<b>100</b>	<b>%)</b>

(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 is within the Owner’s approved budget.

(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, 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

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- 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;

6. All taxes levied on professional services and on reimbursable expenses;

7. Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and

8. Other similar Project-related expenditures, when approved by the Owner prior to its occurrence.

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 plus five percent (5%) of the expense incurred. The Architect shall present Reimbursable Expenses, including supporting documentation, for payment with its regular invoices, and must request payment within thirty days of incurring such expenses. The Architect waives any claim for Reimbursable Expenses not presented in accordance with this section 6.2.2.

*(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.)*

Init.

§ 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 22.08341, and Texas Administrative Code regulation 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 In accordance with Texas Government Code section 2271.002, Architect verifies that it does not boycott Israel and will not boycott Israel during the term of this contract. In accordance with Texas Government Code section 2274.002, Architect verifies it does not boycott energy companies and will not boycott energy companies during the term of the contract. In accordance with Texas Government Code section 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.

§ 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 Architect shall ensure that its services related to the Project comply with 19 Texas Administrative Code §61.1033 et seq. School Facilities Standards.**

The Texas Board of Architectural Examiners has jurisdiction over complaints regarding the professional practices of person registered as Architects in Texas.

Texas Board of Architectural Examiners  
P.O. Box 12337  
Austin, TX 78711-2337  
(512) 305-9000  
(512) 305-8900

### § 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(7) 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)*

- .3 Exhibits:

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

- Other Exhibits incorporated into this Agreement:

*(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits and scopes of services identified as exhibits in Section 4.1.2.)*

*(Paragraphs deleted)*

Exhibit A – Owner’s GF (LOCAL) policy

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

\_\_\_\_\_  
**OWNER** *(Signature)*

\_\_\_\_\_  
*(Printed name and title)*

  
\_\_\_\_\_  
**ARCHITECT** *(Signature)*

LaShae Baskin - Director of Austin Office  
Huckabee & Associates, Inc.

\_\_\_\_\_  
*(Printed name, title, and license number, if required)*

# 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 16:21:00 CT on 02/15/2022.

## PAGE 1

**AGREEMENT** made as of the Eighteenth day of February in the year Two Thousand Twenty-Two

...

Belton Independent School District  
411 North Wall Street  
Belton, TX 76513

...

Huckabee & Associates, Inc.  
801 Cherry Street, Suite 500  
Fort Worth, TX 76102  
Phone: 817-377-2969

...

New Elementary School #13

## 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.

...

\$38,000,000

## PAGE 3

Construction Documents – June 2022

...

TBD

...

TBD

.4 Other milestone dates:

TBD

Time is of the essence of this Agreement. Neither the inclusion nor the exclusion of any milestone dates in this section relieves the Architect of its duty 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:  
Surveyor

.2 — Civil Engineer:

.3 — Other, if any:  
(List any other consultants and contractors retained by the Owner.)

Others noted in Section 4.1.1, if any

...

§ 1.1.11.1 Consultants retained under Basic Services: All those necessary for the Project unless specifically identified in section 1.1.9 above, including ,but not limited to, the following:

~~.1 Structural Engineer:~~

Structural Engineer - Huckabee

~~.2 Mechanical Engineer:~~

Mechanical Engineer – Baird Hampton & Brown

~~.3 Electrical Engineer:~~Electrical Engineer – Baird Hampton & Brown  
Landscape Design – Kimley Horn  
Telecommunication/Data Design - CRUX  
Security Evaluation and Planning - CRUX  
Roof Consultant – Hollon Cannon  
Building Envelope – Hollon Cannon  
Kitchen Services – Cosper & Associates

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

As noted in section 4.1.1

...

All Architect's consultants, whether retained under Basic Services or under Additional Services, shall be subject to the approval of the Owner. Owner's approval will not be unreasonably withheld, conditioned, or delayed. Owner's approval does not relieve the Architect of any responsibility for the actions of Architect's consultants.

§ 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 advanced, 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 protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, 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 shall draft 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 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. 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. In compliance with 19 Texas Administrative Code ("TAC") Section 61.1036, 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. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 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. The Architect shall maintain the following insurance for the duration of this Agreement. 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.

§ 2.5.1 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 completion 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 years from the Final Completion of all construction of this Project (or twelve 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. Worker's 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  
District named as additional insured on coverages, except as to professional liability and workers' compensation

The District 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 District, 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 District, the Architect shall exercise reasonable efforts to accomplish such changes in policy coverage, and shall pay the cost thereof.

§ 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. Texas Workers Compensation Insurance. Because Architect will be performing services on-site, a copy of a certificate of insurance, a certificate of authority to self-insure issued by the Texas Department of Insurance (TDI), or a coverage agreement (DWC-81, DWC-82, DWC-83, or DWC-84), showing statutory workers' compensation insurance coverage for the Architect or his employees providing services on a Project is required for the duration of the Project.

- .1 Duration of the Project includes the time from the beginning of the Work on the Project until the Architect's Services on the Project have been completed and accepted by the Owner.
- .2 Persons providing services on the Project include all persons or entities performing all or part of the services the Architect has undertaken to perform on the Project, regardless of whether that person contracted directly with the Architect, and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity that furnishes persons to provide services on the Project.
- .3 Services include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other services related to the Project to the extent performed by the Architect or its consultants. Services do not include activities unrelated to the Project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.
- .4 The Architect shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code §401.011(44) for all employees of the Architect providing services on the Project for the duration of the Project.
- .5 The Architect must provide a certificate of coverage to the Owner prior to being awarded the contract.
- .6 If the coverage period shown on the Architect's current certificate of coverage ends during the duration of the Project, the Architect must, prior to the end of the coverage period, file a new certificate of coverage with the Owner showing that coverage has been extended.
- .7 The Architect shall obtain from each person providing services on a project, and provide to the Owner:
  - a. A certificate of coverage, prior to that person beginning work on the Project, so the Owner will have on file certificates of coverage showing coverage for all persons providing services on the Project; and
  - b. No later than seven days after receipt by the Architect, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the Project.
- .8 The Architect shall retain all required certificates of coverage for the duration of the Project and for one year thereafter.

- .9 The Architect shall notify the Owner in writing by certified mail or personal delivery, within ten days after the Architect knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the Project.
- .10 The Architect shall post on each project site a notice, in the text, form and manner prescribed by the Texas Department of Insurance, informing all persons providing services on the Project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
- .11 The Architect shall contractually require each person with whom it contracts to provide services on a project, to:
- a. Provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code § 401.011(44) for all of its employees providing services on the Project for the duration of the Project;
  - b. Provide to the Architect, prior to that person beginning work on the Project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the Project for the duration of the Project;
  - c. Provide the Architect, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the Project;
  - d. Obtain from each other person with whom it contracts, and provide to the Architect:
    - 1) A certificate of coverage, prior to the other person beginning work on the Project; and
    - 2) A new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the Project;
  - e. Retain all required certificates of coverage on file for the duration of the Project and for one year thereafter;
  - f. Notify the Owner in writing by certified mail or personal delivery, within ten days after the person knew or should have known, of any change that materially affects the provision of coverage for any person providing services on the Project; and
  - g. Contractually require each person with whom it contracts to perform as required by items a-g, with the certificates of coverage to be provided to the person for whom they are providing services.
- .12 By signing this contract or providing or causing to be provided a certificate of coverage, the Architect is acknowledging to the Owner that all employees of the Architect who will provide services on the Project will be covered by workers' compensation 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 Texas Department of Insurance's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Architect to administrative penalties, criminal penalties, civil penalties, or other civil actions.
- .13 The Architect's failure to comply with any of these provisions is a breach of contract by the Architect that entitles the Owner to declare the contract void if the Architect does not remedy the breach within ten (10) days after receipt of notice of breach from the Owner.
- .14 The coverage requirement recited above does not apply to sole proprietors, partners, and corporate officers who are excluded from coverage in an insurance policy or certificate of authority to self-insure that is delivered, issued for delivery, or renewed on or after January 1, 1996. 28 TAC §110.110(i).

~~§ 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.

~~§ 2.5.5~~ 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, which carrier 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 on 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.

~~§ 2.5.8~~ The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5.

**§ 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, ANY OF ARCHITECT'S CONSULTANTS OR SUBCONSULTANTS, OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM OR ANYONE THAT THEY CONTROL OR EXERCISE CONTROL OVER (COLLECTIVELY, "THE LIABILITIES"). IN THE EVENT OR 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, MAY 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 BY THE JUDGMENT UNDER THE LAWS OF THE STATE OF**

**TEXAS. THIS INDEMNIFICATION PARAGRAPH SHALL NOT BE LIMITED TO DAMAGES COMPENSATION OR BENEFITS PAYABLE UNDER INSURANCE POLICIES, WORKER'S COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEE BENEFIT ACTS.**

**ARCHITECT SHALL PROTECT AND INDEMNIFY THE DISTRICT 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 DISTRICT 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, DISTRICT 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 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 19 TAC Section 61.1036, and Texas Health and Safety Code Chapter 341. 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 certify that he has reviewed the standards contained in 19 TAC Section 61.1036, and use 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. Architect shall also certify that the Construction Documents conform to the provisions of 19 TAC Section 61.1036, except as indicated on the certification. 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, as required by 19 TAC Section 61.1036(c). Architect shall also certify that the facilities have been designed according to the provisions of 19 TAC Section 61.1036, based on the educational program long-range school facility plan, educational specifications, building code specifications, and all documented changes to the Construction Documents provided by the District, as required by 19 TAC Section 61.1036.

**§ 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 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. If Owner is using instructional facilities allotment funds for the Project, which are allotted to Owner under Subchapter A of Chapter 46 of the Texas Education Code, then Architect shall consider, in the design of the Project, the security criteria developed by the Texas School Safety Center under Texas Education Code Section 37.2051. 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.

§ 2.9 The Architect shall incorporate sustainable design concepts into the Project design and contract documents, as directed by the Owner. All services required to demonstrate compliance with the Collaborative for High Performance Schools – Texas Design Criteria as "CHPS Designed" are a Supplemental Service, if agreed by the parties.

§ 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 § 61.1036 regarding Architect's seal 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 in the State of Texas, the Architect shall retain those consultants necessary to complete the required action on behalf of the Architect.

§ 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 61.1036. 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.

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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 understanding with the Owner regarding the requirements 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-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 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 and consult with the Owner's Construction Manager, in Construction Manager-at Risk ("CMAR") projects, regarding 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 and, in CMAR projects, consult with the Owner's Construction Manager regarding 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 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.**

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§ 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 61.1036,

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 Government Code - Chapter 425.

§ 3.4.2.4 All ventilation and indoor air quality systems designed by Architect, if any, shall meet the indoor air quality voluntary guidelines established by the Texas Department of State Health Services, Texas Health and Safety Code - Chapter 385.

§ 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 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 44.0432.

§ 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 agrees 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 offices, 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;
- .6 evaluating the bids/proposals based on the approved criteria;
- .7 organizing and participating in selection interviews with prospective contractors;
- .8 participating in negotiations with prospective contractors and subsequently preparing a summary report of the negotiations results, as directed by the Owner; and
- .9 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™ (either 2007 or 2017, whichever is used by Owner), 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. 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 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 Architect's responsibilities related to the pre-construction conference shall not include the Contractor's means, methods, techniques, or site safety as these items are the sole responsibility of the Contractor. 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 due to Architect's failure to discover a construction defect or nonconforming Work, as required by this Agreement or the standard of care, shall be at no additional cost to Owner. 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 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 (1) year after Substantial Completion. 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 months from the date of Substantial Completion and, again, prior to the expiration of ten 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 Substantial Completion, at the request of Owner, 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 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) and 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. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. Documents, 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. 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 due to Architect failure to

discover a construction defect or nonconforming Work as required by this agreement or the standard of care shall be at no additional cost to Owner. 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 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 201 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 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, indicated and that 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) an the Construction Document 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 inspection and 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.~~ specific qualifications expressed by the Architect in writing to Owner.

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**§ 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~~ 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.

...

§ 3.6.4.4 ~~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, 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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**.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 on 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.

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**§ 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.

**§ 3.8.3** The Owner reserves the right to apply the Collaborative of High Performance Schools – Texas Criteria (CHPS-TX) to this project and require that the Architect follow and document compliance with said criteria, including energy modeling and other studies required by TX-CHPS "Designed." Any such services shall be Supplemental Services, if agreed by the parties.

...

**§ 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 as a Basic Service. 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.

...

<b>§ 4.1.1.1</b> Programming	<u>Architect, as a Basic Service</u>
<b>§ 4.1.1.2</b> Multiple preliminary designs	<u>Architect, as a Basic Service</u>
<b>§ 4.1.1.3</b> Measured drawings	<u>Architect</u>
<b>§ 4.1.1.4</b> Existing facilities surveys	<u>Architect</u>
<b>§ 4.1.1.5</b> Site evaluation and planning	<u>Architect, as a Basic Service</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	<u>Civil-On-site and Off-site civil engineering</u>	<u>Architect</u>
§ 4.1.1.9	Landscape design	<u>Architect, as a Basic Service</u>
§ 4.1.1.10	Architectural interior design	<u>Architect, as a Basic Service</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>Architect, as a Basic Service</u>
§ 4.1.1.15	As-designed record drawings	<u>Architect, as a Basic Service</u>
§ 4.1.1.16	As-constructed record drawings	<u>Not Provided</u>
§ 4.1.1.17	Post-occupancy evaluation	<u>Architect</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>Architect, as a Basic Service</u>
§ 4.1.1.22	Security evaluation and planning	<u>Architect, as a Basic Service</u>
§ 4.1.1.23	Commissioning	<u>Owner</u>
§ 4.1.1.24	Sustainable Project Services pursuant to Section 4.1.3	<u>Architect</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>Owner</u>
§ 4.1.1.29	Acoustical Consultant; Traffic Engineer; Environmental Graphics/Wayfinding; ADA Review and Inspection; Third-Party Energy Code Review; Visualization	<u>Architect,</u>
§ 4.1.1.29	<del>Other services provided by specialty Consultants</del>	<u>Kitchen Services Consultant – Architect, as a Basic Service</u> <u>Roof Consultant – Architect, as a Basic Service</u> <u>Building Envelope Consultant – Architect, as a Basic Service</u> <u>Archeological Survey—Architect, as a Basic Service</u>
§ 4.1.1.30	Other Supplemental Services	

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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;

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- .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 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
- .2 ~~(—) Weekly~~ visits to the site by the Architect during construction
- .3 Two ( 2 ) 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.

**§ 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 61.1036. 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.~~

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**§ 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~~ 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 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; 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.

~~**§ 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 estimate of the Cost of the Work for 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.

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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;

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- .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.~~

...

§ 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. 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.

§ 7.3. 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. 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.

Anything else to the contrary notwithstanding, the Construction Documents may be used by Owner and other architects hired by Owner as a prototype for other facilities by the Owner. 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 so, then the Architect agrees to perform the work for an additional compensation that will fairly compensate the Architect and its consultants only for the additional work involved. It is reasonable to expect that the

fair additional compensation will be less than the fee provided for under this Agreement. 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.

§7.4 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 for all Claims and Disputes by Architect**

- .1 The requirements of this section 8.1.2 shall constitute an independent "contractual adjudication procedure" as that term is used in Texas Local Government Code Chapter 271 Subchapter I.
- .2 **Pre-Litigation Grievance and Mediation.** Any claim, dispute or other matter in question that Architect has against Owner shall be subject to full exhaustion of the grievance procedure found in Owner's GF (LOCAL) policy and non-binding mediation as a condition precedent to the institution of legal or equitable proceedings by Architect. In the case of any such claim, dispute, or other matter, by the Architect against the 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 GF (LOCAL) policy 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 Article 8, or otherwise fully exhaust policy GF (LOCAL) in accordance with the policy's requirements is a failure to adhere to contractual adjudication procedures, a failure to exhaust remedies, a failure to fulfill conditions precedent, constitutes waiver, and 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 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, will have failed to adhere to this contractual

adjudication procedure, will have failed to fulfill conditions precedent to suit, will have waived the complaint, and will be barred from suing the Owner.

- b. Architect agrees that, in order to fully exhaust its remedies under policy GF (LOCAL) and otherwise comply with this section 8.1.2, 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. The following are each an independent condition 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 GF (LOCAL) procedure, 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. Owner's voluntary participation in any mediation or any other settlement discussions shall not be construed as a waiver of any failure by Architect to exhaust remedies, follow contractual adjudication procedures, or otherwise comply with this Agreement. If the parties participate in mediation, the parties shall share the mediator's fee and any filing fees equally.

~~§ 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 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 days' written notice.~~

...

~~§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause. The Owner may also terminate this Agreement on (7) seven 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 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 obtain all criminal history information required by Texas Education Code Chapter 22 regarding its "covered employees", as defined below. If Architect is required by Chapter 22 to obtain the information from the Fingerprint-based Applicant Clearinghouse of Texas, then Architect will also subscribe to that person's criminal history record information. Before beginning any Work on the Project, Architect will provide written

certification to the District that Architect has complied with the statutory requirements as of that date. Upon request by Owner, Architect will provide, in writing: updated certifications and the names and any other requested information regarding covered employees, so that the Owner may obtain criminal history recommended information on the covered employees. Architect shall assume all expenses associated with obtaining criminal history record information.

**§ 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 this Section, "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 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 Occupaintions Code Chapter 1051. Tehe 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](http://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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( ) % of the Owner's budget for

For a new design: Six Percent (6) % of the Cost of the Work, as calculated in accordance with Section 11.5

For a prototype site adapt of Elementary School #12 design: Five Percent (5%) of the Cost of the Work, as calculated in accordance with Section 11.5

For a two-story prototype site adapt of Elementary School #12 design: Five and One-Half Percent (5.5%) of the Cost of the Work, as calculated in accordance with Section 11.5

Before billing any amount, the Architect shall secure the Owner's written agreement of the applicable fee based on the information included in this section.

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n/a

§ 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>thirty</u>	percent (	<u>30</u>	%)
Design Development Phase	<u>twenty</u>	percent (	<u>20</u>	%)
Construction Documents Phase	<u>twenty-five</u>	percent (	<u>25</u>	%)
Procurement Phase	<u>five</u>	percent (	<u>5</u>	%)
Construction Phase (no less than 3% of the Architect’s fee is 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 is within the Owner’s approved budget.

§ 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~~, as follows:
- ~~1.~~ 1. ~~Transportation and authorized out-of-town travel and subsistence;~~ Transportation and authorized out-of-town travel and subsistence if approved by Owner in advance;
  - ~~2.~~ 2. ~~Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;~~
  - ~~3.~~ 3. ~~Permitting and other fees required by authorities having jurisdiction over the Project;~~
  - ~~4.~~ 4. ~~Printing, reproductions, plots, and standard form documents;~~
    3. Printing, reproduction, plots, standard form documents;
      - a. Project Development
        - i. Design Presentation to the Board of Trustees
        - ii. Schematic Design Book
        5. Postage, handling, and delivery;
        - iii. Staff Review Documents if required and approved by Owner in advance
      - b. Construction Documents
        6. Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
        - 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;
  - ~~7.~~ 5. ~~Renderings, physical models, mock-ups, professional photography, and presentation materials requested and approved by the Owner or required for the this Project;~~
  - ~~8.~~ 8. ~~If required by the Owner, and with the Owner's prior written approval, the Architect's consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect's consultants;~~
  - ~~9.~~ 6. ~~All taxes levied on professional services and on reimbursable expenses;~~
  - ~~10.~~ 10. ~~Site office expenses;~~
  - ~~11.~~ 7. ~~Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and, and~~
  - ~~12.~~ 8. ~~Other similar Project-related expenditures;~~ Other similar Project-related expenditures, when approved by the Owner prior to its occurrence.

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 ~~expenses incurred by the Architect and the Architect's consultants plus percent (—%) of the expenses incurred.~~ actual, reasonable expenses incurred by the Architect plus five percent (5%) of the expense incurred. The Architect shall present Reimbursable Expenses, including supporting documentation, for payment with its regular invoices, and must request payment within thirty days of incurring such expenses. The Architect waives any claim for Reimbursable Expenses not presented in accordance with this section 6.2.2.

**§ 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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**§ 12.2** 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 22.08341, and Texas Administrative Code regulation 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** In accordance with Texas Government Code section 2271.002, Architect verifies that it does not boycott Israel and will not boycott Israel during the term of this contract. In accordance with Texas Government Code section 2274.002, Architect verifies it does not boycott energy companies and will not boycott energy companies during the term of the contract. In accordance with Texas Government Code section 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.

**§ 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 Architect shall ensure that its services related to the Project comply with 19 Texas Administrative Code §61.1033 et seq. School Facilities Standards.

The Texas Board of Architectural Examiners has jurisdiction over complaints regarding the professional practices of person registered as Architects in Texas.

Texas Board of Architectural Examiners

P.O. Box 12337

Austin, TX 78711-2337

(512) 305-9000

(512) 305-8900

### **§ 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(7) 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~~ AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

*(Insert the date of the E203-2013 incorporated into this agreement.)*

\_\_\_\_\_

...

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:

...

~~4~~ Other documents:

*(List other documents, if any, forming part of the Agreement.)*

Exhibit A – Owner’s GF (LOCAL) policy

# **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 16:21:00 CT on 02/15/2022 under Order No. 2114280461 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, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

\_\_\_\_\_  
*(Signed)*

\_\_\_\_\_  
*(Title)*

\_\_\_\_\_  
*(Dated)*



# AIA<sup>®</sup> Document B101<sup>™</sup> – 2017

## Standard Form of Agreement Between Owner and Architect

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

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

Belton Independent School District  
411 North Wall Street  
Belton, TX 76513

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

Huckabee & Associates, Inc.  
801 Cherry Street, Suite 500  
Fort Worth, TX 76102  
Phone: 817-377-2969

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

New Elementary School #13

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.

## TABLE OF ARTICLES

1	INITIAL INFORMATION
2	ARCHITECT'S RESPONSIBILITIES
3	SCOPE OF ARCHITECT'S BASIC SERVICES
4	SUPPLEMENTAL AND ADDITIONAL SERVICES
5	OWNER'S RESPONSIBILITIES
6	COST OF THE WORK
7	COPYRIGHTS AND LICENSES
8	CLAIMS AND DISPUTES
9	TERMINATION OR SUSPENSION
10	MISCELLANEOUS PROVISIONS
11	COMPENSATION
12	SPECIAL TERMS AND CONDITIONS
13	SCOPE OF THE AGREEMENT

### 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.)*

\$38,000,000

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

- .1 Design phase milestone dates, if any:  
Construction Documents – June 2022
- .2 Construction commencement date:  
TBD
- .3 Substantial Completion date or dates:  
TBD
- .4 Other milestone dates:  
TBD

Time is of the essence of this Agreement. Neither the inclusion nor the exclusion of any milestone dates in this section relieves the Architect of its duty 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.)*

Geotechnical  
Surveyor

*(Paragraphs deleted)*

Others noted in Section 4.1.1, if any

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

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

Mike Boyle, AIA

§ 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: All those necessary for the Project unless specifically identified in section 1.1.9 above, including ,but not limited to, the following:

*(Paragraphs deleted)*

Structural Engineer - Huckabee

*(Paragraphs deleted)*

Mechanical Engineer – Baird Hampton & Brown

*(Paragraphs deleted)*

Electrical Engineer – Baird Hampton & Brown

Landscape Design – Kimley Horn

Telecommunication/Data Design - CRUX

Security Evaluation and Planning - CRUX

Roof Consultant – Hollon Cannon

Building Envelope – Hollon Cannon

Kitchen Services – Cosper & Associates

§ 1.1.11.2 Consultants retained under Supplementary/Additional Services:

As noted in section 4.1.1

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

All Architect’s consultants, whether retained under Basic Services or under Additional Services, shall be subject to the approval of the Owner. Owner’s approval will not be unreasonably withheld, conditioned, or delayed. Owner’s approval does not relieve the Architect of any responsibility for the actions of Architect’s consultants.

§ 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 advanced, 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 shall draft 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

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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 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. 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. In compliance with 19 Texas Administrative Code ("TAC") Section 61.1036, 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. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 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 until termination of this Agreement. The Architect shall maintain the following insurance for the duration of this Agreement. 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.

*(Paragraph 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 completion 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 years from the Final Completion of all construction of this Project (or twelve 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. Worker's Compensation:
  - a. State: Statutory
  - b. Applicable Federal: Statutory

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

The District 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 District, 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 District, the Architect shall exercise reasonable efforts to accomplish such changes in policy coverage, and shall pay the cost thereof.

**§ 2.5.2 Texas Workers Compensation Insurance.** Because Architect will be performing services on-site, a copy of a certificate of insurance, a certificate of authority to self-insure issued by the Texas Department of Insurance (TDI), or a coverage agreement (DWC-81, DWC-82, DWC-83, or DWC-84), showing statutory workers' compensation insurance coverage for the Architect or his employees providing services on a Project is required for the duration of the Project.

- .1 Duration of the Project includes the time from the beginning of the Work on the Project until the Architect's Services on the Project have been completed and accepted by the Owner.
- .2 Persons providing services on the Project include all persons or entities performing all or part of the services the Architect has undertaken to perform on the Project, regardless of whether that person contracted directly with the Architect, and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity that furnishes persons to provide services on the Project.
- .3 Services include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other services related to the Project to the extent performed by the Architect or its consultants. Services do not include activities unrelated to the Project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.
- .4 The Architect shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas

Labor Code §401.011(44) for all employees of the Architect providing services on the Project for the duration of the Project.

- .5 The Architect must provide a certificate of coverage to the Owner prior to being awarded the contract.
- .6 If the coverage period shown on the Architect's current certificate of coverage ends during the duration of the Project, the Architect must, prior to the end of the coverage period, file a new certificate of coverage with the Owner showing that coverage has been extended.
- .7 The Architect shall obtain from each person providing services on a project, and provide to the Owner:
  - a. A certificate of coverage, prior to that person beginning work on the Project, so the Owner will have on file certificates of coverage showing coverage for all persons providing services on the Project; and
  - b. No later than seven days after receipt by the Architect, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the Project.
- .8 The Architect shall retain all required certificates of coverage for the duration of the Project and for one year thereafter.
- .9 The Architect shall notify the Owner in writing by certified mail or personal delivery, within ten days after the Architect knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the Project.
- .10 The Architect shall post on each project site a notice, in the text, form and manner prescribed by the Texas Department of Insurance, informing all persons providing services on the Project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
- .11 The Architect shall contractually require each person with whom it contracts to provide services on a project, to:
  - a. Provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code § 401.011(44) for all of its employees providing services on the Project for the duration of the Project;
  - b. Provide to the Architect, prior to that person beginning work on the Project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the Project for the duration of the Project;
  - c. Provide the Architect, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the Project;
  - d. Obtain from each other person with whom it contracts, and provide to the Architect:
    - 1) A certificate of coverage, prior to the other person beginning work on the Project; and
    - 2) A new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the Project;
  - e. Retain all required certificates of coverage on file for the duration of the Project and for one year thereafter;

- f. Notify the Owner in writing by certified mail or personal delivery, within ten days after the person knew or should have known, of any change that materially affects the provision of coverage for any person providing services on the Project; and
  - g. Contractually require each person with whom it contracts to perform as required by items a-g, with the certificates of coverage to be provided to the person for whom they are providing services.
- .12 By signing this contract or providing or causing to be provided a certificate of coverage, the Architect is acknowledging to the Owner that all employees of the Architect who will provide services on the Project will be covered by workers' compensation 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 Texas Department of Insurance's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Architect to administrative penalties, criminal penalties, civil penalties, or other civil actions.
  - .13 The Architect's failure to comply with any of these provisions is a breach of contract by the Architect that entitles the Owner to declare the contract void if the Architect does not remedy the breach within ten (10) days after receipt of notice of breach from the Owner.
  - .14 The coverage requirement recited above does not apply to sole proprietors, partners, and corporate officers who are excluded from coverage in an insurance policy or certificate of authority to self-insure that is delivered, issued for delivery, or renewed on or after January 1, 1996. 28 TAC §110.110(i).

*(Paragraphs deleted)*

**§ 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, which carrier 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 on 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.

*(Paragraph deleted)*

**§ 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")**

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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, ANY OF ARCHITECT'S CONSULTANTS OR SUBCONSULTANTS, OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM OR ANYONE THAT THEY CONTROL OR EXERCISE CONTROL OVER (COLLECTIVELY, "THE LIABILITIES"). IN THE EVENT OR 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, MAY 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 BY THE JUDGMENT UNDER THE LAWS OF THE STATE OF TEXAS. THIS INDEMNIFICATION PARAGRAPH SHALL NOT BE LIMITED TO DAMAGES COMPENSATION OR BENEFITS PAYABLE UNDER INSURANCE POLICIES, WORKER'S COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEE BENEFIT ACTS.

ARCHITECT SHALL PROTECT AND INDEMNIFY THE DISTRICT 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 DISTRICT 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, DISTRICT 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 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 19 TAC Section 61.1036, and Texas Health and Safety Code Chapter 341. 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 certify that he has reviewed the standards contained in 19 TAC Section 61.1036, and use 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. Architect shall also certify that the Construction Documents conform to the provisions of 19 TAC Section 61.1036, except as indicated on the certification. 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, as required by 19 TAC Section 61.1036(c). Architect shall also certify that the facilities have been designed according to the provisions of 19 TAC Section 61.1036, based on the educational

program long-range school facility plan, educational specifications, building code specifications, and all documented changes to the Construction Documents provided by the District, as required by 19 TAC Section 61.1036.

§ 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 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. If Owner is using instructional facilities allotment funds for the Project, which are allotted to Owner under Subchapter A of Chapter 46 of the Texas Education Code, then Architect shall consider, in the design of the Project, the security criteria developed by the Texas School Safety Center under Texas Education Code Section 37.2051. 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.

§ 2.9 The Architect shall incorporate sustainable design concepts into the Project design and contract documents, as directed by the Owner. All services required to demonstrate compliance with the Collaborative for High Performance Schools – Texas Design Criteria as "CHPS Designed" are a Supplemental Service, if agreed by the parties.

§ 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 § 61.1036 regarding Architect's seal 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 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 61.1036. 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.

### § 3.2 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.

§ 3.2.5.1 The Architect shall consider and consult with the Owner's Construction Manager, in Construction Manager—at Risk ("CMAR") projects, regarding 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.

§ 3.2.5.2 The Architect shall consider and, in CMAR projects, consult with the Owner's Construction Manager regarding 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 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 61.1036, 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 F1487-07a<sup>1</sup>, "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 F2223-04<sup>1</sup>, "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 Government Code - Chapter 425.

**§ 3.4.2.4** All ventilation and indoor air quality systems designed by Architect, if any, shall meet the indoor air quality voluntary guidelines established by the Texas Department of State Health Services, Texas Health and Safety Code - Chapter 385.

**§ 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 44.0432.

**§ 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 agrees 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 offices, 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:

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- .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;
- .6 evaluating the bids/proposals based on the approved criteria;
- .7 organizing and participating in selection interviews with prospective contractors;
- .8 participating in negotiations with prospective contractors and subsequently preparing a summary report of the negotiations results, as directed by the Owner; and
- .9 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™ (either 2007 or 2017, whichever is used by Owner), 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. 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 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 Architect's responsibilities related to the pre-construction conference shall not include the Contractor's means, methods, techniques, or site safety as these items are the sole responsibility of the Contractor. 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

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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 due to Architect's failure to discover a construction defect or nonconforming Work, as required by this Agreement or the standard of care, shall be at no additional cost to Owner. 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 (1) year after Substantial Completion. 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 months from the date of Substantial Completion and, again, prior to the expiration of ten 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 Substantial Completion, at the request of Owner, 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 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) and 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, 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. 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 due to Architect failure to discover a construction defect or nonconforming Work as required by this agreement or the standard of care shall be at no additional cost to Owner. 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. 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, as amended, the Architect shall promptly within the time frame established in AIA 201 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 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 Document 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 inspection and 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

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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:

- .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 on 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.

§ 3.8.1 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.

§ 3.8.3 The Owner reserves the right to apply the Collaborative of High Performance Schools – Texas Criteria (CHPS-TX) to this project and require that the Architect follow and document compliance with said criteria, including energy modeling and other studies required by TX-CHPS "Designed." Any such services shall be Supplemental Services, if agreed by the parties.

**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 as a Basic Service. 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.)*

<b>Supplemental Services</b>	<b>Responsibility</b> <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.1 Programming	Architect, as a Basic Service
§ 4.1.1.2 Multiple preliminary designs	Architect, as a Basic Service
§ 4.1.1.3 Measured drawings	Architect
§ 4.1.1.4 Existing facilities surveys	Architect
§ 4.1.1.5 Site evaluation and planning	Architect, as a Basic Service
§ 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 On-site and Off-site civil engineering	Architect
§ 4.1.1.9 Landscape design	Architect, as a Basic Service
§ 4.1.1.10 Architectural interior design	Architect, as a Basic Service
§ 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	Architect, as a Basic Service
§ 4.1.1.15 As-designed record drawings	Architect, as a Basic Service
§ 4.1.1.16 As-constructed record drawings	Not Provided
§ 4.1.1.17 Post-occupancy evaluation	Architect
§ 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	Architect, as a Basic Service
§ 4.1.1.22 Security evaluation and planning	Architect, as a Basic Service

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<b>Supplemental Services</b>	<b>Responsibility</b> <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.23 Commissioning	Owner
§ 4.1.1.24 Sustainable Project Services	Architect
§ 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	Owner
§ 4.1.1.29 Acoustical Consultant; Traffic Engineer; Environmental Graphics/Wayfinding; ADA Review and Inspection; Third-Party Energy Code Review; Visualization	Architect,

*(Row deleted)*

§ 4.1.1.30 Other Supplemental Services	Kitchen Services Consultant – Architect, as a Basic Service Roof Consultant – Architect, as a Basic Service Building Envelope Consultant – Architect, as a Basic Service Archeological Survey—Architect, as a Basic Service
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*(Row deleted)*

**§ 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;  
*(Paragraphs deleted)*
- .5 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner-authorized recipients;
- .10 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 Two ( 2 ) 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 61.1036. 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

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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 estimate of the Cost of the Work for 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;

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- .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, 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.

*(Paragraphs deleted)*

§ 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. 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.

Anything else to the contrary notwithstanding, the Construction Documents may be used by Owner and other architects hired by Owner as a prototype for other facilities by the Owner. 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 so, then the Architect agrees to perform the work for an additional compensation that will fairly compensate the Architect and its consultants only for the additional work involved. It is reasonable to expect that the fair additional compensation will be less than the fee provided for under this Agreement. 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.

§7.4 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 for all Claims and Disputes by Architect

- .1 The requirements of this section 8.1.2 shall constitute an independent "contractual adjudication procedure" as that term is used in Texas Local Government Code Chapter 271 Subchapter I.
- .2 **Pre-Litigation Grievance and Mediation.** Any claim, dispute or other matter in question that Architect has against Owner shall be subject to full exhaustion of the grievance procedure found in Owner's GF (LOCAL) policy and non-binding mediation as a condition precedent to the institution of legal or equitable proceedings by Architect. In the case of any such claim, dispute, or other matter, by the Architect against the 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 GF (LOCAL) policy 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 Article 8, or otherwise fully exhaust policy GF (LOCAL) in accordance with the policy's requirements is a failure to adhere to contractual adjudication procedures, a failure to exhaust remedies, a failure to fulfill conditions precedent, constitutes waiver, and 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 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, will have failed to adhere to this contractual adjudication procedure, will have failed to fulfill conditions precedent to suit, will have waived the complaint, and will be barred from suing the Owner.
  - b. Architect agrees that, in order to fully exhaust its remedies under policy GF (LOCAL) and otherwise comply with this section 8.1.2, 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. The following are each an independent condition 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 GF (LOCAL) procedure, 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. Owner's voluntary participation in any mediation or any other settlement discussions shall not be construed as a waiver of any failure by Architect to exhaust remedies, follow contractual adjudication procedures, or otherwise comply with this Agreement. If the parties participate in mediation, the parties shall share the mediator's fee and any filing fees equally.

§ 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 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 days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven 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 days' written notice to the Architect for the Owner's convenience and without cause. The Owner may also terminate this Agreement on (7) seven 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.

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*(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 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 obtain all criminal history information required by Texas Education Code Chapter 22 regarding its "covered employees", as defined below. If Architect is required by Chapter 22 to obtain the information from the Fingerprint-based Applicant Clearinghouse of Texas, then Architect will also subscribe to that person's criminal history record information. Before beginning any Work on the Project, Architect will provide written certification to the District that Architect has complied with the statutory requirements as of that date. Upon request by Owner, Architect will provide, in writing: updated certifications and the names and any other requested information regarding covered employees, so that the Owner may obtain criminal history recommended information on the covered employees. Architect shall assume all expenses associated with obtaining criminal history record information.

**§ 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

Init.

contracted services are provided.

**§ 10.16.3** For the purposes of this Section, "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 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 Occupaintions Code Chapter 1051. Tehe 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](http://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)

.2 Percentage Basis  
(Insert percentage value)

For a new design: Six Percent (6) % of the Cost of the Work, as calculated in accordance with Section 11.5

For a prototype site adapt of Elementary School #12 design: Five Percent (5%) of the Cost of the Work, as calculated in accordance with Section 11.5

For a two-story prototype site adapt of Elementary School #12 design: Five and One-Half Percent (5.5%) of the Cost of the Work, as calculated in accordance with Section 11.5

Before billing any amount, the Architect shall secure the Owner's written agreement of the applicable fee based on the information included in this section.

.3 Other

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/

(Describe the method of compensation)

n/a

§ 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	thirty	percent (	30	%)
Design Development Phase	twenty	percent (	20	%)
Construction Documents Phase	twenty-five	percent (	25	%)
Procurement Phase	five	percent (	5	%)
Construction Phase (no less than 3% of the Architect’s fee is attributable to Basic Services that occur after Substantial Completion)	twenty	percent (	20	%)
<b>Total Basic Compensation</b>	<b>one hundred</b>	<b>percent (</b>	<b>100</b>	<b>%)</b>

(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 is within the Owner’s approved budget.

(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, 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

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- 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;
  6. All taxes levied on professional services and on reimbursable expenses;
  7. Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and
  8. Other similar Project-related expenditures, when approved by the Owner prior to its occurrence.

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 plus five percent (5%) of the expense incurred. The Architect shall present Reimbursable Expenses, including supporting documentation, for payment with its regular invoices, and must request payment within thirty days of incurring such expenses. The Architect waives any claim for Reimbursable Expenses not presented in accordance with this section 6.2.2.

*(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.)*

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§ 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 22.08341, and Texas Administrative Code regulation 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 In accordance with Texas Government Code section 2271.002, Architect verifies that it does not boycott Israel and will not boycott Israel during the term of this contract. In accordance with Texas Government Code section 2274.002, Architect verifies it does not boycott energy companies and will not boycott energy companies during the term of the contract. In accordance with Texas Government Code section 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.

§ 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 Architect shall ensure that its services related to the Project comply with 19 Texas Administrative Code §61.1033 *et seq.* School Facilities Standards.**

The Texas Board of Architectural Examiners has jurisdiction over complaints regarding the professional practices of person registered as Architects in Texas.

Texas Board of Architectural Examiners  
P.O. Box 12337  
Austin, TX 78711-2337  
(512) 305-9000  
(512) 305-8900

### § 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(7) 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)*

- .3 Exhibits:

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

Other Exhibits incorporated into this Agreement:

*(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits and scopes of services identified as exhibits in Section 4.1.2.)*

*(Paragraphs deleted)*

Exhibit A – Owner’s GF (LOCAL) policy

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

\_\_\_\_\_  
OWNER (Signature)

\_\_\_\_\_  
*(Printed name and title)*

  
\_\_\_\_\_  
ARCHITECT (Signature)

LaShae Baskin - Director of Austin Office  
Huckabee & Associates, Inc.

\_\_\_\_\_  
*(Printed name, title, and license number, if required)*

# 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 16:21:00 CT on 02/15/2022.

## PAGE 1

**AGREEMENT** made as of the Eighteenth day of February in the year Two Thousand Twenty-Two

...

Belton Independent School District  
411 North Wall Street  
Belton, TX 76513

...

Huckabee & Associates, Inc.  
801 Cherry Street, Suite 500  
Fort Worth, TX 76102  
Phone: 817-377-2969

...

New Elementary School #13

## 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.

...

\$38,000,000

## PAGE 3

Construction Documents – June 2022

...

TBD

...

TBD

.4 Other milestone dates:

TBD

Time is of the essence of this Agreement. Neither the inclusion nor the exclusion of any milestone dates in this section relieves the Architect of its duty 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:  
Surveyor~~

~~.2 — Civil Engineer:~~

~~.3 — Other, if any:  
— (List any other consultants and contractors retained by the Owner.)~~

Others noted in Section 4.1.1, if any

...

§ 1.1.11.1 Consultants retained under Basic Services: All those necessary for the Project unless specifically identified in section 1.1.9 above, including ,but not limited to, the following:

~~.1 Structural Engineer:~~

Structural Engineer - Huckabee

~~.2 Mechanical Engineer:~~

Mechanical Engineer – Baird Hampton & Brown

~~.3 Electrical Engineer:~~Electrical Engineer – Baird Hampton & Brown  
Landscape Design – Kimley Horn  
Telecommunication/Data Design - CRUX  
Security Evaluation and Planning - CRUX  
Roof Consultant – Hollon Cannon  
Building Envelope – Hollon Cannon  
Kitchen Services – Cosper & Associates

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

As noted in section 4.1.1

...

All Architect's consultants, whether retained under Basic Services or under Additional Services, shall be subject to the approval of the Owner. Owner's approval will not be unreasonably withheld, conditioned, or delayed. Owner's approval does not relieve the Architect of any responsibility for the actions of Architect's consultants.

§ 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 advanced, 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 protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, 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 shall draft 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 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. 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. In compliance with 19 Texas Administrative Code ("TAC") Section 61.1036, 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. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 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. The Architect shall maintain the following insurance for the duration of this Agreement. 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.

§ 2.5.1 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 completion 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 years from the Final Completion of all construction of this Project (or twelve 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. Worker's 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  
District named as additional insured on coverages, except as to professional liability and workers' compensation

The District 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 District, 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 District, the Architect shall exercise reasonable efforts to accomplish such changes in policy coverage, and shall pay the cost thereof.

§ 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. Texas Workers Compensation Insurance. Because Architect will be performing services on-site, a copy of a certificate of insurance, a certificate of authority to self-insure issued by the Texas Department of Insurance (TDI), or a coverage agreement (DWC-81, DWC-82, DWC-83, or DWC-84), showing statutory workers' compensation insurance coverage for the Architect or his employees providing services on a Project is required for the duration of the Project.

- .1 Duration of the Project includes the time from the beginning of the Work on the Project until the Architect's Services on the Project have been completed and accepted by the Owner.
- .2 Persons providing services on the Project include all persons or entities performing all or part of the services the Architect has undertaken to perform on the Project, regardless of whether that person contracted directly with the Architect, and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity that furnishes persons to provide services on the Project.
- .3 Services include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other services related to the Project to the extent performed by the Architect or its consultants. Services do not include activities unrelated to the Project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.
- .4 The Architect shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code §401.011(44) for all employees of the Architect providing services on the Project for the duration of the Project.
- .5 The Architect must provide a certificate of coverage to the Owner prior to being awarded the contract.
- .6 If the coverage period shown on the Architect's current certificate of coverage ends during the duration of the Project, the Architect must, prior to the end of the coverage period, file a new certificate of coverage with the Owner showing that coverage has been extended.
- .7 The Architect shall obtain from each person providing services on a project, and provide to the Owner:
  - a. A certificate of coverage, prior to that person beginning work on the Project, so the Owner will have on file certificates of coverage showing coverage for all persons providing services on the Project; and
  - b. No later than seven days after receipt by the Architect, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the Project.
- .8 The Architect shall retain all required certificates of coverage for the duration of the Project and for one year thereafter.

- .9 The Architect shall notify the Owner in writing by certified mail or personal delivery, within ten days after the Architect knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the Project.
- .10 The Architect shall post on each project site a notice, in the text, form and manner prescribed by the Texas Department of Insurance, informing all persons providing services on the Project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
- .11 The Architect shall contractually require each person with whom it contracts to provide services on a project, to:
- a. Provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code § 401.011(44) for all of its employees providing services on the Project for the duration of the Project;
  - b. Provide to the Architect, prior to that person beginning work on the Project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the Project for the duration of the Project;
  - c. Provide the Architect, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the Project;
  - d. Obtain from each other person with whom it contracts, and provide to the Architect:
    - 1) A certificate of coverage, prior to the other person beginning work on the Project; and
    - 2) A new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the Project;
  - e. Retain all required certificates of coverage on file for the duration of the Project and for one year thereafter;
  - f. Notify the Owner in writing by certified mail or personal delivery, within ten days after the person knew or should have known, of any change that materially affects the provision of coverage for any person providing services on the Project; and
  - g. Contractually require each person with whom it contracts to perform as required by items a-g, with the certificates of coverage to be provided to the person for whom they are providing services.
- .12 By signing this contract or providing or causing to be provided a certificate of coverage, the Architect is acknowledging to the Owner that all employees of the Architect who will provide services on the Project will be covered by workers' compensation 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 Texas Department of Insurance's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Architect to administrative penalties, criminal penalties, civil penalties, or other civil actions.
- .13 The Architect's failure to comply with any of these provisions is a breach of contract by the Architect that entitles the Owner to declare the contract void if the Architect does not remedy the breach within ten (10) days after receipt of notice of breach from the Owner.
- .14 The coverage requirement recited above does not apply to sole proprietors, partners, and corporate officers who are excluded from coverage in an insurance policy or certificate of authority to self-insure that is delivered, issued for delivery, or renewed on or after January 1, 1996. 28 TAC §110.110(i).

~~§ 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.

~~§ 2.5.5~~ 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, which carrier 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 on 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.

~~§ 2.5.8~~ The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5.

**§ 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, ANY OF ARCHITECT'S CONSULTANTS OR SUBCONSULTANTS, OR ANYONE DIRECTLY OR INDIRECTLY EMPLOYED BY ANY OF THEM OR ANYONE THAT THEY CONTROL OR EXERCISE CONTROL OVER (COLLECTIVELY, "THE LIABILITIES"). IN THE EVENT OR 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, MAY 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 BY THE JUDGMENT UNDER THE LAWS OF THE STATE OF**

**TEXAS. THIS INDEMNIFICATION PARAGRAPH SHALL NOT BE LIMITED TO DAMAGES COMPENSATION OR BENEFITS PAYABLE UNDER INSURANCE POLICIES, WORKER'S COMPENSATION ACTS, DISABILITY BENEFIT ACTS OR OTHER EMPLOYEE BENEFIT ACTS.**

**ARCHITECT SHALL PROTECT AND INDEMNIFY THE DISTRICT 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 DISTRICT 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, DISTRICT 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 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 19 TAC Section 61.1036, and Texas Health and Safety Code Chapter 341. 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 certify that he has reviewed the standards contained in 19 TAC Section 61.1036, and use 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. Architect shall also certify that the Construction Documents conform to the provisions of 19 TAC Section 61.1036, except as indicated on the certification. 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, as required by 19 TAC Section 61.1036(c). Architect shall also certify that the facilities have been designed according to the provisions of 19 TAC Section 61.1036, based on the educational program long-range school facility plan, educational specifications, building code specifications, and all documented changes to the Construction Documents provided by the District, as required by 19 TAC Section 61.1036.

**§ 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 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. If Owner is using instructional facilities allotment funds for the Project, which are allotted to Owner under Subchapter A of Chapter 46 of the Texas Education Code, then Architect shall consider, in the design of the Project, the security criteria developed by the Texas School Safety Center under Texas Education Code Section 37.2051. 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.

§ 2.9 The Architect shall incorporate sustainable design concepts into the Project design and contract documents, as directed by the Owner. All services required to demonstrate compliance with the Collaborative for High Performance Schools – Texas Design Criteria as "CHPS Designed" are a Supplemental Service, if agreed by the parties.

§ 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 § 61.1036 regarding Architect's seal 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 in the State of Texas, the Architect shall retain those consultants necessary to complete the required action on behalf of the Architect.

§ 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 61.1036. 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.

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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~~ 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 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 and consult with the Owner's Construction Manager, in Construction Manager-at Risk ("CMAR") projects, regarding 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 and, in CMAR projects, consult with the Owner's Construction Manager regarding 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 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.**

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§ 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 61.1036,

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 Government Code - Chapter 425.

§ 3.4.2.4 All ventilation and indoor air quality systems designed by Architect, if any, shall meet the indoor air quality voluntary guidelines established by the Texas Department of State Health Services, Texas Health and Safety Code - Chapter 385.

§ 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 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 44.0432.

§ 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 agrees 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 offices, 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;
- .6 evaluating the bids/proposals based on the approved criteria;
- .7 organizing and participating in selection interviews with prospective contractors;
- .8 participating in negotiations with prospective contractors and subsequently preparing a summary report of the negotiations results, as directed by the Owner; and
- .9 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™ (either 2007 or 2017, whichever is used by Owner), 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. 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 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 Architect's responsibilities related to the pre-construction conference shall not include the Contractor's means, methods, techniques, or site safety as these items are the sole responsibility of the Contractor. 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 due to Architect's failure to discover a construction defect or nonconforming Work, as required by this Agreement or the standard of care, shall be at no additional cost to Owner. 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 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 (1) year after Substantial Completion. 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 months from the date of Substantial Completion and, again, prior to the expiration of ten 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 Substantial Completion, at the request of Owner, 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 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) and 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. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. Documents, 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. 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 due to Architect failure to

discover a construction defect or nonconforming Work as required by this agreement or the standard of care shall be at no additional cost to Owner. 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 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 201 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 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, indicated and that 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) an the Construction Document 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 inspection and 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.

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**§ 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~~ 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.

...

§ 3.6.4.4 ~~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, 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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.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 on 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.

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§ 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.

§ 3.8.3 The Owner reserves the right to apply the Collaborative of High Performance Schools – Texas Criteria (CHPS-TX) to this project and require that the Architect follow and document compliance with said criteria, including energy modeling and other studies required by TX-CHPS "Designed." Any such services shall be Supplemental Services, if agreed by the parties.

...

§ 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 as a Basic Service. 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</u>
§ 4.1.1.2	Multiple preliminary designs	<u>Architect, as a Basic Service</u>
§ 4.1.1.3	Measured drawings	<u>Architect</u>
§ 4.1.1.4	Existing facilities surveys	<u>Architect</u>
§ 4.1.1.5	Site evaluation and planning	<u>Architect, as a Basic Service</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	<u>Civil-On-site and Off-site civil engineering</u>	<u>Architect</u>
§ 4.1.1.9	Landscape design	<u>Architect, as a Basic Service</u>
§ 4.1.1.10	Architectural interior design	<u>Architect, as a Basic Service</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>Architect, as a Basic Service</u>
§ 4.1.1.15	As-designed record drawings	<u>Architect, as a Basic Service</u>
§ 4.1.1.16	As-constructed record drawings	<u>Not Provided</u>
§ 4.1.1.17	Post-occupancy evaluation	<u>Architect</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>Architect, as a Basic Service</u>
§ 4.1.1.22	Security evaluation and planning	<u>Architect, as a Basic Service</u>
§ 4.1.1.23	Commissioning	<u>Owner</u>
§ 4.1.1.24	Sustainable Project Services pursuant to Section 4.1.3	<u>Architect</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>Owner</u>
§ 4.1.1.29	Acoustical Consultant; Traffic Engineer; Environmental Graphics/Wayfinding; ADA Review and Inspection; Third-Party Energy Code Review; Visualization	<u>Architect,</u>
§ 4.1.1.29	<del>Other services provided by specialty Consultants</del>	
§ 4.1.1.30	Other Supplemental Services	<u>Kitchen Services Consultant – Architect, as a Basic Service</u> <u>Roof Consultant – Architect, as a Basic Service</u> <u>Building Envelope Consultant – Architect, as a Basic Service</u> <u>Archeological Survey—Architect, as a Basic Service</u>

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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;

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- .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 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
- .2 ~~(—)~~ Weekly visits to the site by the Architect during construction
- .3 Two ( 2 ) 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.

**§ 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 61.1036. 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.~~

...

**§ 5.5** ~~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~~ 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 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; 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.

~~**§ 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 estimate of the Cost of the Work for 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.

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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;

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- .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.~~

...

§ 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. 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.~~

§ 7.3. ~~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. 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.~~

Anything else to the contrary notwithstanding, the Construction Documents may be used by Owner and other architects hired by Owner as a prototype for other facilities by the Owner. 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 so, then the Architect agrees to perform the work for an additional compensation that will fairly compensate the Architect and its consultants only for the additional work involved. It is reasonable to expect that the

fair additional compensation will be less than the fee provided for under this Agreement. 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.

§7.4 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 for all Claims and Disputes by Architect**

- .1 The requirements of this section 8.1.2 shall constitute an independent "contractual adjudication procedure" as that term is used in Texas Local Government Code Chapter 271 Subchapter I.
- .2 **Pre-Litigation Grievance and Mediation.** Any claim, dispute or other matter in question that Architect has against Owner shall be subject to full exhaustion of the grievance procedure found in Owner's GF (LOCAL) policy and non-binding mediation as a condition precedent to the institution of legal or equitable proceedings by Architect. In the case of any such claim, dispute, or other matter, by the Architect against the 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 GF (LOCAL) policy 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 Article 8, or otherwise fully exhaust policy GF (LOCAL) in accordance with the policy's requirements is a failure to adhere to contractual adjudication procedures, a failure to exhaust remedies, a failure to fulfill conditions precedent, constitutes waiver, and 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 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, will have failed to adhere to this contractual

adjudication procedure, will have failed to fulfill conditions precedent to suit, will have waived the complaint, and will be barred from suing the Owner.

- b. Architect agrees that, in order to fully exhaust its remedies under policy GF (LOCAL) and otherwise comply with this section 8.1.2, 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. The following are each an independent condition 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 GF (LOCAL) procedure, 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. Owner's voluntary participation in any mediation or any other settlement discussions shall not be construed as a waiver of any failure by Architect to exhaust remedies, follow contractual adjudication procedures, or otherwise comply with this Agreement. If the parties participate in mediation, the parties shall share the mediator's fee and any filing fees equally.

~~§ 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 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 days' written notice.~~

...

~~§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause. The Owner may also terminate this Agreement on (7) seven 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 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 obtain all criminal history information required by Texas Education Code Chapter 22 regarding its "covered employees", as defined below. If Architect is required by Chapter 22 to obtain the information from the Fingerprint-based Applicant Clearinghouse of Texas, then Architect will also subscribe to that person's criminal history record information. Before beginning any Work on the Project, Architect will provide written

certification to the District that Architect has complied with the statutory requirements as of that date. Upon request by Owner, Architect will provide, in writing: updated certifications and the names and any other requested information regarding covered employees, so that the Owner may obtain criminal history recommended information on the covered employees. Architect shall assume all expenses associated with obtaining criminal history record information.

**§ 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 this Section, "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 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 Occupaintions Code Chapter 1051. Tehe 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](http://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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( ) % of the Owner's budget for

For a new design: Six Percent (6) % of the Cost of the Work, as calculated in accordance with Section 11.5

For a prototype site adapt of Elementary School #12 design: Five Percent (5%) of the Cost of the Work, as calculated in accordance with Section 11.5

For a two-story prototype site adapt of Elementary School #12 design: Five and One-Half Percent (5.5%) of the Cost of the Work, as calculated in accordance with Section 11.5

Before billing any amount, the Architect shall secure the Owner's written agreement of the applicable fee based on the information included in this section.

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n/a

§ 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>thirty</u>	percent (	<u>30</u>	%)
Design Development Phase	<u>twenty</u>	percent (	<u>20</u>	%)
Construction Documents Phase	<u>twenty-five</u>	percent (	<u>25</u>	%)
Procurement Phase	<u>five</u>	percent (	<u>5</u>	%)
Construction Phase (no less than 3% of the Architect’s fee is 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 is within the Owner’s approved budget.

§ 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~~, as follows:

- ~~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.~~ 3. Permitting and other fees required by authorities having jurisdiction over the Project;
- ~~4.~~ 4. Printing, reproductions, plots, and standard form documents;
3. Printing, reproduction, plots, standard form documents;
  - a. Project Development
    - i. Design Presentation to the Board of Trustees
    - ii. Schematic Design Book
    - ~~5.~~ 5. Postage, handling, and delivery;
    - iii. Staff Review Documents if required and approved by Owner in advance
  - b. Construction Documents
    - ~~6.~~ 6. Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
    - 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;
- ~~7.~~ 5. Renderings, physical models, mock-ups, professional photography, and presentation materials requested and approved by the Owner or required for the this Project;
- ~~8.~~ 8. If required by the Owner, and with the Owner's prior written approval, the Architect's consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect's consultants;
- ~~9.~~ 6. All taxes levied on professional services and on reimbursable expenses;
- ~~10.~~ 10. Site office expenses;
- ~~11.~~ 7. Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and, and
- ~~12.~~ 8. Other similar Project-related expenditures; 8. Other similar Project-related expenditures, when approved by the Owner prior to its occurrence.

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 ~~expenses incurred by the Architect and the Architect's consultants plus percent (—%) of the expenses incurred.~~ actual, reasonable expenses incurred by the Architect plus five percent (5%) of the expense incurred. The Architect shall present Reimbursable Expenses, including supporting documentation, for payment with its regular invoices, and must request payment within thirty days of incurring such expenses. The Architect waives any claim for Reimbursable Expenses not presented in accordance with this section 6.2.2.

**§ 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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**§ 12.2** 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 22.08341, and Texas Administrative Code regulation 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** In accordance with Texas Government Code section 2271.002, Architect verifies that it does not boycott Israel and will not boycott Israel during the term of this contract. In accordance with Texas Government Code section 2274.002, Architect verifies it does not boycott energy companies and will not boycott energy companies during the term of the contract. In accordance with Texas Government Code section 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.

**§ 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 Architect shall ensure that its services related to the Project comply with 19 Texas Administrative Code §61.1033 et seq. School Facilities Standards.

The Texas Board of Architectural Examiners has jurisdiction over complaints regarding the professional practices of person registered as Architects in Texas.

Texas Board of Architectural Examiners

P.O. Box 12337

Austin, TX 78711-2337

(512) 305-9000

(512) 305-8900

### **§ 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(7) 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~~ AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

*(Insert the date of the E203-2013 incorporated into this agreement.)*

\_\_\_\_\_

...

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:

...

~~4~~ Other documents:

*(List other documents, if any, forming part of the Agreement.)*

Exhibit A – Owner’s GF (LOCAL) policy

## **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 16:21:00 CT on 02/15/2022 under Order No. 2114280461 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, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

\_\_\_\_\_  
*(Signed)*

\_\_\_\_\_  
*(Title)*

\_\_\_\_\_  
*(Dated)*

**Belton Independent School District**  
**Board of Trustee Meeting Agenda Item**

**February 21, 2022**

**Item:** Texas Association of School Board's Initiated Localized Policy Update 118 with Additional District Changes to the Following Policies – 2nd Reading

1. DFE(LOCAL): Termination of Employment – Resignation
2. FEC(LOCAL): Attendance – Attendance for Credit

**Contact Person:** Matt Smith

**Presented for:**  Action     Report Only

**Supporting Documents:**     None     Attached     Provided Later

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**District Goal or Objective Addressed:**

Goal 2: Ensure exceptional learning experiences for each and every student.

**Background Information:**

Update 118 mostly covers recommended (LOCAL) policy revisions to address new laws enacted from the 87th Legislature, Regular Session, which ended on May 31, 2021, and changes to TEA's *Financial Accountability System Resource Guide*.

The 87th Legislature, Second Called Session ended after TASB began development of Update 118. They plan to include policy recommendations resulting from the Special Sessions in Update 119, scheduled for release in mid-2022.

While not covered in this publication, many of the (LEGAL) policies included in this update were also affected by legislation from the 87th Legislature, Regular Session and changes to Administrative Code rules.

Update 118 is 964 pages and a link has been provided to view the [annotated policy update](#). The following additional explanatory documents are included with this document:

- Local Policy Overview
- Local Policy Comparison

Staff is recommending changes to policies DFE(LOCAL) and FEC(LOCAL) which include TASB's recommendations, but also include additional changes from District administration as explained below:

**DFE(LOCAL): Termination of Employment - Resignation**

DFE(LOCAL) outlines guidelines for accepting resignations. Revisions to this policy are being made to include the titles of positions that can accept resignations. These changes are based on a recent commissioner of education proposal for a decision stating that the Superintendent may not delegate the ability to accept resignations and Board action is needed to provide the authority of accepting resignations to other positions.

**FEC(LOCAL): Attendance – Attendance for Credit**

New language was provided for the attendance committee’s consideration of absences which lessens the burden for excused and extracurricular absences. Proposed changes also broaden conditions on what can be constituted an excused absence and not count against a student for truancy.

The Policy Committee reviewed Update 118 and the proposed changes to DFE(LOCAL) and FEC(LOCAL) on 1st reading at its February 7, 2022 meeting.

**Fiscal Implications:**

None

**Administrative Recommendation(s):**

The Administration recommends that the Board add, revise, or delete (LOCAL) policies as recommended by TASB Policy Service and according to the Instruction Sheet for TASB Localized Policy Manual Update 118, with additional changes from District administration to policies DFE(LOCAL) and FEC(LOCAL).

# Update 118 Local Policy Overview

October 4, 2021

## Introduction

Hello, and welcome to a brief overview of the local policy recommendations included in Update 118, presented by TASB Policy Service.

Update 118 mostly covers recommended (LOCAL) policy revisions to address new laws enacted from the 87th Legislature, Regular Session, which ended on May 31, 2021, and changes to TEA's *Financial Accountability System Resource Guide*.

The 87th Legislature, Second Called Session ended after we began development of Update 118. We plan to include policy recommendations resulting from the Special Sessions in Update 119, scheduled for release in mid-2022.

While not covered in this publication, many of the (LEGAL) policies included in this update were also affected by legislation from the 87th Legislature, Regular Session and changes to Administrative Code rules.

## TASB Numbered Update Reminders

You should also review your own district's customized Update 118 materials for your specific policy recommendations. Please remember that (LEGAL) policies provide the legal framework for key areas of district operations; they are not adopted by the board.

## CFD: Accounting, Activity Funds Management

CFD(LOCAL) is the policy that governs activity funds management. Revisions to this policy are recommended to align with recently adopted amendments to the *Financial Accountability System Resource Guide*. Changes have been made to the policy to clarify that student activity funds are those monies raised and collected by student clubs and organizations. Approval for spending those funds lies with the student club or organization, while the principal and sponsor are responsible for managing disbursement.

## CQB: Technology Resources, Cybersecurity

Several bills, including [House Bill 1118](#) and [Senate Bill 1267](#), resulted in revisions to CQB(LOCAL), on cybersecurity training.

The requirement for most employees and board members to complete cybersecurity training annually has been eliminated. Now, only the district's cybersecurity coordinator is required by law to receive this training on an annual basis, though the superintendent may require additional employees to complete the training on a schedule determined by the district. In accordance with the policy, the superintendent still determines the training program and is now authorized to impose consequences if an employee required to complete the training fails to do so.

Another revision to this policy was prompted by [Senate Bill 1696](#). In the event of a breach involving student information, it is no longer required that the cybersecurity coordinator be the individual to make the report to TEA and other entities. The new law only requires that the district make the notification, which could now be done by any appropriate employee.

### **DFE: Termination of Employment, Resignation**

The revisions recommended to DFE(LOCAL) are guided by a recent TEA commissioner of education proposal for decision. The proposal for decision addresses who has the authority to accept the resignation of a contract employee. As provided in current law, a contract employee's resignation that is effective at the end of the school year must be filed with the board or the board's designee. For most districts, the board's designee named in DFE(LOCAL) is the superintendent, but be sure to check your policy.

A board's designee may not further delegate the authority to receive these resignations to another individual. Only the board can designate another employee or additional employees to accept these resignations.

To clarify this requirement, DFE(LOCAL) has been revised to give the superintendent, or other person designated by board action, the authority to accept these resignations from contract employees. The board can designate additional employees through board resolution. A sample resolution is available in the *TASB Regulations Resource Manual*.

If a contract employee provides a resignation to a supervisor not designated by the board to accept that resignation, new policy language requires the supervisor to instruct the employee to submit the resignation to the superintendent or other person designated by board action.

Because the proposal for decision only addressed the acceptance of resignations for contract employees, the superintendent may continue to designate other administrators to accept resignations of at-will employees.

## **DP: Personnel Positions**

[Senate Bill 179](#) requires a school board to adopt policy requiring a school counselor to spend at least 80 percent of total work time on duties that are components of a comprehensive school counseling program. The policy must also provide a specific process if the board determines that district or campus staffing needs prevent a school counselor from spending at least 80 percent of work time on school counseling program components.

The recommended policy text at DP(LOCAL) is drafted to permit the administration, rather than the board, to make the initial determination about the counselor's job duties. If the board approves that determination, the board will direct the superintendent to develop a revised job description for the counselor that will address the requirements in law.

The other revision to this policy is recommended to streamline the list of principal qualifications. We recommend referencing the principal's job description for the minimum number of years required as a classroom teacher and removing that detail from this policy. Districts should review their job description for principals to ensure it reflects the minimum number of years required as a classroom teacher.

## **EHAA: Basic Instructional Program, Required Instruction**

New provisions in EHAA(LOCAL) are recommended to address requirements regarding board adoption of human sexuality curriculum materials. [House Bill 1525](#) requires that a district adopt a policy to address this process. The recommended policy follows the steps required in the new law. These steps include board adoption of a resolution to convene the school health advisory council (the SHAC) and require the council to hold public meetings on the curriculum materials before presenting recommendations to the board at a public meeting. The policy also states that the SHAC recommendations must comply with law. After confirmation that the recommendations meet the standards in the law, the board is required to take a record vote on the SHAC recommendations.

## **EHBC: Special Programs, Compensatory/Accelerated Services FL: Student Records**

Recommended changes to EHBC(LOCAL) include new provisions on accelerated instruction and accelerated learning committees prompted by [House Bill 4545](#). The accelerated learning committees will be responsible for developing education plans for students who had an unsatisfactory performance on a 3rd, 5th, or 8th grade math or reading assessment.

The policy text directs parents to the district's grievance policy, FNG(LOCAL), for complaints about an education plan developed by the accelerated learning committee. The policy also explains that parental requests for a student to be assigned to a particular teacher following an unsatisfactory performance on a 3rd, 5th, or 8th grade math or reading assessment will be handled in accordance with administrative procedures.

At FL(LOCAL), the list of the types of education records has been updated to refer to accelerated learning committees.

### **EIE: Academic Achievement, Retention and Promotion**

As a result of [House Bill 4545](#), outdated provisions on grade advancement testing have been removed from EIE(LOCAL). Text regarding accelerated instruction is now addressed in policy EHBC.

Other changes to this policy include the removal of text regarding the assignment of retained students, which was based on Administrative Code rules addressing grade advancement testing.

Many districts' policies included a statement about eliminating the practice of retaining students. This statement is only needed if a district operates an optional extended year program under Education Code 29.082. Therefore, it is recommended for deletion from policy. If your district operates such a program, please contact your policy consultant so they can assist in updating this policy.

### **FDE: Admissions, School Safety Transfers**

[House Bill 375](#) amended the offense of continuous sexual abuse of a young child to include continuous sexual abuse of a disabled individual. The section of policy FDE(LOCAL) addressing the collection of safe school data has been revised to align with this change in the law.

### **FEA: Attendance, Compulsory Attendance**

Included in policy FEA(LOCAL) is a provision permitting a student who is at least 15 years old to be absent for one day to obtain a learner license and for one day to obtain a driver's license. [Senate Bill 289](#) created this optional excused absence. If the district will not permit excused absences for this purpose, please contact your district's policy consultant to adjust this policy.

Given the number of optional excused absences now listed in this policy, the various references about providing verification of these absences have been consolidated into a single statement.

## **FEC: Attendance, Attendance for Credit**

[House Bill 699](#) created an exception to the 90 percent attendance requirement for absences resulting from a serious or life-threatening illness or related treatment. To reflect this exception, recommended text has been included at FEC(LOCAL).

In addition, the policy has undergone significant reorganization and revision to remove administrative details on documenting student illnesses, which can be addressed in the student handbook. Changes have also been made to place an emphasis on a student's mastery of the essential knowledge and skills and maintaining a passing grade rather than assigning a student to attend programs for an amount of time equivalent to the student's absences.

## **FFG: Student Welfare, Child Abuse and Neglect**

Recommended revisions to FFG(LOCAL) incorporate [House Bill 3379](#), which changed the standard of reporting child abuse or neglect from "cause to believe" to "reasonable cause to believe."

For further clarification, a reference to the definition of a person responsible for the care, custody, or welfare of a child is also recommended for inclusion in the policy.

Lastly, in anticipation of the new professional development policy that must be in place by August 2022, a reference to district policy has been added to the section that addresses training for employees on preventing and recognizing sexual abuse, trafficking, and all other maltreatment of children.

## **Thank You!**

That covers the local policies in Update 118. We hope you find this overview helpful. Should you have any questions or want further clarification, please feel free to contact your assigned policy consultant at the [TASB Policy Service website](#).<sup>1</sup>

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<sup>1</sup> TASB Policy Service: <https://policy.tasb.org>



## (LOCAL) Policy Comparison Packet

This packet is generated by an automated process that compares the updated policy to the district's current policy as found in TASB records.

In this packet, you will find:

- Policies being recommended for revision (annotated)
- New policies (not annotated)
- Policies recommended for deletion (annotated in PDF; omitted in Word)

Annotations are shown as follows.

- *Deletions* are shown in a red strike-through font: ~~deleted text~~.
- *Additions* are shown in a blue, bold font: **new text**.
- Blocks of text that have been *moved* without alteration are shown in green, with double underline and double strike-through formatting to distinguish the text's destination from its origin: ~~moved text~~ becomes moved text.
- *Revision bars* appear in the right margin, as above.

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**Note:** While the annotation software competently identifies simple changes, large or complicated changes—as in an extensive rewrite—may be more difficult to follow. In addition, TASB's recent changes to the policy templates to facilitate accessibility sometimes makes formatting changes appear tracked, even though the text remains the same.

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For further assistance in understanding policy changes, please refer to the explanatory notes in your Localized Policy Manual update packet or contact your policy consultant.

<b>Contact:</b>	<b>School Districts and Education Service Centers</b>	<b>Community Colleges</b>
	<a href="mailto:policy.service@tasb.org">policy.service@tasb.org</a>	<a href="mailto:colleges@tasb.org">colleges@tasb.org</a>
	800.580.7529 512.467.0222	800.580.1488 512.467.3689

**Fiduciary  
Responsibility**

The Superintendent, principal, and sponsor, as applicable, shall be responsible for the proper administration of District and campus activity funds and student activity funds in accordance with state law and local policy, District ~~approved~~ accounting practices and procedures, and the [Texas Education Agency \(TEA\) Financial Accountability System Resource Guide](#).

**Student Activity  
Funds**

The Superintendent ~~or designee~~ shall ensure that student activity accounts are maintained to manage all class funds, ~~organization funds~~, and ~~any~~ other funds raised and collected by [student clubs or organizations from students](#) for a school-related purpose. The principal or designee shall issue receipts for all funds prior to their deposit into the appropriate District account at the District depository.

Student activity funds shall be included in the annual audit of the District's fiscal accounts. [See CFC]

Use and  
Expenditure

Funds collected by student groups shall be used only for purposes authorized by the [student club or organization](#). ~~or upon approval of the sponsor~~. The principal ~~and sponsor or designee~~ shall [manage and](#) approve all disbursements. All funds raised by student organizations must be expended for the benefit of the students.

Annual Report

The Superintendent shall provide the Board an annual financial report of student funds maintained at the high school. This report shall include information on receipts, disbursements, and balances.

**District and Campus  
Activity Funds**

The Superintendent shall [ensure District accounting practices and procedures address](#) ~~establish regulations governing~~ the expenditure of District and campus activity funds generated from vending machines, rentals, gate receipts, concessions, and other local sources of revenue over which the District has direct control. Funds generated from such sources shall be expended for the benefit of the District or its students and shall be related to the District's educational purpose.

Approval

~~Approval from the immediate supervisor or designee shall be obtained prior to a disbursement being made to any employee, including the principal.~~

Prior approval from the Superintendent shall be required for the purchase of major ~~pieces of~~ equipment from the campus activity fund. Prior approval from the Superintendent shall also be required for any purchase that will require District maintenance in the future or that has an operating expense.

~~Approval~~

~~Approval from the immediate supervisor or designee shall be obtained prior to a disbursement being made to any employee, including the principal.~~

**Carryover Funds**

All funds shall be left in the appropriate account and each sponsoring group shall retain the carryover funds for the next fiscal year. If a club or an organization ceases to function or exist, the unexpended funds of the organization shall be credited to the appropriate administrative activity account.

**Plan** The District shall develop a cybersecurity plan to secure the District's cyberinfrastructure against a cyberattack or any other cybersecurity incidents, determine cybersecurity risk, and implement appropriate mitigation planning.

**Coordinator** The Superintendent shall designate a cybersecurity coordinator. The cybersecurity coordinator shall serve as the liaison between the District and the Texas Education Agency (TEA) in cybersecurity matters ~~and as required by law report to TEA breaches of system security.~~

**Training** The Board delegates to the Superintendent the authority to:

1. Determine the cybersecurity training program to be used in the District; ~~annually completed by each employee and Board member; and~~
2. Verify and report compliance with ~~staff~~ training requirements in accordance with guidance from the Department of Information Resources; ~~and~~
- ~~2.3.~~ Remove access to the District's computer systems and databases for noncompliance with training requirements as appropriate.

The District shall complete periodic audits to ensure compliance with the cybersecurity training requirements.

**Security Breach Notifications** Upon discovering or receiving notification of a breach of system security, the District shall disclose the breach to affected persons or entities in accordance with the time frames established by law. The District shall give notice by using one or more of the following methods:

1. Written notice.
2. Email, if the District has email addresses for the affected persons.
3. Conspicuous posting on the District's websites.
4. Publication through broadcast media.

The ~~District~~ District's cybersecurity coordinator shall disclose a breach involving sensitive, protected, or confidential student information ~~as required by TEA and parents in accordance with~~ law.

TERMINATION OF EMPLOYMENT  
RESIGNATION

DFE  
(LOCAL)

**General  
Requirements**

All resignations shall be submitted in writing to the Superintendent or ~~other person designated by Board action in accordance with this policy~~ ~~designee~~. The employee shall give reasonable notice and shall include in the letter a statement of the reasons for resigning. A prepaid certified or registered letter of resignation shall be considered submitted upon mailing.

**At-Will Employees**

The Superintendent ~~or designee~~ shall be authorized to accept the resignation of an at-will employee at any time. ~~The Superintendent may delegate to other administrators the authority to accept a resignation of an at-will employee.~~

**Contract Employees**

The Superintendent or ~~other person designated by Board action~~ ~~designee~~ shall be authorized to receive a contract employee's resignation effective at the end of the school year or submitted after the last day of the school year and before the penalty-free resignation date. ~~If an employee provides a resignation to a supervisor who has not been designated by the Board to accept resignations, the supervisor shall instruct the employee to submit the resignation to the Superintendent or other person designated by Board action.~~ The resignation requires no further action by the District and is accepted upon receipt ~~by the Superintendent or other person designated by Board action.~~

The Superintendent or other person designated by Board action shall be authorized to accept a contract employee's resignation submitted or effective at any other time. ~~If an employee provides a resignation to a supervisor who has not been designated by the Board to accept resignations, the supervisor shall instruct the employee to submit the resignation to the Superintendent or other person designated by Board action.~~ ~~The Superintendent or other person designated by Board action~~ ~~The Superintendent or other Board designee~~ shall either accept the resignation or submit the matter to the Board in order to pursue sanctions allowed by law.

**Withdrawal of  
Resignation**

Once submitted and accepted, the resignation of a contract employee may not be withdrawn without consent of the Board.

PERSONNEL POSITIONS

DP  
(LOCAL)

**Principal  
Qualifications**

In addition to the minimal certification requirement, ~~athe~~ principal shall have at least:

1. Working knowledge of curriculum and instruction;
2. The ability to evaluate instructional program and teaching effectiveness;
3. The ability to manage ~~budgets~~ budget and personnel and to coordinate campus functions;
4. The ability to explain policy, procedures, and data;
5. Strong communications, public relations, and interpersonal skills;
- ~~6. Two years' experience as a classroom teacher;~~
- ~~7.6.~~ Prior experience in instructional leadership roles; and
1. Other qualifications deemed necessary by the Board and included in the job description.

**School Counselors**

In accordance with law, a school counselor shall spend 80 percent of the counselor's work time on duties that are components of a comprehensive school counseling program (CSCP). [See FFEA]

- ~~8.7.~~ If the Board approves a determination by the administration that due to District or campus staffing needs or other reasons a school counselor is prevented from spending 80 percent of the counselor's work time on duties that are components of a CSCP, the Board shall direct the Superintendent to develop a revised job description for the school counselor that addresses the percentage of the school counselor's time that shall be spent on duties related to the components of a CSCP and the duties the school counselor is expected to perform in the remaining work time. The Superintendent shall report to the Board regarding adjustments to a school counselor's duties under this provision. ▸

**Human Sexuality  
Instruction**

The following process shall apply regarding the adoption of curriculum materials for the district's human sexuality instruction:

1. The Board shall adopt a resolution convening the District's school health advisory council (SHAC) to recommend curriculum materials for the instruction.
2. The SHAC shall hold at least two public meetings on the curriculum materials before adopting recommendations to present to the Board.
3. The SHAC recommendations must comply with the instructional content requirements in law, be suitable for the subject and grade level for which the materials are intended, and be reviewed by academic experts in the subject and grade level for which the materials are intended.
4. The SHAC shall present its recommendations to the Board at a public meeting.
5. After the Board ensures the recommendations from the SHAC meet the standards in law, the Board shall take action on the recommendations by a record vote at a public meeting.

~~Each student~~ ~~Students at all grade levels~~ who ~~has~~~~have~~ been identified as being at risk of dropping out of school, who ~~is~~~~are~~ not performing at grade level, or who did not perform satisfactorily on a state-mandated assessment, shall be provided accelerated and/or compensatory educational services.

**Accelerated Instruction**

The District shall provide accelerated instruction in accordance with law if a student fails to perform satisfactorily ~~based~~ on a state-mandated ~~needs~~ assessment. ~~The principal shall ensure that each identified student is receiving services.~~

**Accelerated Learning Committee**

When a student fails to perform satisfactorily on a math or reading state-mandated assessment in grades 3, 5, or 8, an accelerated learning committee shall develop a written educational plan in accordance with law. If a parent requests that the student be assigned to a particular teacher the following school year, the request shall be addressed in accordance with the District's administrative procedures.

A parent complaint about the content or implementation of the educational plan shall be filed in accordance with FNG. ~~The services provided each student shall be consistent with the goals and strategies established in the District and campus improvement plans and shall be reviewed for effectiveness at the close of each grading period. Parents shall be encouraged to participate in the planning of educational services for their child and shall be kept informed regarding the child's progress toward educational goals.~~

~~Parents of students who are not successful in meeting requirements for promotion shall be informed of any available options, such as an extended year program or summer school.~~

~~{See EIE}~~

<b>Curriculum Mastery</b>	Promotion and course credit shall be based on mastery of the curriculum. Expectations and standards for promotion shall be established for each grade level, content area, and course and shall be coordinated with compensatory, intensive, and/or accelerated services. [See EHBC] The District shall comply with applicable state and federal requirements when determining methods for students with disabilities [see FB] or students who are English language learners [see EHBE and EKBA] to demonstrate mastery of the curriculum.
Students Receiving Special Education Services	Any modified promotion standards for a student receiving special education services shall be determined by the student's admission, review, and dismissal (ARD) committee and documented in the student's individualized education program (IEP). [See EHBA series and EKB]
<b>Standards for Mastery</b>	In addition to the factors in law that must be considered for promotion, mastery shall be determined as follows: <ol style="list-style-type: none"><li>1. An average of 70 percent or higher, or determination of "approaches" or "met standard" on an approved learning mastery scale based on the Texas Essential Knowledge and Skills shall be considered a passing grade.</li><li>2. A variety of measures shall be used to determine student grades in a course or subject, including assignments, evaluations, and other examples of student work (formative and summative assessments, projects, products, presentations, and the like).</li></ol>
<del>Prekindergarten</del>	<del>Students in prekindergarten shall not be retained.</del>
Kindergarten— Grade 2	In kindergarten—grade 2, promotion to the next grade level shall be based on: <ol style="list-style-type: none"><li>1. Determination of "approaches" or "met standard" on an approved learning mastery scale in language arts;</li><li>2. Determination of "approaches" or "met standard" on an approved learning mastery scale in math; and</li><li>3. Compliance with state attendance <del>requirements</del><b>requirement</b> [see FEC].</li></ol>
Grades 3–5	In grades 3–5, promotion to the next grade level shall be based on: <ol style="list-style-type: none"><li>1. A 70 percent yearly average in reading;</li><li>2. A 70 percent yearly average in mathematics;</li><li>3. A 70 percent combined yearly average in two of the following: language arts, mathematics, social studies, and science; and</li></ol>

4. Compliance with the state attendance requirements [see FEC].

Grades 6–8

In grades 6–8, promotion to the next grade level shall be based on: a 70 percent yearly average in all subject areas and compliance with the state attendance requirements [see FEC].

- ~~1. A 70 percent yearly average in all subject areas;~~
- ~~2. A 70 percent combined yearly average in three of the following: English/language arts, mathematics, social studies, and science; and~~
- ~~3. Compliance with the state attendance requirements [see FEC].~~

Grades 9–12

Credit for courses for high school graduation may be earned only if the student received a grade equivalent to 70 percent or higher, based on the expected learning standards and essential knowledge and skills of each course. Numerical grades/passing grade equivalents shall be determined using a variety of measures. Report card grades should reflect progress toward and/or mastery of the TEKS.

Grade-level advancement for students in grades 9–12 shall be earned by course credits. [See EI]

**Accelerated Instruction**

~~If a student fails to demonstrate proficiency on a state-mandated assessment, the student shall be provided accelerated instruction in accordance with state law. Additionally, students in grades 5 and 8 shall be subject to all provisions of Grade Advancement Testing, below.~~

**Grade Advancement Testing**

~~Except when a student will be assessed in reading or mathematics above his or her enrolled grade level, students in grades 5 and 8 must meet the passing standard on the applicable state-mandated assessments in reading and mathematics to be promoted to the next grade level, in addition to the District's local standards for mastery and promotion.~~

**Definition of "Parent"**

~~For purposes of this policy and decisions related to grade advancement requirements, a student's "parent" shall be defined to include either of the student's parents or guardians; a person designated by the parent, by means of a power of attorney or an authorization agreement as provided in Chapter 34 of the Family Code, to have responsibility for the student in all school-related matters [see FD]; a surrogate parent acting on behalf of a student with a disability; a person designated by the parent or guardian to serve on the grade placement committee (GPC) for all purposes; or in the event that a~~

	<p><del>parent, guardian, or designee cannot be located, a person designated by the Superintendent or designee to act on behalf of the student. [See EIE(LEGAL)]</del></p>
<p><del>No Alternate Assessment Instrument</del></p>	<p><del>The District shall use only the statewide assessment instrument for the third testing opportunity.</del></p>
<p><del>Standards for Promotion Upon Appeal</del></p>	<p><del>If a parent initiates an appeal of his or her child's retention following the student's failure to demonstrate proficiency after the third testing opportunity, the GPC shall review all facts and circumstances in accordance with law.</del></p> <p><del>The student shall not be promoted unless:</del></p> <ol style="list-style-type: none"><li><del>1. All members of the GPC agree that the student is likely to perform on grade level if given additional accelerated instruction during the following school year in accordance with the educational plan developed by the GPC; and</del></li><li><del>2. The student has completed required accelerated instruction in the subject area for which the student failed to demonstrate proficiency.</del></li></ol> <p><del>Whether the GPC decides to promote or to retain a student in this manner, the committee shall determine an accelerated instruction plan for the student for the following school year, providing for interim reports to the student's parent and opportunities for the parent to consult with the teacher or principal as needed. The principal or designee shall monitor the student's progress during the following school year to ensure that he or she is progressing in accordance with the plan.</del></p>
<p><del>Transfer Students</del></p>	<p><del>When a student transfers into the District having failed to demonstrate proficiency on applicable assessment instruments after two testing opportunities, a GPC shall convene for that student. The GPC shall review any available records of decisions regarding testing and accelerated instruction from the previous district and determine an accelerated instruction plan for the student.</del></p> <p><del>If a parent initiates an appeal for promotion when a student transfers into the District having failed to demonstrate proficiency after three testing opportunities, the GPC shall review any available records of decisions regarding testing, accelerated instruction, retention, or promotion from the previous district and issue a decision in accordance with the District's standards for promotion.</del></p>
<p><del>Assignment of Retained Students</del></p>	<p><del>In the event a student is not promoted to the next grade level, the District shall nevertheless assign the student to an age appropriate campus, unless:</del></p>

- ~~1. The student's parent requests that the student be assigned to the same or a similar campus setting; or~~
- ~~2. The student's GPC determines that it would be in the student's best interests to be assigned to the same or a similar campus setting. Criteria to be considered for this decision may include:
  - ~~a. Recommendations from the student's teachers; and~~
  - ~~b. Observed social and emotional development of the student.~~~~

**Reducing Student Retention**

~~The District shall establish procedures designed to reduce retaining students at a grade level, with the ultimate goal being elimination of the practice of retaining students. [See EHBC]~~

**Safe Schools Data**

The Superintendent shall ensure that the District complies with Texas Education Agency (TEA) guidelines for the collection and maintenance of data regarding:

1. Mandatory expellable offenses committed at school or at a school-related or school-sponsored activity, on or off school property [see FOD]; and
2. Any student who becomes a victim of one of the following violent criminal offenses, as defined by the Penal Code, while on the premises of the school the student attends or while attending a school-sponsored or school-related activity, on or off school property:
  - a. Attempted murder;
  - b. Indecency with a child;
  - c. Aggravated kidnapping;
  - d. Aggravated assault on someone other than a District employee or volunteer;
  - e. Sexual assault or aggravated sexual assault against someone other than a District employee or volunteer;
  - f. Aggravated robbery; or
  - g. Continuous sexual abuse of a young child or [disabled individual children](#).

**School Safety Transfers**

The parent of a student who becomes a victim of a violent criminal offense as described in the state guidance for unsafe school choice options or who is assigned to a campus identified by TEA as persistently dangerous shall be offered a transfer to a safe public or charter school within the District.

For each transfer requested, the District shall explore transfer options, as appropriate. Options may include a transfer agreement with another school district.

**From a Persistently Dangerous School**

The parent of a student attending a school identified as persistently dangerous shall be provided notification of his or her right to request a transfer. Notification shall occur at least 14 days prior to the start of the school year or, for a student enrolling subsequently, upon the student's enrollment.

The parent must submit to the Superintendent an application for transfer. The Superintendent shall complete the transfer prior to the beginning of the school year, if applicable, or within 14 calendar days of the request for a subsequently enrolling student.

Any transfer arranged for a student from a campus identified by TEA as persistently dangerous shall be renewed so long as the campus from which the student transferred retains that designation.

The District shall maintain, in accordance with the District's record retention schedule, documentation of notification to parents of the transfer option, transfer applications submitted, and action taken.

For a Victim of a  
Violent Criminal  
Offense

Within 14 calendar days after a violent criminal offense described above occurs in or on the premises of the school the student attends or while attending a school-sponsored or school-related activity, on or off school property, the District shall notify the parent of a student who is a victim of the offense of the parent's right to request a transfer. The parent must submit to the Superintendent an application for transfer. The Superintendent shall approve or disapprove the request within 14 calendar days of its submission.

Any transfer arranged for a student who was a victim of a violent crime as described above shall be renewed so long as the threat to the student exists at the campus to which the student would typically be assigned.

For each offense, the District shall maintain for at least five years documentation of the nature and date of the offense, notification to the parent of the transfer option, transfer applications submitted, action taken, and other relevant information regarding the offense.

**Additional Transfer  
Options**

In circumstances described by Education Code 25.0341, a parent of a student who has been the victim of a sexual assault, regardless of whether the offense occurred on or off school property, may request a transfer of the parent's child or the student assailant from the same campus.

[For other transfer provisions, see also FDA and FDB.]

Students in violation of the compulsory attendance law shall be reported to the District attendance officer, who may institute court action as provided by law.

**Excused Absences**

In addition to excused absences required by law, the District shall excuse absences for the following purposes. [A student shall be required to submit verification of these absences in accordance with administrative regulations.](#)

Higher Education Visits

The District shall excuse a student for up to two days during the student's junior year and up to two days during the student's senior year to visit an accredited institution of higher education. ~~A student shall be required to submit verification of such visits in accordance with administrative regulations.~~

Armed Services Enlistment

The District shall excuse a student 17 years of age or older for up to four days during his or her enrollment in high school for activities related to pursuing enlistment in a branch of the U.S. Armed Services or Texas National Guard. ~~A student shall be required to submit verification of such activities in accordance with administrative regulations.~~

Early Voting or Election Clerk

The District shall excuse a student for up to two days per school year to serve as an early voting or election clerk. ~~A student shall be required to submit verification of service in accordance with administrative regulations.~~

Learner or Driver's License

The District shall excuse a student 15 years of age or older for one day during his or her enrollment in high school for each of the following:

- Visiting a driver's license office to obtain a learner license; or
- Visiting a driver's license office to obtain a driver's license.

[For extracurricular activity absences, see FM.]

**Withdrawal for Nonattendance**

The District may initiate withdrawal of a student under the age of 19 for nonattendance under the following conditions:

1. The student has been absent ten consecutive school days; and
2. Repeated efforts by the attendance officer and/or principal to locate the student have been unsuccessful.

[For District-initiated withdrawal of students 19 or older, see FEA(LEGAL).]

**Students Attending Homeschools**

Students who are homeschooled are exempt from the compulsory attendance law to the same extent as students enrolled in other private schools.

ATTENDANCE  
COMPULSORY ATTENDANCE

FEA  
(LOCAL)

Adequate documentation of homeschooling for withdrawal shall consist of either a statement of withdrawal in accordance with FD(LOCAL) indicating the date homeschooling began, or a signed and dated letter from a parent or guardian indicating that his or her child is being homeschooled and the date the homeschooling began.

The District may request from a parent or guardian a letter of assurance that a child is being educated using a curriculum designed to meet basic education goals of reading, spelling, grammar, mathematics, and a study of good citizenship.

Enforcing  
Compulsory  
Attendance

If a parent or guardian refuses to submit a requested statement or letter, or if the District has evidence that a school-aged child is not being homeschooled within legal requirements, the District may investigate further and, if warranted, shall pursue legal action to enforce the compulsory attendance law.

This policy shall apply to a student who has not been in attendance for 90 percent of the days the class is offered.

**Consideration of All Absences Considered**

Except as otherwise provided by law, all absences incurred while enrolled in the District ~~All absences~~ shall be considered in determining whether a student has attended the required percentage of days under this policy.

**Attendance Committees**

The Board shall establish an attendance committee or as many committees as necessary for efficient implementation of Education Code 25.092.

The Superintendent ~~or designee~~ shall make the specific appointments in accordance with legal requirements.

**Parental Notice of Excessive Absences**

A student and the student's parent or guardian shall be given written notice prior to and at such time when a student's attendance in any class drops below 90 percent of the days the class is offered.

**Methods for Regaining Credit or Awarding a Final Grade**

When a student's attendance drops below 90 percent but remains at least at 75 percent of the days the class is offered, the student may earn credit for the class or a final grade by completing a plan approved by the principal. This plan must provide for the student to meet the instructional requirements of the class as determined by the principal.

If the student fails to successfully complete the plan, or when a student's attendance drops below 75 percent of the days the class is offered, the student, parent, or representative may request award of credit or a final grade by submitting a written petition to the appropriate attendance committee.

Petitions for credit or a final grade may be filed at any time the student receives notice but, in any event, no later than 30 days after the last day of classes.

The attendance committee shall review the student's entire attendance record and the reasons for absences and shall determine whether to award credit or a final grade. The attendance committee may also, whether a petition is filed or not, review the records of all students whose attendance drops below 90 percent of the days the class is offered.

~~A student~~ ~~Students~~ who ~~has~~ ~~have~~ lost credit or ~~has~~ ~~have~~ not received a final grade because of excessive absences may regain credit or be awarded a final grade by fulfilling the requirements established by the attendance committee.

**Personal Illness**

~~The~~ When a student's absence for personal illness exceeds five consecutive days, the principal or attendance committee may require verification that the student present a statement from a physician or health-care provider in accordance with administrative regulations clinic verifying the illness or condition that caused the student's extended absence from school as a condition of classifying ~~an~~ the absence for personal illness as one for which there are extenuating circumstances.

Best Interest Standard

In reaching consensus regarding ~~if~~ a student's ~~student has established a questionable pattern of~~ absences and how, the student can be awarded credit ~~principal~~ or a final grade, the attendance committee shall attempt to ensure ~~may require~~ that its decision is in the best interest of the ~~a~~ student. The Superintendent shall develop administrative regulations to document the attendance committee's decision ~~present a physician's or clinic's statement of illness after a single day's absence as a condition of classifying the absence as one for which there are extenuating circumstances.~~

**Guidelines on Extenuating Circumstances**

The attendance committee shall consider whether a student has mastered the essential knowledge and skills and maintained passing grades in the course or subject. ~~adhere to the following guidelines to determine attendance for award of credit or a final grade:~~

~~When~~ Days of Attendance

1. ~~If~~ makeup work is completed satisfactorily, the attendance committee shall consider extracurricular absences and other excused absences ~~as that are allowed under compulsory attendance requirements shall be considered~~ days of attendance for award of credit or a final grade. [See FEA] ~~(LEGAL) at EXCUSED ABSENCES FOR COMPULSORY ATTENDANCE DETERMINATIONS.]~~

Transfers / Migrant Students

2. ~~A transfer or migrant student incurs absences only after his or her enrollment in the District.~~

Documentation

3. ~~The attendance committee shall consider the acceptability and authenticity of documented reasons for the student's absences.~~

Consideration of Control

4. ~~The~~ committee shall consider whether the reasons for the absences were ~~for reasons~~ out of the student's or parent's or student's control and.

Student's Academic Record

5.2. ~~The committee shall consider~~ whether documentation for ~~or not the absence is acceptable~~ student has completed assignments, mastered the essential knowledge and skills, and maintained passing grades in the course or subject.

~~Information from  
Student or Parent~~

~~6.3.~~ The student or parent shall be given an opportunity to present any information to the committee about the absences and to discuss ways to earn or regain credit or be awarded a final grade.

~~Best Interest  
Standard~~

~~In reaching consensus regarding a student's absences, the committee shall attempt to ensure that its decision is in the best interest of the student. The Superintendent or designee shall develop administrative regulations addressing the committee's documentation of the decision.~~

**Imposing Conditions  
for Awarding Credit  
or a Final Grade**

The attendance committee shall consider the student's unique circumstances and, if necessary, shall ~~may~~ impose ~~any of the following~~ conditions for ~~awarding students with excessive absences to~~ regain credit or ~~be awarded~~ a final grade that permit the student to meet the instructional requirements of the class rather than assigning a student to attend a specified program for an amount of time equivalent to the student's absences. Conditions may include:

1. Maintaining attendance standards for the rest of the semester.
1. Completing additional assignments, as specified by the committee or teacher.
2. Attending tutorial sessions as scheduled, ~~which may include Saturday classes or before and after school programs.~~
2. Completing other instructional programs, as specified by the committee.
- ~~3. Maintaining the attendance standards for the rest of the semester.~~
- ~~4.3.~~ Taking an examination to earn credit. [See EHDB]
- ~~5. Attending a flexible school day program.~~
- ~~6. Attending summer school.~~

In all cases, the student must ~~also~~ earn a passing grade in order to receive credit.

**Appeal Process**

A parent or student may appeal the decision of the attendance committee in accordance with FNG(LOCAL).

**Program to Address  
Child Sexual Abuse,  
Trafficking, and  
Maltreatment**

The District's program to address child sexual abuse, trafficking, and other maltreatment of children, as included in the District improvement plan and the student handbook, shall include:

1. Methods for increasing staff, student, and parent awareness regarding these issues, including prevention techniques and knowledge of likely warning signs indicating that a child may be a victim;
2. Age-appropriate, research-based antivictimization programs for students;
3. Actions that a child who is a victim should take to obtain assistance and intervention; and
4. Available counseling options for affected students.

Training

The District shall provide training to employees as required by law and District policy. Training shall address techniques to prevent and recognize sexual abuse, trafficking, and all other maltreatment of children, including children with significant cognitive disabilities. [See DMA]

[See BBD for Board member training requirements and BJCB for Superintendent continuing education requirements.]

**Reporting Child  
Abuse and Neglect**

Any person who has reasonable cause to believe that a child's physical or mental health or welfare has been adversely affected by abuse or neglect has a legal responsibility, under state law, to immediately report the suspected abuse or neglect to an appropriate authority.

As defined in state law, child abuse and neglect include both sex and labor trafficking of a child.

The following individuals have an additional legal obligation to submit a written or oral report within 48 hours of learning of the facts giving rise to the suspicion of abuse or neglect:

1. Any District employee, agent, or contractor who suspects a child's physical or mental health or welfare has been adversely affected by abuse or neglect.
2. A professional who has reasonable cause to believe that a child has been or may be abused or neglected or may have been a victim of indecency with a child. A professional is anyone licensed or certified by the state who has direct contact with children in the normal course of duties for which the individual is licensed or certified.

A person is required to make a report if the person has [reasonable](#) cause to believe that an adult was a victim of abuse or neglect as a child and the person determines in good faith that disclosure of the information is necessary to protect the health and safety of another child or an elderly or disabled person.

[For parental notification requirements regarding an allegation of educator misconduct with a student, see FFF.]

### Restrictions on Reporting

In accordance with law, an employee is prohibited from using or threatening to use a parent's refusal to consent to administration of a psychotropic drug or to any other psychiatric or psychological testing or treatment of a child as the sole basis for making a report of neglect, unless the employee has cause to believe that the refusal:

1. Presents a substantial risk of death, disfigurement, or bodily injury to the child; or
2. Has resulted in an observable and material impairment to the growth, development, or functioning of the child.

### Making a Report

Reports may be made to any of the following:

1. A state or local law enforcement agency;
2. The Child Protective Services (CPS) division of the Texas Department of Family and Protective Services (DFPS) at (800) 252-5400 or the [Texas Abuse Hotline Website](#)<sup>1</sup>;
3. A local CPS office; or
4. If applicable, the state agency operating, licensing, certifying, or registering the facility in which the suspected abuse or neglect occurred.

However, if the suspected abuse or neglect involves a person responsible for the care, custody, or welfare of the child, the report must be made to DFPS, unless the report is to the state agency that operates, licenses, certifies, or registers the facility where the suspected abuse or neglect took place; or the report is to the Texas Juvenile Justice Department as a report of suspected abuse or neglect in a juvenile justice program or facility. [As defined by law, a person responsible for the care, custody, or welfare of a child includes school personnel and volunteers and day-care workers.](#)  
[See FFG(LEGAL)]

An individual does not fulfill his or her responsibilities under the law by only reporting suspicion of abuse or neglect to a campus princi-

pal, school counselor, or another District staff member. Furthermore, the District is prohibited from requiring an employee to first report his or her suspicion to a District or campus administrator.

**Confidentiality**

In accordance with state law, the identity of a person making a report of suspected child abuse or neglect shall be kept confidential and disclosed only in accordance with the rules of the investigating agency.

**Immunity**

A person who in good faith reports or assists in the investigation of a report of child abuse or neglect is immune from civil or criminal liability.

**Failing to Report Suspected Child Abuse or Neglect**

By failing to report suspicion of child abuse or neglect, an employee:

1. May be placing a child at risk of continued abuse or neglect;
2. Violates the law and may be subject to legal penalties, including criminal sanctions for knowingly failing to make a required report;
3. Violates Board policy and may be subject to disciplinary action, including possible termination of employment; and
4. May have his or her certification from the State Board for Educator Certification suspended, revoked, or canceled in accordance with 19 Administrative Code Chapter 249.

It is a criminal offense to coerce someone into suppressing or failing to report child abuse or neglect.

**Responsibilities Regarding Investigations**

In accordance with law, District officials shall be prohibited from:

1. Denying an investigator's request to interview a child at school in connection with an investigation of child abuse or neglect;
2. Requiring that a parent or school employee be present during the interview; or
3. Coercing someone into suppressing or failing to report child abuse or neglect.

District personnel shall cooperate fully and without parental consent, if necessary, with an investigation of reported child abuse or neglect. [See GKA]

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<sup>1</sup> Texas Abuse Hotline Website: <http://www.txabusehotline.org>

**Comprehensive System**

The Superintendent shall develop and maintain a comprehensive system of student records and reports dealing with all facets of the school program operation and shall ensure through reasonable procedures that records are accessed by authorized persons only, as allowed by this policy. These data and records shall be stored in a safe and secure manner and shall be conveniently retrievable for use by authorized school officials.

**Cumulative Record**

A cumulative record shall be maintained for each student from entrance into District schools until withdrawal or graduation from the District.

This record shall move with the student from school to school and be maintained at the school where currently enrolled until graduation or withdrawal. Records for nonenrolled students shall be retained for the period of time required by law. No permanent records may be destroyed without explicit permission from the Superintendent. [See CPC]

**Custodian of Records**

The director of PEIMS/federal programs is custodian of all records for currently enrolled students. The director of PEIMS/federal programs is the custodian of records for students who have withdrawn or graduated. The student handbook made available to all students and parents shall contain a listing of the addresses of District schools, as well as the Superintendent's business address.

**Types of Education Records**

The record custodian shall be responsible for the education records of the District. These records may include:

1. Admissions data, personal and family data, including certification of date of birth.
2. Standardized test data, including intelligence, aptitude, interest, personality, and social adjustment ratings.
3. All achievement records, as determined by tests, recorded grades, and teacher evaluations.
4. All documentation regarding a student's testing history and any accelerated instruction he or she has received, including any documentation of discussion or action by [an accelerated learning a-grade placement](#) committee convened for the student.
5. Health services record, including:
  - a. The results of any tuberculin tests required by the District.

- b. The findings of screening or health appraisal programs the District conducts or provides. [See FFAA]
- c. Immunization records. [See FFAB]
6. Attendance records.
7. Student questionnaires.
8. Records of teacher, school counselor, or administrative conferences with the student or pertaining to the student.
9. Verified reports of serious or recurrent behavior patterns.
10. Copies of correspondence with parents and others concerned with the student.
11. Records transferred from other districts in which the student was enrolled.
12. Records pertaining to participation in extracurricular activities.
13. Information relating to student participation in special programs.
14. Records of fees assessed and paid.
15. Records pertaining to student and parent complaints.
16. Other records that may contribute to an understanding of the student.

#### **Access by Parents**

The District shall make a student's records available to the student's parents, as permitted by law. The records custodian or designee shall use reasonable procedures to verify the requester's identity before disclosing student records containing personally identifiable information.

Records may be reviewed in person during regular school hours without charge upon written request to the records custodian. For in-person viewing, the records custodian or designee shall be available to explain the record and to answer questions. The confidential nature of the student's records shall be maintained at all times, and records to be viewed shall be restricted to use only in the Superintendent's, principal's, or school counselor's office, or other restricted area designated by the records custodian. The original copy of the record or any document contained in the cumulative record shall not be removed from the school.

Copies of records are available at a per copy cost, payable in advance. Copies of records must be requested in writing. Parents

may be denied copies of records if they fail to follow proper procedures or pay the copying charge. If the student qualifies for free or reduced-price lunches and the parents are unable to view the records during regular school hours, upon written request of a parent, one copy of the record shall be provided at no charge.

A parent may continue to have access to his or her child's records under specific circumstances after the student has attained 18 years of age or is attending an institution of postsecondary education. [See FL(LEGAL)]

**Access by School Officials**

A school official shall be allowed access to student records if he or she has a legitimate educational interest in the records.

For the purposes of this policy, "school officials" shall include:

1. An employee, Board member, or agent of the District, including an attorney, a consultant, a contractor, a volunteer, a school resource officer, and any outside service provider used by the District to perform institutional services.
2. An employee of a cooperative of which the District is a member or of a facility with which the District contracts for placement of students with disabilities.
3. A contractor retained by a cooperative of which the District is a member or by a facility with which the District contracts for placement of students with disabilities.
4. A parent or student serving on an official committee, such as a disciplinary or grievance committee, or assisting another school official in performing his or her tasks.
5. A person appointed to serve on a team to support the District's safe and supportive school program.

All contractors provided with student records shall follow the same rules as employees concerning privacy of the records and shall return the records upon completion of the assignment.

A school official has a "legitimate educational interest" in a student's records when he or she is:

1. Working with the student;
2. Considering disciplinary or academic actions, the student's case, or an individualized education program for a student with disabilities;
3. Compiling statistical data;

4. Reviewing an education record to fulfill the official's professional responsibility; or
5. Investigating or evaluating programs.

**Transcripts and  
Transfers of Records**

The District may request transcripts from previously attended schools for students transferring into District schools; however, the ultimate responsibility for obtaining transcripts from sending schools rests with the parent or student, if 18 or older.

For purposes of a student's enrollment or transfer, the District shall promptly forward in accordance with the timeline provided in law education records upon request to officials of other schools or school systems in which the student intends to enroll or enrolls. [See FD(LEGAL), Required Documentation] The District may return an education record to the school identified as the source of the record.

**Records  
Responsibility for  
Students in Special  
Education**

The executive director of special programs shall be responsible for ensuring the confidentiality of any personally identifiable information in records of students in special education.

A current listing of names and positions of persons who have access to records of students in special education is maintained at the special programs office.

**Procedure to Amend  
Records**

Within 15 District business days of the record custodian's receipt of a request to amend records, the District shall notify the parents in writing of its decision on the request and, if the request is denied, of their right to a hearing. If a hearing is requested, it shall be held within ten District business days after the request is received.

Parents shall be notified in advance of the date, time, and place of the hearing. An administrator who is not responsible for the contested records and who does not have a direct interest in the outcome of the hearing shall conduct the hearing. The parents shall be given a full and fair opportunity to present evidence and, at their own expense, may be assisted or represented at the hearing.

The parents shall be notified of the decision in writing within ten District business days of the hearing. The decision shall be based solely on the evidence presented at the hearing and shall include a summary of the evidence and reasons for the decision. If the decision is to deny the request, the parents shall be informed that they have 30 District business days within which to exercise their right to place in the record a statement commenting on the contested information and/or stating any reason for disagreeing with the District's decision.

**Directory  
Information**

Directory information for District students has been classified into two separate categories:

1. Items for use only for school-sponsored purposes; and
2. Items for all other purposes.

A parent shall not be permitted to object to the release of individual items from the directory information lists established by the District.

**School-Sponsored  
Purposes**

For the following school-sponsored purposes—yearbook; school newspapers; honor roll; school, athletic, and graduation programs; service providers that contract with the District for school-sponsored purposes; other District publications and announcements; and information distributed to the media related to school events or placed on the District's website—directory information shall include student name; address; telephone listing; photograph; date of birth; major field of study; degrees, honors, and awards received; dates of attendance; grade level; enrollment status; most recent school previously attended; participation in officially recognized activities and sports; and weight and height of members of athletic teams.

**All Other Purposes**

For all other purposes, directory information shall include student name and address.

TERMINATION OF EMPLOYMENT  
RESIGNATION

DFE  
(LOCAL)

**General Requirements**

All resignations shall be submitted in writing to the Superintendent or other person designated by Board action in accordance with this policy. The employee shall give reasonable notice and shall include in the letter a statement of the reasons for resigning. A prepaid certified or registered letter of resignation shall be considered submitted upon mailing.

**At-Will Employees**

The Superintendent shall be authorized to accept the resignation of an at-will employee at any time. The Superintendent may delegate to other administrators the authority to accept a resignation of an at-will employee.

**Contract Employees**

The Superintendent, Assistant Superintendent of Human Resources, Director of Human Resources Staffing, or other person designated by Board action shall be authorized to receive a contract employee's resignation effective at the end of the school year or submitted after the last day of the school year and before the penalty-free resignation date. If an employee provides a resignation to a supervisor who has not been designated by the Board to accept resignations, the supervisor shall instruct the employee to submit the resignation to the Superintendent, Assistant Superintendent of Human Resources, Director of Human Resources Staffing, or other person designated by Board action. The resignation requires no further action by the District and is accepted upon receipt by the Superintendent, Assistant Superintendent of Human Resources, Director of Human Resources Staffing, or other person designated by Board action.

The Superintendent, Assistant Superintendent of Human Resources, Director of Human Resources Staffing, or other person designated by Board action shall be authorized to accept a contract employee's resignation submitted or effective at any other time. If an employee provides a resignation to a supervisor who has not been designated by the Board to accept resignations, the supervisor shall instruct the employee to submit the resignation to the Superintendent, Assistant Superintendent of Human Resources, Director of Human Resources Staffing, or other person designated by Board action. The Superintendent, Assistant Superintendent of Human Resources, Director of Human Resources Staffing, or other person designated by Board action shall either accept the resignation or submit the matter to the Board in order to pursue sanctions allowed by law.

**Withdrawal of Resignation**

Once submitted and accepted, the resignation of a contract employee may not be withdrawn without consent of the Board.

TERMINATION OF EMPLOYMENT  
RESIGNATION

DFE  
(LOCAL)

**General  
Requirements**

All resignations shall be submitted in writing to the Superintendent or other person designated by Board action in accordance with this policy. The employee shall give reasonable notice and shall include in the letter a statement of the reasons for resigning. A prepaid certified or registered letter of resignation shall be considered submitted upon mailing.

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The Superintendent, Assistant Superintendent of Human Resources, Director of Human Resources Staffing, or other person designated by Board action shall be authorized to receive a contract employee's resignation effective at the end of the school year or submitted after the last day of the school year and before the penalty-free resignation date. If an employee provides a resignation to a supervisor who has not been designated by the Board to accept resignations, the supervisor shall instruct the employee to submit the resignation to the Superintendent, Assistant Superintendent of Human Resources, Director of Human Resources Staffing, or other person designated by Board action. The resignation requires no further action by the District and is accepted upon receipt by the Superintendent, Assistant Superintendent of Human Resources, Director of Human Resources Staffing, or other person designated by Board action.

The Superintendent, Assistant Superintendent of Human Resources, Director of Human Resources Staffing, or other person designated by Board action shall be authorized to accept a contract employee's resignation submitted or effective at any other time. If an employee provides a resignation to a supervisor who has not been designated by the Board to accept resignations, the supervisor shall instruct the employee to submit the resignation to the Superintendent, Assistant Superintendent of Human Resources, Director of Human Resources Staffing, or other person designated by Board action. The Superintendent, Assistant Superintendent of Human Resources, Director of Human Resources Staffing, or other person designated by Board action shall either accept the resignation or submit the matter to the Board in order to pursue sanctions allowed by law.

**Withdrawal of  
Resignation**

Once submitted and accepted, the resignation of a contract employee may not be withdrawn without consent of the Board.

**PROPOSED REVISIONS (additional Update 118 revisions)**

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**Note:** This local policy has been revised in accordance with the District's [innovation plan](#).<sup>1</sup>

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Blended Learning Courses – District of Innovation Plan Exemption

In accordance with the District's innovation plan, the District shall exempt from this policy and the state law regarding minimum attendance for credit or a final grade a student enrolled in a blended learning course at the high school.

Minimum Attendance for Credit or a Final Grade

Except for those to whom the above exemption applies, as provided by this policy and the District's innovation plan, Tthis policy shall apply to a student who has not been in attendance for 90 percent of the days the class is offered.

Absences Considered

Except as otherwise provided by law, all absences incurred while enrolled in the District shall be considered in determining whether a student has attended the required percentage of days under this policy.

Attendance Committees

The Board shall establish an attendance committee or as many committees as necessary for efficient implementation of Education Code 25.092.

The Superintendent shall make the specific appointments in accordance with legal requirements.

Parental Notice of Excessive Absences

A student and the student's parent or guardian shall be given written notice prior to and at such time when a student's attendance in any class drops below 90 percent of the days the class is offered.

Methods for Regaining Credit or Awarding a Final Grade

When a student's attendance drops below 90 percent but remains at least at 75 percent of the days the class is offered, the student may earn credit for the class or a final grade by completing a plan approved by the principal. This plan must provide for the student to meet the instructional requirements of the class as determined by the principal.

If the student fails to successfully complete the plan, or when a student's attendance drops below 75 percent of the days the class is offered, the student, parent, or representative may request award of credit or a final grade by submitting a written petition to the appropriate attendance committee.

Petitions for credit or a final grade may be filed at any time the student receives notice but, in any event, no later than «S petition for credit deadline».

The attendance committee shall review the student's entire attendance record and the reasons for absences and shall determine

whether to award credit or a final grade. The attendance committee may also, whether a petition is filed or not, review the records of all students whose attendance drops below 90 percent of the days the class is offered.

A student who has lost credit or has not received a final grade because of excessive absences may regain credit or be awarded a final grade by fulfilling the requirements established by the attendance committee.

**Personal Illness** The principal or attendance committee may require verification from a health-care provider in accordance with administrative regulations as a condition of classifying an absence for personal illness as one for which there are extenuating circumstances.

**Best Interest Standard** In reaching consensus regarding a student's absences and how the student can be awarded credit or a final grade, the attendance committee shall attempt to ensure that its decision is in the best interest of the student. The Superintendent shall develop administrative regulations to document the attendance committee's decision.

**Guidelines on Extenuating Circumstances** The attendance committee shall consider whether a student has mastered the essential knowledge and skills and maintained passing grades in the course or subject.

When makeup work is completed satisfactorily, the attendance committee shall consider extracurricular absences and other excused absences as days of attendance for award of credit or a final grade. [See FEA]

The attendance committee shall consider whether the reasons for the absences were out of the parent's or student's control and whether documentation for the absence is acceptable.

The student or parent shall be given an opportunity to present any information to the committee about the absences and to discuss ways to earn or regain credit or be awarded a final grade.

**Imposing Conditions for Awarding Credit or a Final Grade** The attendance committee shall consider the student's unique circumstances and, if necessary, shall impose conditions for awarding credit or a final grade that permit the student to meet the instructional requirements of the class rather than assigning a student to attend a specified program for an amount of time equivalent to the student's absences. Conditions may include:

1. Maintaining attendance standards for the rest of the semester.
2. Completing additional assignments, as specified by the committee or teacher.
3. Attending tutorial sessions as scheduled.

4. Completing other instructional programs, as specified by the committee.
5. Taking an examination to earn credit. [See EHDB]

In all cases, the student must earn a passing grade in order to receive credit.

Appeal Process

A parent or student may appeal the decision of the attendance committee in accordance with FNG(LOCAL).

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<sup>1</sup> Innovation Plan: <https://www.bisd.net/Page/369#:~:text=Belton%20ISD's%20District%20of%20Innovation,plan%20on%20December%207%2C%202021>

**PROPOSED REVISIONS (additional Update 118 revisions)**

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**Note:** This local policy has been revised in accordance with the District's [innovation plan](#).<sup>1</sup>

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**Blended Learning Courses – District of Innovation Plan Exemption**

In accordance with the District's innovation plan, the District shall exempt from this policy and the state law regarding minimum attendance for credit or a final grade a student enrolled in a blended learning course at the high school.

**Minimum Attendance for Credit or a Final Grade**

Except for those to whom the above exemption applies, this policy shall apply to a student who has not been in attendance for 90 percent of the days the class is offered.

Absences Considered

Except as otherwise provided by law, all absences incurred while enrolled in the District shall be considered in determining whether a student has attended the required percentage of days under this policy.

Attendance Committees

The Board shall establish an attendance committee or as many committees as necessary for efficient implementation of Education Code 25.092.

The Superintendent shall make the specific appointments in accordance with legal requirements.

Parental Notice of Excessive Absences

A student and the student's parent or guardian shall be given written notice prior to and at such time when a student's attendance in any class drops below 90 percent of the days the class is offered.

Methods for Regaining Credit or Awarding a Final Grade

When a student's attendance drops below 90 percent but remains at least at 75 percent of the days the class is offered, the student may earn credit for the class or a final grade by completing a plan approved by the principal. This plan must provide for the student to meet the instructional requirements of the class as determined by the principal.

If the student fails to successfully complete the plan, or when a student's attendance drops below 75 percent of the days the class is offered, the student, parent, or representative may request award of credit or a final grade by submitting a written petition to the appropriate attendance committee.

Petitions for credit or a final grade may be filed at any time the student receives notice but, in any event, no later than «S petition for credit deadline».

The attendance committee shall review the student's entire attendance record and the reasons for absences and shall

determine whether to award credit or a final grade. The attendance committee may also, whether a petition is filed or not, review the records of all students whose attendance drops below 90 percent of the days the class is offered.

A student who has lost credit or has not received a final grade because of excessive absences may regain credit or be awarded a final grade by fulfilling the requirements established by the attendance committee.

Personal Illness

The principal or attendance committee may require verification from a health-care provider in accordance with administrative regulations as a condition of classifying an absence for personal illness as one for which there are extenuating circumstances.

Best Interest Standard

In reaching consensus regarding a student's absences and how the student can be awarded credit or a final grade, the attendance committee shall attempt to ensure that its decision is in the best interest of the student. The Superintendent shall develop administrative regulations to document the attendance committee's decision.

Guidelines on Extenuating Circumstances

The attendance committee shall consider whether a student has mastered the essential knowledge and skills and maintained passing grades in the course or subject.

When makeup work is completed satisfactorily, the attendance committee shall consider extracurricular absences and other excused absences as days of attendance for award of credit or a final grade. [See FEA]

The attendance committee shall consider whether the reasons for the absences were out of the parent's or student's control and whether documentation for the absence is acceptable.

The student or parent shall be given an opportunity to present any information to the committee about the absences and to discuss ways to earn or regain credit or be awarded a final grade.

Imposing Conditions for Awarding Credit or a Final Grade

The attendance committee shall consider the student's unique circumstances and, if necessary, shall impose conditions for awarding credit or a final grade that permit the student to meet the instructional requirements of the class rather than assigning a student to attend a specified program for an amount of time equivalent to the student's absences. Conditions may include:

1. Maintaining attendance standards for the rest of the semester.

2. Completing additional assignments, as specified by the committee or teacher.
3. Attending tutorial sessions as scheduled.
4. Completing other instructional programs, as specified by the committee.
5. Taking an examination to earn credit. [See EHDB]

In all cases, the student must earn a passing grade in order to receive credit.

#### Appeal Process

A parent or student may appeal the decision of the attendance committee in accordance with FNG(LOCAL).

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<sup>1</sup> Innovation Plan:

<https://www.bisd.net/Page/369#:~:text=Belton%20ISD's%20District%20of%20Innovation,plan%20on%20December%207%2C%202021>

**Belton Independent School District**  
**Board of Trustee Meeting Agenda Item**

**February 21, 2022**

**Item:** Resolution Concerning Payments to District Employees During Emergency Closure Due to Inclement Weather and Reduction in Educator Required Days of Service

**Contact Person:** Todd Schiller

**Presented for:**  Action     Report Only

**Supporting Documents:**     None     Attached     Provided Later

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**District Goal or Objective Addressed:**

Goal 4: Develop a district-wide culture of value, support, and growth amongst all students and staff.

Goal 5: Maximize our use of resources for both current priorities and plans for the future.

**Background Information:**

On February 3-4, 2022, BISD facilities were closed due to inclement weather. Per policy DEA(LOCAL), adopting a resolution will allow all employees to be paid for these closures serving the purpose of maintaining morale and retention of employees, providing equity between employees who did not work and employees who provided emergency-related services during closure, and also recognizing the services of essential staff. In addition, the resolution reduces the required number of service days for a teacher from 187 to 185 days with no impact to pay.

**Fiscal Implications:**

N/A

**Administrative Recommendation(s):**

Approve the resolution concerning payments to District employees during emergency closure due to inclement weather as presented.

**RESOLUTION OF THE BOARD OF TRUSTEES OF BELTON  
INDEPENDENT SCHOOL DISTRICT CONCERNING PAYMENTS TO DISTRICT  
EMPLOYEES DURING EMERGENCY CLOSURE DUE TO INCLEMENT WEATHER  
AND REDUCTION IN EDUCATOR REQUIRED DAYS OF SERVICE**

WHEREAS the Belton Independent School District was closed on February 3-4, 2022 due to an emergency caused by inclement weather;

WHEREAS the Belton ISD Board of Trustees acknowledges that during an emergency closing, most District employees are instructed not to report for work, and other employees may be called upon to provide emergency-related services;

WHEREAS employees who are instructed not to report to work may suffer a loss of pay unless the workdays are made up at a later date;

WHEREAS a need exists to address wage payments for employees who are idled and for employees who are required to work during emergency closings;

WHEREAS, the Board determines there is a public purpose served and a benefit to Belton ISD to demonstrate support for its employees, enhance employee morale, and support retention of employees;

WHEREAS, the Board further determines that compensating all employees of Belton ISD at their regular hourly or daily rate of pay, according to the duty schedule they otherwise would have worked during the time the District was closed, serves the public purposes of maintaining morale, reducing turnover, and ensuring continuity of District staffing when schools reopen; and

WHEREAS the Board further determines that continuing wage payments to all employees, contractual and noncontractual, salaried and non-salaried, who suffer a loss in pay due to an emergency closing, serves the public purposes;

WHEREAS, certain nonexempt employees were requested by their supervisors to work and perform various duties to support Belton ISD while it was closed February 3-4, 2022;

WHEREAS, the Board determines that paying nonexempt employees who were called on to work during the emergency closing due to inclement weather both (1) their regular rate for actual hours worked, plus (2) their regular rate of pay according to the duty schedule they otherwise would have worked that day, serves the public purposes of maintaining morale, providing equity between idled employees and employees who provide emergency-related services, and recognizing the services of essential staff;

WHEREAS, Texas Education Code Section 21.401(c-1) provides that, if a district anticipates providing less than 180 days of instruction for students during a school year, as indicated by the district's academic calendar, the district may reduce the number of days of educator service required proportionately; and

WHEREAS, the District anticipates providing 170 days of instruction for students for the 2021-2022 school year.

**NOW THEREFORE BE IT RESOLVED**

1. All the above paragraphs are incorporated into and made a part of this resolution.
2. The Board authorizes wage payments to all employees, at their regular hourly or daily rate of pay, according to the duty schedule they otherwise would have worked on February 3-4, 2022 when the District was closed due to an emergency caused by inclement weather.
3. The Board further authorizes wage payments, in addition to those in Paragraph 2 above, to nonexempt employees who were required to work during the emergency closures equal to their regular hourly or daily rate of pay for actual hours worked on February 3-4, 2022.
4. The minimum number of days of educator service is reduced to 185, pursuant to Texas Education Code Section 21.401(c-1).
5. The above Resolution is passed and adopted the 21st day of February, 2022, by the Board of Trustees.

Approved the 21st day of February, 2022.

By \_\_\_\_\_  
Jeff Norwood, President  
Belton ISD

Attest:

By \_\_\_\_\_  
Manuel Alcozer, Secretary  
Belton ISD

## UPCOMING EVENTS FEBRUARY-MARCH 2022

Date	Event
Thursday, February 24	Belton Chamber Banquet at 6:00 pm at the Expo Center
Saturday, March 5	Tennis Golf Tournament at Wildflower Country Club
Monday, March 7	BEEF Golf Tournament at Wildflower Country Club
Tuesday, March 8	Board Policy Review Session at 5:00 pm at Big Red Room
March 14-18	Spring Break
Friday, March 18	Tidwell Field Dedication Ceremony prior to game at BHS at 7:00 pm
Wednesday, March 23	Facilities Committee Meeting at 4:00 pm
Wednesday, March 23	Jace Jefferson Batting Cages Dedication Ceremony at LBHS at 6:00 pm
Monday, March 28	Board Workshop/Regular Meeting at 5:00 pm and 6:15 pm