

Marble Falls ISD
has an unyielding commitment
to love every child and inspire
them to achieve their fullest
potential.



**Marble Falls ISD
Special Meeting**

**Monday, June 5, 2017
6:00 PM**

**AGENDA OF SPECIAL MEETING
MARBLE FALLS INDEPENDENT SCHOOL DISTRICT
BOARD OF TRUSTEES
MONDAY, JUNE 5, 2017 – 6:00 PM
Marble Falls ISD Central Office Room 310**

Notice is hereby given that on June 5, 2017, the Board of Trustees of the Marble Falls Independent School District will hold a Special meeting at 6:00 PM, at the Marble Falls ISD Central Office Room 310, 1800 Colt Circle, Marble Falls, TX 78654.

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 order shown on this meeting notice.

1. Call to Order
Presenter: Kevin Naumann, President
2. Roll Call
3. Administration of Oath of Office to Mr. Mike Savage
Presenter: Krystal Dunk
4. Presentation/Discussion Items and Possible Action
 - A. Budget Update 4
Presenter: Lisa LeMon
 - B. Compensation Plan 21
Presenter: Dr. Chris Allen
 - C. Engineer Contract 22
Presenter: Lisa LeMon
 - D. CTE IMA 69
Presenter: Dr. Wes Cunningham
 - E. MOU with Education Foundation 74
Presenter: Dr. Chris Allen
 - F. SLI Travel Details
Presenter: Dr. Chris Allen
5. Executive Session
 - A. Discussion of Professional Personnel (TX Govt. Code 551.074)
 - B. Discussion of Board Committee Assignments for 2017-2018
6. Reconvene from Executive Session
7. Discussion and Possible Approval of Action Arising from Executive Session
 - A. Possible Approval of Personnel
 - B. Announce Board Committee Assignments
8. Adjourn

If, during the course of the meeting, discussion of any item on the agenda should be held in a closed meeting, the board will conduct a closed meeting in accordance with the Texas Open Meetings Act, Government Code, Chapter 551, Subchapters D and E or Texas Government Code section 418.183(f). Before any closed meeting is convened, the presiding officer will publicly identify the section or sections of the Act authorizing the closed meeting. All final votes, actions, or decisions will be taken in open meeting. [See BEC(LEGAL)]

FOR THE BOARD OF TRUSTEES
MARBLE FALLS INDEPENDENT SCHOOL

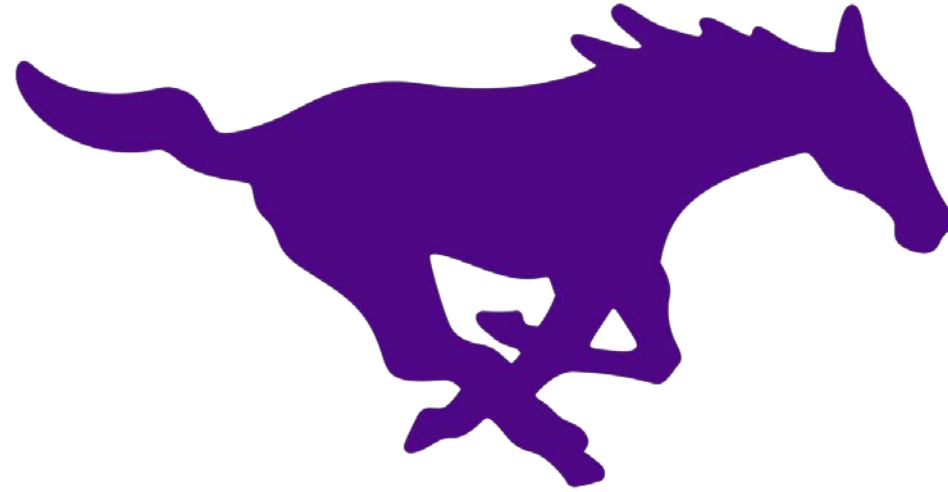
Dr. Chris Allen, Superintendent of Schools



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LEADERS TOMORROW,
MUSTANGS FOREVER!**

**Marble Falls ISD
Board of Trustees
Agenda Item Information**

Meeting Date:		
Meeting Type: Regular Meeting Special Meeting/Workshop Hearing	Agenda Placement: Public Hearing Information Items Presentation/Discussion Items Consideration Items Consent Agenda	
Date Submitted:		
Subject:		
Executive Summary:		
Fiscal Impact: Cost: Recurring One-Time No Fiscal Impact	Funding Source: General Fund Grant Funds Bond Funds Other Funds (Specify)	Fiscal Year: Amendment Required? Yes No
Administration's Recommendation:		
Submitted By:		
Board Approval Required: Yes No		



Marble Falls ISD 2017-18 Budget Update

June 5, 2017

MFISD

Vision Statement

Marble Falls ISD has an unyielding commitment to love every child and inspire them to achieve their fullest potential.



Agenda

- Budget Beliefs
- Revenue Assumptions
- Expenditures Assumptions
- Cost Saving Measures
- General Fund Budget Scenarios
- June 26th Budget Presentation
- What if?
- Child Nutrition Summary
- Debt Service Summary

Budget Beliefs

- A budget should be a numerical representation of the District's vision
- A student is best served when
 - He/she is served by a high quality teacher
 - He/she has increased time on task
- In a perfect world, the budget is perfectly balanced
 - Not a deficit budget
 - Not a surplus
 - Not always possible...



Revenue Assumptions

- One model with a 3% increase in property values
- One model with a 4% increase in property values
- Steady or slow growth in enrollment
- No increase to Basic Allotment



Expenditure Assumptions

- Personnel:
 - 3% general pay increase plus market adjustments
 - 2 Pre K teachers and 2 Pre K aides
 - 1 Maintenance
 - 4 Positions for program growth (elem)
 - 2 Positions for program growth (sec)
 - Education Foundation Director
 - Increase sub pay \$5/day



Expenditure Assumptions

- Supplies
 - Increase for Technology refresh of projectors
- Capital Outlay
 - 4 Buses
 - 2 Maintenance trucks
 - Facility improvements



Cost Saving Measures

- 10% reduction in operating budgets
- Partnership with Head Start
- 3 positions repurposed
- Overall scrub for additional efficiencies

General Fund

		2016-17 Adopted Budget	2016-17 Revised Budget	2016-17 Projected Year End	2017-18 Scenario #a 3% inc in values; no inc in BA	2017-18 Scenario #b 3% inc in values; no inc in BA	2017-18 Scenario #c 4% inc in values; no inc in BA
Revenue							
5700	Local Revenue	\$ 34,469,025	\$ 35,506,707	\$ 35,321,665	\$ 36,739,509	\$ 36,739,509	\$ 37,027,425
5800	State Revenue	4,168,075	4,238,395	4,389,136	4,282,252	4,282,446	4,293,337
5900	Federal Revenue	890,000	890,000	928,507	890,000	890,000	890,000
	Total Revenues	<u>\$ 39,527,100</u>	<u>\$ 40,635,102</u>	<u>\$ 40,639,308</u>	<u>\$ 41,911,761</u>	<u>\$ 41,911,955</u>	<u>\$ 42,210,762</u>
Expenditure							
6100	Payroll	\$ 29,904,559	\$ 30,264,614	\$ 29,949,973	\$ 31,401,457	\$ 31,401,457	\$ 31,401,457
6200	Contracted Services	7,039,863	7,814,277	7,197,991	7,002,358	7,547,777	7,585,389
6300	General Supplies	1,793,162	2,119,787	1,945,212	1,870,053	1,870,053	1,870,053
6400	Other Operating	719,279	732,969	590,412	635,040	635,040	635,040
6500	Debt Service	-	-	-	-	-	-
6600	Capital Outlay	70,237	767,393	874,118	705,000	705,000	705,000
	Total Expenditures	<u>\$ 39,527,100</u>	<u>\$ 41,699,039</u>	<u>\$ 40,557,706</u>	<u>\$ 41,613,908</u>	<u>\$ 42,159,327</u>	<u>\$ 42,196,939</u>
7900	Other Resources	\$ -	\$ -	\$ 1,061	\$ -	\$ -	\$ -
8900	Other Uses	-	-	(5,000)	-	-	-
	TOTAL RESOURCES & USES	<u>\$ -</u>	<u>\$ -</u>	<u>\$ (3,939)</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
	EXCESS (DEFICIENCY) OF REVENUES & OTHER RESOURCES OVER EXPENDITURES & OTHER USES	<u>\$ -</u>	<u>\$ (1,063,937)</u>	<u>\$ 77,663</u>	<u>\$ 297,853</u>	<u>\$ (247,372)</u>	<u>\$ 13,823</u>
	Beginning Fund Balance	\$ 13,815,544	\$ 13,815,544	\$ 13,815,544	\$ 13,893,207	\$ 13,893,207	\$ 13,893,207
	Ending Fund Balance	<u>\$ 13,815,544</u>	<u>\$ 12,751,607</u>	<u>\$ 13,893,207</u>	<u>\$ 14,191,060</u>	<u>\$ 13,645,835</u>	<u>\$ 13,907,030</u>

Scenarios Defined

- Scenario b
 - 3% increase in property values, stable ADA, 3% salary increase, \$25/month increase to health insurance benefit
- Scenario c
 - 4% increase in property values, stable ADA, 3% salary increase, \$25/month increase to health insurance benefit



June 26th Budget Adoption Assumptions

- 2.751% increase in property values
- Stable ADA
- No increase to Basic Allotment
- 3% general pay increase plus market adjustments
- \$25/month increase to health insurance deduction
- Additional positions and increase to sub pay
- Includes 4 buses, 2 maintenance vehicles, \$205,000 in facility improvements

General Fund

			2016-17	2016-17	2016-17	2017-18	%
			Adopted	Revised	Projected Year	Proposed	
			Budget	Budget	End	Budget	Change
Revenue:							
5700	Local Revenues	\$	34,469,025	\$ 35,506,707	\$ 35,321,665	\$ 36,667,813	6%
5800	State Revenues		4,168,075	4,238,395	4,389,136	4,280,268	3%
5900	Federal Revenues		890,000	890,000	928,507	890,000	0%
Total		\$	<u>39,527,100</u>	<u>\$ 40,635,102</u>	<u>\$ 40,639,308</u>	<u>\$ 41,838,081</u>	9%
Expenditures:							
6100	Payroll	\$	29,904,559	\$ 30,264,614	\$ 29,949,973	\$ 31,401,457	5%
6200	Contracted Svcs		7,039,863	7,814,277	7,197,991	7,538,411	7%
6300	Supplies		1,793,162	2,119,787	1,945,212	1,870,053	4%
6400	Other Operating		719,279	732,969	590,412	635,040	-12%
6600	Capital Outlay		70,237	767,393	874,118	705,000	904%
Total		\$	<u>39,527,100</u>	<u>\$ 41,699,039</u>	<u>\$ 40,557,706</u>	<u>\$ 42,149,961</u>	908%
Total Other Resources & Uses			\$ -	\$ -	\$ (3,939)	\$ -	
Net Inc (Dec) to Fund Balance			\$ -	\$ (1,063,937)	\$ 77,663	\$ (311,880)	
Beginning Fund Balance, 7/1			\$ 13,815,544	\$ 13,814,544	\$ 13,815,544	\$ 13,893,207	
Ending Fund Balance, 6/30			<u>\$ 13,815,544</u>	<u>\$ 12,750,607</u>	<u>\$ 13,893,207</u>	<u>\$ 13,581,327</u>	



What if we receive more money?

Priorities:

1. Salaries/benefits
2. To the extent possible, restore campus/department cuts
3. Additional money to facility/safety needs

*>4% + ?? Any new money from the state



Child Nutrition

			2016-17	2016-17	2016-17	2017-18	%
			Adopted	Revised	Projected	Proposed	
Revenue:			Budget	Budget	Year End	Budget	Change
5700	Local Revenues	\$	608,656	\$ 608,656	\$ 655,368	\$ 695,140	14%
5800	State Revenues		12,000	12,000	11,621	11,621	-3%
5900	Federal Revenues		1,708,914	1,708,914	1,452,703	1,815,468	6%
Total		\$	<u>2,329,570</u>	<u>\$ 2,329,570</u>	<u>\$ 2,119,692</u>	<u>\$ 2,522,229</u>	17%
Expenditures:							
6100	Payroll	\$	887,770	\$ 887,770	\$ 845,151	\$ 942,819	6%
6200	Contracted Svcs		114,355	89,355	54,037	92,969	-19%
6300	Supplies		1,264,211	1,289,211	1,207,060	1,399,810	11%
6400	Other Operating		17,150	17,150	12,075	16,438	-4%
6600	Capital Outlay		-	-	-	-	0%
Total		\$	<u>2,283,486</u>	<u>\$ 2,283,486</u>	<u>\$ 2,118,323</u>	<u>\$ 2,452,036</u>	-6%
Net Inc (Dec) to Fund Balance		\$	46,084	\$ 46,084	\$ 1,368	\$ 70,193	
Beginning Fund Balance, 7/1		\$	504,149	\$ 504,149	\$ 504,149	\$ 505,517	
Ending Fund Balance, 6/30		\$	<u>550,233</u>	<u>\$ 550,233</u>	<u>\$ 505,517</u>	<u>\$ 575,710</u>	

Debt Service

		2016-17 Adopted Budget	2016-17 Revised Budget	2016-17 Projected YE Activity	2017-18 Proposed Budget	% Change
Revenue:						
5700	Local Revenues	7,482,907	7,689,660	7,538,213	7,693,635	3%
5800	State Revenues	119,179	119,179	114,144	108,975	-9%
5900	Federal Revenues	-	-	-	-	0%
Total		7,602,086	7,808,839	7,652,357	7,802,610	-6%
Expenditures:						
6100	Payroll	-	-	-	-	0%
6200	Contracted Svcs	-	-	-	-	0%
6300	Supplies	-	-	-	-	0%
6400	Other Operating	-	-	-	-	0%
6500	Debt	6,862,472	7,069,225	7,028,880	6,457,218	-6%
6600	Capital Outlay	-	-	-	-	0%
Total		6,862,472	7,069,225	7,028,880	6,457,218	-6%
Other Financing Sources (Uses)		-	-	(832,092)	-	
Net Inc (Dec) to Fund Balance		739,614	739,614	(208,615)	1,345,393	
Fund Balance, Beginning 7/1		7,339,350	7,339,350	7,339,350	7,130,735	
Fund Balance, Ending 6/30		8,078,964	8,078,964	7,130,735	8,476,127	





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Board of Trustees
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Administration's Recommendation:		
Submitted By:		
Board Approval Required: Yes No		



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Submitted By:		
Board Approval Required: Yes No		



Document B101™ – 2007

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the FIFTH day of JUNE in the year TWO THOUSAND SEVENTEEN

(In words, indicate day, month and year.)

BETWEEN the Engineer's client identified as the Owner:
(Name, address and other information)

Marble Falls Independent School District
1800 Colt Circle
Marble Falls, Texas 78654
Phone: 830-693-4357
Fax: 830-693-5685

and the Engineer:
(Name, address and other information)

Willis Environmental Engineering, Inc.
310 Main Street
Marble Falls, Texas 78654-5715
Phone: 830-693-3566
Fax: 830-693-5362

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

Marble Falls ISD Transportation Facility

The Owner and Engineer 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.

Init.

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(943017572)

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EXHIBIT A INITIAL INFORMATION

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Article 1 and in optional Exhibit A, Initial Information: the design, procurement administration and construction administration of the Owner's bus parking facility, fueling facility and a bus maintenance facility ("the Transportation Facility").

(Complete Exhibit A, Initial Information, and incorporate it into the Agreement at Section 13.2, or state below Initial Information such as details of the Project's site and program, Owner's contractors and consultants, Engineer's consultants, Owner's budget for the Cost of the Work, authorized representatives, anticipated procurement method, and other information relevant to the Project.)

§ 1.2 The Owner's anticipated dates for commencement of construction and Substantial Completion of the Work are set forth below:

.1 Commencement of construction date:

To be determined by the Owner.

.2 Substantial Completion date:

To be determined by the Owner.

§ 1.3 The Owner and Engineer may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Engineer shall appropriately adjust the schedule, the Engineer's services and the Engineer's compensation.

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ARTICLE 2 ENGINEER'S RESPONSIBILITIES

§ 2.1 The Engineer shall provide the professional services as set forth in this Agreement.

§ 2.2 The Engineer shall perform its services consistent with the professional skill and care ordinarily provided by Engineers practicing in the same or similar locality under the same or similar circumstances. The Engineer shall be responsible to the Owner for all costs and damages resulting from (1) defects in design, (2) non-workability of design details, (3) failure of the Engineer to comply with the terms of this Agreement, and (4) errors and omissions of the Engineer. Any designs, drawings or specifications prepared or furnished by Engineer that contain errors, conflict or omissions will be promptly corrected by Engineer at no additional cost to Owner. Owner's approval, acceptance use of or payment for all or any part of Engineer's services shall in no way alter Engineer's obligations or Owner's rights hereunder. The Engineer 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 Engineer shall identify a representative authorized to act on behalf of the Engineer with respect to the Project.

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

§ 2.5 The Engineers shall provide and maintain in effect during the performance of the Work under the Agreement insurance of the following types and with indemnification limits not less than the amounts indicated: *(Identify types and limits of insurance coverage, and other insurance requirements applicable to the Agreement, if any.)*

Worker's Compensation:

(Including Waiver of Subrogation
Endorsement)

All liability arising out of Engineer's employment of workers and anyone for whom Engineer shall be liable for Worker's Compensation claims. Worker's Compensation is required and no "alternative" form of insurance shall be permitted.

Professional Liability:

Engineer.....	\$1,000,000.00 per claim and \$1,000,000.00 in the annual aggregate.
Engineer Consultant	\$1,000,000.00 per claim

Commercial General Liability:

Each Occurrence	\$1,000,000.00
General Aggregate.....	\$2,000,000.00
Personal and Advertising Injury	\$1,000,000.00 each person

Automobile Liability..... \$1,500,000.00 combined single limit

Excess Umbrella Liability..... \$2,000,000.00

- .1 The required insurance must be written by a company authorized to do business in Texas at the time the policy is issued. In addition, the company must be acceptable to the Owner. The Owner's Representative will contact the State Board of Insurance to confirm that the issuing companies are authorized to issue such policies in the State of Texas.
- .2 The Commercial General Liability and Automobile policies issued in the name of Engineer shall also name the Owner as additional insured. Evidence of additional insured status will be provided to Owner by providing a copy of the endorsement being utilized to effect the additional and shall be subject to the Owner's reasonable approval.

- .3 It is the intent of the parties to this Agreement that all coverage provided herein shall be primary to and shall seek no contribution for all insurance available to Owner, with Owner's insurance being excess, secondary and non-contributing. The Commercial General Liability coverage shall be endorsed to provide such primary and non-contributing liability.
- .4 Engineer shall have its insurance carrier(s) furnish to Owner insurance certificates in form satisfactory to Owner specifying the types and amounts of coverage in effect, the expiration dates of each policy, a statement that no insurance will be canceled or materially changed while the Work is in progress without thirty (30) calendar days prior written notice to Owner, and a statement that, except for professional liability insurance and worker's compensation insurance, the Owner is named as additional insured. Engineer shall permit Owner to examine the insurance policies, or at Owner's option, Engineer shall furnish Owner with copies, certified by the carrier(s), of insurance policies required. If Engineer neglects or refuses to provide any insurance required herein, or if any insurance is canceled, Owner may, but shall not be obligated to, procure such insurance at Engineer's expense.
- .5 Insurance provided pursuant to this Section shall be considered a part of the Engineer's basic services and shall not be a Reimbursable Expense within the scope of Section 11.8, or other provisions of this Agreement.

(Paragraphs deleted)

§ 2.6 Upon the written request of the Owner, the Engineer shall remove from the Project any employee of the Engineer to whom the Owner makes a reasonable objection. The Engineer shall replace any such employee with an equally qualified employee in a timely manner.

§ 2.7 The Engineer shall provide a design which when constructed in accordance with the Contract Documents will comply with all applicable federal, state and local laws, statutes, ordinances, rules, regulations orders and other legal requirements including but not limited to all zoning restrictions or requirements of record, building, occupancy, environmental, disabled person accessibility and land use laws, requirements regulations and ordinances relating to the construction use and occupancy of the Project ("Governmental Requirements") existing on the date of this Agreement and which may be enacted prior to Owner's approval of completed Construction Documents. Engineer shall use its best efforts to avoid incorporating into the Project design elements that would give rise to code interpretation questions and to discuss in advance all such situations with the Owner.

§ 2.8 The Engineer represents to Owner that all Design Documents, Contract Documents and other documents prepared and issued by Engineer pursuant to this Agreement will be of good quality, free from substantial defects, and in conformance with and satisfying all applicable federal, state, municipal and local ordinances, codes, and other governmental requirements and shall be fit for the particular purpose intended thereby. Engineer shall notify the Owner in a prompt and timely manner of any discovered discrepancies inconsistencies or missing information necessary to provide reasonably accurate and complete documents. Failure to so notify Owner will be considered a breach of the standard of professional practice set forth in this Agreement.

§ 2.9 Notwithstanding any provision of this Article to the contrary, services made necessary as a result of the Engineer's failure to timely provide accurate or complete information, approvals or clarifications, or to timely render a decision, shall be considered Basic Services.

§ 2.10 (Paragraph Deleted.)

§ 2.11 The Engineer shall furnish services of geotechnical engineers as required for the Project which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with reports and appropriate recommendations. The Engineer shall be reimbursed by the Owner for the Engineer's cost for such services.

ARTICLE 3 SCOPE OF ENGINEER'S BASIC SERVICES

§ 3.1 The Engineer's Basic Services consist of those described in Article 3 and include usual and customary structural, mechanical, civil and electrical engineering services. Services not set forth in this Article 3 or denoted as Basic Services in Article 4 are Additional Services.

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§ 3.1.1 The Engineer shall manage the Engineer's services, consult with the Owner, research applicable design criteria, attend Project meetings, communicate with members of the Project team and report progress to the Owner.

§ 3.1.2 The Engineer shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Engineer shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner and the Owner's consultants. The Engineer shall provide prompt written notice to the Owner if the Engineer becomes aware of any error, omission or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Engineer shall submit for the Owner's approval a schedule for the performance of the Engineer's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner'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 Engineer or Owner. With the Owner's approval, the Engineer shall adjust the schedule, if necessary as the Project proceeds until the commencement of construction.

§ 3.1.4 The Engineer shall not be responsible for an Owner's directive or substitution made without the Engineer's approval.

§ 3.1.5 The Engineer shall, at appropriate times, contact the governmental authorities required to approve the Construction Documents and the entities providing utility services to the Project. In designing the Project, the Engineer shall respond to applicable design requirements imposed by such governmental authorities and by such entities providing utility services. Any changes required by governmental authorities, if approved by the Owner, shall be made by the Engineer at no additional cost to the Owner.

§ 3.1.6 The Engineer shall be responsible for filing documents required for the approval of governmental authorities having jurisdiction over the Project, subject to review and approval of the Owner.

§ 3.1.7 When the services under this Agreement include contract administration services, the General Conditions of the Contract for Construction shall be AIA Document A201-2007, as amended by the Owner for the Project.

§ 3.1.8 Notwithstanding any other provision of the Agreement, the following are Services of the Engineer fully compensated under Section 11.1 as Basic Services:

- .1 The time period during which the Engineer's duty to provide Basic Services shall include that time necessary to correct any defective work caused by defects, errors or omissions of the Engineer during any phase of construction. Such services shall be performed by the Engineer at no additional charge, either in fee or expenses.
- .2 The Engineer shall be responsible for retaining all necessary consultants to execute Engineer's scope of work. Such consultants shall be professionals licensed by the State of Texas to practice the building discipline for which they are retained on the Project. Consultants required by the Engineer shall at a minimum be required to make on-site visits and observations during those periods when work they have designed is being constructed.
- .3 The Engineer shall require the Contractor and its subcontractors to maintain a set of record drawings to be furnished to the Owner in reproducible form upon Substantial Completion of the Project. The Engineer shall cause the Contractor to provide all warranty documents and Owner operation manuals required by the Contract Documents. The Engineer shall review the record drawings, warranties, and operation manuals for conformance with the Contract Documents and shall deliver the record drawings, warranties, and operation manuals to the Owner by written transmittal.
- .4 The Engineer shall be responsible for reporting all known Construction deficiencies to the Contractor for a period of one (1) year after the date of Substantial Completion. In addition, the Engineer shall monitor the progress of corrections and furnish the Owner with written notification of completed corrections. The one (1) year period shall be extended to portions of the Work first completed after the date of Substantial Completion by the period of time between Substantial Completion and the actual completion of such Work. The obligations under this Section shall survive acceptance of the Work by the Owner.

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§ 3.2 SCHEMATIC DESIGN PHASE SERVICES

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

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

§ 3.2.3 The Engineer shall present its preliminary evaluation to the Owner 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 Engineer shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project's requirements agreed upon with the Owner, the Engineer shall prepare and present for the Owner's approval a preliminary design illustrating the scale and relationship of the Project components.

§ 3.2.5 Based on the Owner's approval of the preliminary design, the Engineer shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, grading and drainage plan and preliminary construction details. Preliminary selections of any building systems or construction materials shall be noted on the drawings or described in writing.

§ 3.2.5.1 (Paragraph Deleted.)

§ 3.2.5.2 (Paragraph Deleted.)

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

§ 3.2.7 The Engineer shall submit the Schematic Design Documents to the Owner, and request the Owner's approval.

§ 3.3 DESIGN DEVELOPMENT PHASE SERVICES

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Engineer 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 engineering, structural, mechanical and electrical systems, and such other elements as may be appropriate. 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 Engineer shall update the estimate of the Cost of the Work.

§ 3.3.3 The Engineer 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 approval.

§ 3.4 CONSTRUCTION DOCUMENTS PHASE SERVICES

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Engineer 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 of materials and systems and other requirements for the construction of the Work. The Owner and Engineer acknowledge that in order to construct the Work the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Engineer shall review in accordance with Section 3.6.4.

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§ 3.4.2 The Engineer shall incorporate into the Construction Documents the design requirements of governmental authorities having jurisdiction over the Project.

§ 3.4.3 During the development of the Construction Documents, the Engineer shall, subject to review and approval of the Owner, develop and prepare: (1) bidding and procurement information that describes the time, place and conditions of bidding, including bidding or proposal forms; (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 Engineer 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.

§ 3.4.4 The Engineer shall update the estimate for the Cost of the Work.

§ 3.4.5 The Engineer 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 approval.

§ 3.4.6 After Owner's approval of the Construction Documents, the Engineer shall not make or approve any change in the Work, except for minor changes in the Work not involving an adjustment in the Contract Sum, expenditure of contingency funds or an extension of the Contract Time, without the prior written consent of the Owner. The Engineer shall be liable to the Owner for any damages arising from or caused by any change to the Work made or approved by the Engineer without the Owner's prior written consent.

§ 3.4.7 Pursuant to 19 Texas Administrative Code § 61.1036, the Engineer shall sign and seal the Construction Documents and certify on the Certification of Project Compliance form developed by the Texas Education Agency as follows:

- .1 It has reviewed the standards contained in 19 TAC Chapter 61 and has used the best professional judgment and reasonable care consistent with the practice of Engineering in the State of Texas in executing the construction documents and that these documents conform with the provisions of 19 TAC § 61.1036.
- .2 It has performed a building code search under applicable regulations that may influence the project and the design has been researched prior to becoming final.
- .3 It has designed the facility according to the provisions of 19 TAC § 61.1036 based on the long-range school facility plan and/or education specifications, building code specifications, and all documented changes to the Construction Documents provided by the District.

§ 3.4.8 As a condition to the Project being considered Substantially Complete, the Engineer shall obtain the certification of the Contractor on the Certification of Project Compliance form that the facility has been constructed in general accordance with the Construction Documents set out in Section 3.4.7 above.

§ 3.5 BIDDING OR NEGOTIATION PHASE SERVICES

§ 3.5.1 GENERAL

The Engineer shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Engineer 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.

§ 3.5.2 COMPETITIVE BIDDING

§ 3.5.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

§ 3.5.2.2 If requested by the Owner, the Engineer shall assist the Owner in the procurement process for construction services by:

- .1 [Subsection Deleted.]
- .2 distributing the Procurement Documents to prospective bidders, requesting their return upon completion of the procurement process, and maintaining a log of distribution and retrieval and of the amounts of deposits, if any, received from and returned to prospective bidders/proposers;

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- .3 participating in or organizing and conducting, at the Owner's discretion, a pre-bid/proposal conference for prospective bidders/proposers;
- .4 preparing responses to questions from prospective bidders/proposers and providing clarifications and interpretations of the Procurement Documents to all prospective bidders/proposers in the form of addenda; and
- .5 participating in or organizing and conducting, at the Owner's discretion, the opening of the bids/proposals, and subsequently documenting and distributing the results of the procurement process, as directed by the Owner.

§ 3.5.2.3 The Engineer 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

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

§ 3.5.3.2

(Paragraphs deleted)

If requested by Owner, the Engineer shall organize and participate in selection interviews with prospective contractors and/or participate in negotiations with ranked contractors and prepare any summary reports requested by the Owner in related to the results of such processes.

§ 3.5.3.3 The Engineer shall consider requests for substitutions, if the Proposal Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective contractors.

§ 3.6 CONSTRUCTION PHASE SERVICES

§ 3.6.1 GENERAL

§ 3.6.1.1 The Engineer shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™–2007, General Conditions of the Contract for Construction, as amended by the Owner dated May 23, 2017, a copy of which has been provided to the Engineer concurrent with the execution of this Agreement. If the Owner and Contractor modify AIA Document A201–2007, those modifications shall not affect the Engineer's services under this Agreement unless the Owner and the Engineer amend this Agreement.

§ 3.6.1.2 The Engineer shall advise and consult with the Owner during the Construction Phase Services. The Engineer shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Engineer 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 Engineer be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Engineer shall be responsible for the Engineer'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. Notwithstanding the foregoing, the Engineer shall be responsible for providing at no additional cost to the Owner Engineering services made necessary by major defects or deficiencies in the Contractor's work which the Engineer should have discovered through reasonable care.

§ 3.6.1.3 The Engineer's responsibility to provide the Contract Administration Services under this Agreement commences with the award of the initial Contract for Construction and terminates upon final completion of the Construction Phase after Engineer insures that the Contractor has completed all work required by the Contract Documents including all punchlist work.

§ 3.6.1.4 The Engineer shall prepare Drawings, Specifications, and other documentation and supporting data evaluating Contractor's proposals, and providing other services in connection with Change Orders and Construction Change Directives at no additional expense to the Owner.

§ 3.6.2 EVALUATIONS OF THE WORK

§ 3.6.2.1 The Engineer shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.3.3, to become generally familiar with the progress and quality of the portion of the Work completed, 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 Engineer shall not

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be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Engineer shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (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.

§ 3.6.2.2 The Engineer shall notify the Owner of any Work that does not conform to the Contract Documents and shall reject such work unless the Owner objects to the rejection within twenty-four (24) hours of such notification. Whenever the Engineer considers it necessary or advisable, the Engineer will have authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. The Engineer shall notify and receive approval from the Owner prior to ordering any such inspection or testing which will result in additional cost to the Owner. However, neither the Engineer's authority to reject work or order inspection or testing 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 Engineer to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Engineer shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Engineer'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 of the Engineer 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.

§ 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 A201–2007, the Engineer shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

§ 3.6.3 CERTIFICATES FOR PAYMENT TO CONTRACTOR

§ 3.6.3.1 The Engineer shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Engineer's certification for payment shall constitute a representation to the Owner, based on the Engineer's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Engineer'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 Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the Engineer.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Engineer has (1) made on-site inspections to check the quality or quantity of the Work except as otherwise required by this Agreement, (2) reviewed construction means, methods, techniques, sequences or procedures, or (3) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

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

§ 3.6.3.4 The Engineer shall observe the Work prior to approving any Certificate for Payments to the Contractor to determine if the Project is progressing in accordance with the approved schedule and to determine the dates of substantial completion and final completion. The Engineer shall report the results of observations to the Owner in writing prior to approving any Certificate for Payments.

§ 3.6.4 SUBMITTALS

§ 3.6.4.1 The Engineer shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval. The Engineer'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 Engineer's professional judgment to permit adequate review.

§ 3.6.4.2 In accordance with the Engineer-approved submittal schedule, the Engineer 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 Engineer's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Engineer, of any construction means, methods, techniques, sequences or procedures. The Engineer's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 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 Engineer shall specify the appropriate performance and design criteria that such services must satisfy. The Engineer shall review shop drawings and other submittals related to the Work designed or certified by the design professional retained by the Contractor that bear such professional's seal and signature when submitted to the Engineer. The Engineer shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals.

§ 3.6.4.4 The Engineer shall review and respond to requests for information about the Contract Documents. The Engineer 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 Engineer's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Engineer shall prepare and issue supplemental Drawings and Specifications in response to requests for information by the Contractor at no additional charge to the Owner.

§ 3.6.4.5 The Engineer shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

§ 3.6.5 CHANGES IN THE WORK

§ 3.6.5.1 The Engineer shall prepare Change Orders, Construction Change Directives and documents authorizing expenditures of contingency funds, with supporting documentation and data if deemed necessary by the Engineer, as Basic Services compensated under Section 11.1, for the Owner's approval and execution in accordance with the Contract Documents. The Engineer may authorize minor changes in the Work not involving an adjustment in the Contract Sum, an expenditure of contingency funds or an extension of the Contract Time which are consistent with the intent of the Contract Documents. If necessary, the Engineer shall prepare, reproduce and distribute Drawings and Specifications to describe Work to be added, deleted or modified as Basic Services compensated under Section 11.1.

§ 3.6.5.2 The Engineer shall maintain records relative to changes in the Work.

§ 3.6.5.3 The Engineer shall prepare a set of reproducible record drawings in electronic format showing significant changes made during construction based on marked-up prints, drawings and other data furnished by the Contractor to the Engineer.

§ 3.6.6 PROJECT COMPLETION

§ 3.6.6.1 The Engineer shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; receive from the Contractor and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and assembled by the Contractor; and issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The Engineer'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.

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§ 3.6.6.3 When the Work is found to be substantially complete, the Engineer 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.

§ 3.6.6.4 The Engineer 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 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 Engineer shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

ARTICLE 4 ADDITIONAL SERVICES

§ 4.1 Additional Services listed below are not included in Basic Services, unless denoted as such, but may be required for the Project. The Engineer shall provide the listed Additional Services only if specifically designated in the table below as the Engineer's responsibility, and the Owner shall compensate the Engineer as provided in Section 11.2 or Section 11.1, as appropriate.

(Designate the Additional Services the Engineer shall provide in the second column of the table below. In the third column indicate whether the service description is located in Section 4.2 or in an attached exhibit. If in an exhibit, identify the exhibit.)

Additional Services	Responsibility (Architect, Owner or Not Provided)	Location of Service Description (Section 4.2 below or in an exhibit attached to this document and identified below)
§ 4.1.1 Programming	Engineer – Basic Services*	
§ 4.1.2 Multiple preliminary designs	Engineer – Basic Services*	
§ 4.1.3 Measured drawings	Engineer – Basic Services*	
§ 4.1.4 Existing facilities surveys	Not Provided	
§ 4.1.5 Site Evaluation and Planning (B203™–2007)	Engineer – Basic Services*	
§ 4.1.6 Building information modeling	Not Provided	
§ 4.1.7 Architect Services	Engineer	
§ 4.1.8 Landscape design	Engineer	
§ 4.1.9 (Subsection Deleted.)	Not Provided	
<i>(Row deleted)</i>		
§ 4.1.10 (Subsection Deleted.)	Not Provided	
<i>(Row deleted)</i>		
§ 4.1.11 (Subsection Deleted.)	Not Provided	
<i>(Row deleted)</i>		
§ 4.1.12 On-site project representation	Engineer – Basic Services*	
<i>(Row deleted)</i>		
§ 4.1.13 (Subsection Deleted.)	Not Provided	
<i>(Row deleted)</i>		
§ 4.1.14 As-Designed Record drawings	Not Provided	
§ 4.1.15 As-Constructed Record drawings	Engineer – Basic Services*	
§ 4.1.16 (Subsection Deleted.)	Not Provided	
<i>(Row deleted)</i>		
§ 4.1.17 (Subsection Deleted.)	Not Provided	
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§ 4.1.18	(Subsection Deleted.)	Not Provided	
§ 4.1.19	Coordination of Owner's consultants	Engineer – Basic Services*	
§ 4.1.20	(Subsection Deleted.)	Not Provided	
§ 4.1.21	(Subsection Deleted.)	Not Provided	
<i>(Row deleted)</i>			
§ 4.1.22	(Subsection Deleted.)	Not Provided	
§ 4.1.23	Extensive environmentally responsible design	Not Provided	
§ 4.1.24	TCEQ SWPPP Permit	Not Provided	
<i>(Row deleted)</i>			
§ 4.1.25	Fast-track design services	Not Provided	
§ 4.1.26	City Building Permit	Not Provided	
<i>(Row deleted)</i>			
§ 4.1.27	City NPSP Permits	Not Provided	
<i>(Row deleted)</i>			
§ 4.1.28	Surveys	Not Provided	
§ 4.1.29	Geotechnical Reports	Engineer	

§ 4.2 Insert a description of each Additional Service designated in Section 4.1 as the Engineer's responsibility, if not further described in an exhibit attached to this document.

Each element set out in 4.1 is commonly known in the Engineer's professional experience.

§ 4.3 Additional Services may be provided after execution of this Agreement, without invalidating the Agreement. All services under the terms of this Agreement which would otherwise be constructed as Additional Services will be treated as Basic Services compensated under Section 11.1 for which no additional compensation is authorized, unless such services are requested in writing by the Engineer and approved in writing by the Owner prior to the time such services are performed.

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

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including, but not limited to, size, quality, complexity, the Owner's schedule or budget for Cost of the Work;
- .2 Services necessitated by the Owner's request for extensive environmentally responsible design alternatives, such as unique system designs, in-depth material research, energy modeling, or LEED® certification;
- .3 Changing or editing previously prepared Instruments of Service necessitated by the enactment or revision of codes, laws or regulations or official interpretations;
- .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 [Subsection Deleted.]
- .6 [Subsection Deleted.]
- .7 [Subsection Deleted.]
- .8 [Subsection Deleted.]
- .9 [Subsection Deleted.]
- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or
- .11 [Subsection Deleted.]

§ 4.3.2

(Paragraphs deleted)

[Paragraph Deleted.]

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§ 4.3.3 The Engineer shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Engineer shall notify the Owner:

- .1 One (1) reviews of each Shop Drawing, Product Data item, sample and similar submittal of the Contractor
- .2 [Subsection Deleted.]
- .3 One (1) 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 One (1) inspections for any portion of the Work to determine final completion
- .5 The Engineer shall visit the site and observe the Work at appropriate stages of construction no less than weekly. The Engineer shall report the results of all observations to the Owner in writing. Any and all observed deficiencies shall immediately be reported to the Owner and Contractor in writing.

§ 4.3.4 [Paragraph 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. Within fifteen (15) days after receipt of a written request from the Engineer, the Owner shall furnish the requested information as necessary and relevant for the Engineer to evaluate, give notice of or enforce lien rights.

§ 5.2 The Owner shall establish and periodically update 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. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Engineer. The Owner and the Engineer shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Engineer's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Engineer's services.

§ 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 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 [Paragraph Deleted.]

§ 5.6 The Owner shall coordinate the services of its own consultants with those services provided by the Engineer. Upon the Engineer'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 in this Agreement, or authorize the Engineer to furnish them as an Additional Service, when the Engineer requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants maintain professional liability insurance as appropriate to the services provided.

§ 5.7 Unless otherwise provided in this Agreement, 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.

§ 5.8 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.

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§ 5.9 The Owner shall provide prompt written notice to the Engineer if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Engineer's Instruments of Service.

§ 5.10 Except as otherwise provided in this Agreement, or when direct communications have been specially authorized, the Owner shall endeavor to communicate with the Contractor and the Engineer's consultants through the Engineer about matters arising out of or relating to the Contract Documents. The Owner shall promptly notify the Engineer of any direct communications that may affect the Engineer's services.

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

§ 5.12 The Engineer and the Owner shall at all times have access to the Work wherever it is in preparation or progress.

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner, or to the extent the Project is not completed, the estimated costs to the Owner to construct all elements of the Project designed or specified by the Engineer and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work does not include the compensation of the Engineer, the costs of the land, rights-of-way, financing, contingencies for changes in the Work or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and may be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work prepared by the Engineer, represent the Engineer's judgment as a design professional. It is recognized, however, that neither the Engineer 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 Engineer 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 Engineer.

§ 6.3 In preparing estimates of the Cost of Work, the Engineer 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 make reasonable adjustments in the program and scope of the Project; and to include in the Contract Documents alternate bids as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget for the Cost of the Work. The Engineer's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requests detailed cost estimating services, the Engineer shall provide such services as an Additional Service under Article 4.

§ 6.4 If the Bidding or Negotiation Phase has not commenced within ninety (90) days after the Engineer submits the Construction Documents to the Owner, through no fault of the Engineer, 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 Engineer's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Engineer shall make appropriate 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 Engineer in making such adjustments.

§ 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 bid or proposal providing the best value to the Owner, 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;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Engineer, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
- .5 implement any other mutually acceptable alternative.

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§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Engineer, 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. The Engineer's modification of the Construction Documents shall be the limit of the Engineer's responsibility under this Article 6.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Engineer 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. If the Owner and Engineer intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions.

§ 7.2 The Engineer and the Engineer'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 Engineer and the Engineer's consultants. The Owner shall be permitted to retain copies, including those in electronic format and reproducible copies, of the Engineer's and the Engineer's consultants' Instruments of Service for information and reference in connection with the Owner's use and occupancy of the Project.

§ 7.3 Upon execution of this Agreement the Engineer grants to the Owner a nonexclusive license to reproduce the Engineer's Instruments of Service solely for purposes of constructing, using, and maintaining the Project, and shall obtain similar, nonexclusive licenses from the Engineer's consultants.

§ 7.3.1 The payment of fees for professional services performed under this Agreement shall constitute full payment for a one-time, perpetual license fee for those uses of the Engineer's Instruments of Service set forth in Section 3.4, for all documents produced pursuant to this Agreement and in existence as of the date of any such payment.

§ 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 Engineer. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Engineer and the Engineer's consultants. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers, as well as the Owner's consultants and separate contractors to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services for the Project.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 GENERAL

§ 8.1.1 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 the initiation of litigation.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Engineer 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 A201-2007, General Conditions of the Contract for Construction. The Owner or the Engineer, 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.

§ 8.1.3 The Engineer and Owner waive 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 the initiation of litigation.

§ 8.2.2 Unless the parties mutually agree otherwise, mediation shall be administered in accordance with the following:

- .1 Request for mediation shall be in writing, and shall request that the mediation commence not less than thirty (30) or more than ninety (90) days following the date of the request, except upon agreement of both parties.
- .2 In the event the Owner and the Engineer are unable to agree to a date for the mediation or to the identity of the mediator or mediators within thirty (30) days following the date of the request for mediation, all conditions precedent in this article shall be deemed to have occurred.
- .3 At all times during the course of any dispute resolution process, the Engineer shall continue diligently and without delay to perform the services and obligations of the Agreement.

§ 8.2.3 The parties shall share the mediator’s fee 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. If the Owner and Engineer do not select a method of binding dispute resolution below, 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.)

- Arbitration pursuant to Section 8.3 of this Agreement
- Litigation in a court of competent jurisdiction
- Other *(Specify)*

§ 8.3 ARBITRATION (NOT APPLICABLE)

(Paragraphs deleted)

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Engineer in accordance with this Agreement through no fault of the Engineer, such failure shall be considered substantial nonperformance and cause for termination, or at the Engineer’s option, cause for suspension of performance of services under this Agreement if not cured by the Owner within seven (7) days following notice of any past-due payment. If the Engineer elects to suspend services, prior to suspension of services, the Engineer shall give seven (7) days written notice to the Owner.

§ 9.2 This Agreement may be terminated by Owner if Engineer engages in conduct that would constitute a violation of state or federal criminal law, 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.

§ 9.3 If the Project is suspended by the Owner for more than ninety (90) consecutive days, the Engineer may terminate this Agreement upon not less than seven (7) days’ written notice. Should the Engineer elect to so terminate this Agreement, the Engineer shall be compensated for services actually performed and expenses actually incurred prior to notice of such termination.

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

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§ 9.5 The Owner may terminate this Agreement upon not less than seven (7) days' written notice to the Engineer for the Owner's convenience and without cause.

§ 9.6 In the event of termination not the fault of the Engineer, the Engineer shall be compensated only for services actually performed and reimbursable expenses actually incurred prior to termination.

§ 9.7 [Paragraph Deleted.]

§ 9.8 The Owner's rights to use the Engineer's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 11.9.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the State of Texas without regard to the choice-of-law rules of any jurisdiction. Venue for any lawsuit arising under this contract shall be in the county in which the Project is located. No provision of this Agreement is a waiver of any immunity or defense. No provision of this Agreement is a consent to suit.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2007, General Conditions of the Contract for Construction.

§ 10.3 The Owner and Engineer, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Engineer 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.

§ 10.4 If the Owner requests the Engineer to execute certificates, the proposed language of such certificates shall be submitted to the Engineer for review at least fourteen (14) days prior to the requested dates of execution. If the Owner requests the Engineer to execute consents reasonably required to facilitate assignment to a lender, the Engineer shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Engineer for review at least fourteen (14) days prior to execution. The Engineer 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 Engineer.

§ 10.6 The Engineer and Engineer's consultants shall have no responsibility for the handling, removal, or disposal or exposure of persons to hazardous materials in any form at the Project site, including but not limited to asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic substances. The Engineer and the Engineer's consultants shall have no responsibility to initially discover the presence of such hazardous materials on the Project site, but shall have an affirmative duty to immediately report to the Owner the existence of such materials actually known by the Engineer or the Engineer's consultants to be present on the Project site.

§ 10.7 With prior written consent of the Owner, the Engineer shall have the right to include photographic or artistic representations of the design of the Project among the Engineer's promotional and professional materials. The Engineer shall be given reasonable access to the completed Project to make such representations. However, the Engineer's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Engineer in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Engineer in the Owner's promotional materials for the Project.

§ 10.8 If the Engineer or Owner receives information specifically designated by the other party as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information. Owner herein designates the following as confidential information: security measures; pending real estate purchases, exchange, lease, or value;

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any information pertaining to litigation; student likenesses and student record information; employee information; and any other information deemed confidential by law.

§ 10.9 In any adjudication or claim under this Agreement, reasonable and necessary attorney's fees that are equitable and just may be awarded to the prevailing party.

§ 10.10 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.

§ 10.11 Pursuant to TEXAS EDUCATION CODE section 44.034, Engineer must give advance written notice to the Owner if the Engineer or an owner or operator of the Engineer has been convicted of a felony. The Owner may terminate this Agreement if the Owner determines that the Engineer 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.

§ 10.12 Engineer 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 to the Owner in writing, in order for Owner to comply with its records retention requirements, per the Texas Government Code section 441.158 *et seq.* and the Texas Library and Archives Commission's Local Schedule GR (Government Records). In the alternative, Engineer may provide such records to Owner for retention at any time if Owner agrees in writing to accept such records in lieu of Engineer's retention under this Section.

§ 10.13 When the services under this Agreement include contract administration services, the General Conditions of the Contract for Construction shall be AIA Document A201-2007, as amended by the Owner for the Project.

§ 10.14 Any notice required by or permitted under this Agreement must be in writing unless otherwise provided herein. Any notice required by this Agreement will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this Agreement. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, or other commercially reasonable means and will be effective when actually received. Any address for notice may be changed by written notice delivered as provided herein.

§ 10.15 If any provision of this Agreement is held to be illegal, invalid, or unenforceable under any present or future law, such provision shall be fully severable and this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Agreement. The remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance herefrom.

§ 10.16 The Owner shall have the right to examine, copy, and/or audit the books and other records of the Engineer relating solely to this Agreement upon reasonable request to the Engineer.

§ 10.17 [Paragraph Deleted.]

§ 10.18 [Paragraph Deleted.]

ARTICLE 11 COMPENSATION

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

(Insert amount of, or basis for, compensation.)

The Fee for Basic Services shall be Ten Percent (10%) of the Cost of Work.

§ 11.2 For Additional Services designated in Section 4.1, the Owner shall compensate the Engineer as follows: Actual cost of additional services designated in Section 4.1.

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(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

See the hourly rates at Article 11.7.

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.3, the Owner shall compensate the Engineer as follows: actual cost of agreed to Additional Services.
(Insert amount of, or basis for, compensation.)

See the hourly rates at Article 11.7.

§ 11.4 Compensation for Additional Services of the Engineer’s consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Engineer.

See the hourly rates at Article 11.7.

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

Schematic Design Phase	Ten	percent (	10	%)
Design Development Phase	Ten	percent (	10	%)
Construction Documents Phase	Sixty-five	percent (	65	%)
Bidding or Negotiation Phase	Five	percent (	5	%)
Construction Phase	Ten	percent (	10	%)
<hr/>				
Total Basic Compensation	one hundred	percent (	100	%)

§ 11.6 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 estimate of the Cost of the Work for such portions of the Project. The Engineer shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

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

Employee or Category	Rate
Engineering Principal	\$185.00/Hour
Engineering Professional VI	\$180.00/Hour
Engineering Professional IV	\$165.00/Hour
Engineering Professional III	\$130.00/Hour
Engineering Professional II	\$125.00/Hour
Project Manager	\$100.00/Hour
Engineering Technician II	\$85.00/Hour
Engineering Technician I	\$75.00/Hour
Resident Project Inspector	\$60.00/Hour
CAD Terminal Charge	\$25.00/Hour
Clerk, Word Processor	\$40.00/Hour

§ 11.8 COMPENSATION FOR REIMBURSABLE EXPENSES

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic and Additional Services and include expenses incurred by the Engineer and the Engineer’s consultants directly related to the Project, as follows:

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- .1 [Subsection Deleted.]
- .2 [Subsection Deleted.]
- .3 Fees paid for securing approval of authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, standard form documents;
- .5 [Subsection Deleted.]
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 [Subsection Deleted.]
- .8 [Subsection Deleted.]
- .9 [Subsection Deleted.]
- .10 [Subsection Deleted.]
- .11 [Subsection Deleted.]

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Engineer and the Engineer's consultants.

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

(Paragraph deleted)

The Owner shall have the right to use the Engineer's Instruments of Service and to make derivative Works thereof for the purpose of completing the project in the event Engineer is terminated for cause pursuant to this Agreement, without regard to whether such termination shall subsequently be adjudicated to have been wrongful, or whether such termination is for the convenience of the Owner. In the event the Owner shall make derivative works of the Engineer's Instruments of Service pursuant to this Section, the Engineer shall bear no liability for errors or omissions appearing in such derivative works.

§ 11.10 PAYMENTS TO THE ENGINEER

§ 11.10.1 An initial payment of Zero (\$0.00) 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.

§ 11.10.2 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Engineer's invoice. Amounts unpaid thirty (30) days after the invoice date shall bear interest at the rate entered

(Paragraphs deleted)

below:

Unless otherwise agreed payments for services and Reimbursable Expenses incurred, shall be made monthly upon presentation of Engineer's invoice. Amounts unpaid thirty (30) days after the invoice date shall bear interest at the rate stated in the Texas Prompt Payment Act, TEXAS GOVERNMENT CODE, Chapter 2251.

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

§ 11.10.4 Records of Reimbursable Expenses, of expenses pertaining to Additional Services, and of services performed on the basis of hourly rates or a multiple of Direct Personnel Expense shall be made available to the Owner or the Owner's authorized representative upon request at mutually convenient times. "Direct Personnel Expense" is defined as the direct salaries of the Engineer's personnel engaged in the Project and the portion of the cost of their mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, employee retirement plans and similar contributions.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

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

LICENSING AUTHORITY: The following information is included in this agreement as required by Texas Occupations Code Chapter 1001: Texas Board of Professional Engineers, 1917 S Interstate 35, Austin, Texas 78741-3702 has jurisdiction over individuals licensed to practice engineering in the State of Texas.

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ARTICLE 13 SCOPE OF THE AGREEMENT

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

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

- .1 AIA Document B101™–2007, Standard Form Agreement Between Owner and Engineer
- .2 [Subsection Deleted.]
- .3 Other documents:
(List other documents, if any, including Exhibit A, Initial Information, and additional scopes of service, if any, forming part of the Agreement.)

None.

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

OWNER

MARBLE FALLS INDEPENDENT SCHOOL DISTRICT

(Row deleted)

ENGINEER

WILLIS ENVIRONMENTAL ENGINEERING, INC.

(Signature)

(Printed name and title)

(Signature)

(Printed name and title)

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Additions and Deletions Report for AIA[®] Document B101[™] – 2007

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.

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PAGE 1

AGREEMENT made as of the FIFTH day of JUNE in the year TWO THOUSAND SEVENTEEN

...

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

Marble Falls Independent School District
1800 Colt Circle
Marble Falls, Texas 78654
Phone: 830-693-4357
Fax: 830-693-5685

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

Willis Environmental Engineering, Inc.
310 Main Street
Marble Falls, Texas 78654-5715
Phone: 830-693-3566
Fax: 830-693-5362

...

Marble Falls ISD Transportation Facility

...

The Owner and ~~Architect~~Engineer agree as follows.

PAGE 2

2 **ARCHITECT'S ENGINEER'S RESPONSIBILITIES**

3 **SCOPE OF ARCHITECT'S ENGINEER'S BASIC SERVICES**

...

§ 1.1 This Agreement is based on the Initial Information set forth in this Article 1 and in optional Exhibit A, Initial Information: the design, procurement administration and construction administration of the Owner's bus parking facility, fueling facility and a bus maintenance facility ("the Transportation Facility").

(Complete Exhibit A, Initial Information, and incorporate it into the Agreement at Section 13.2, or state below Initial Information such as details of the Project's site and program, Owner's contractors and consultants, ~~Architect's Engineer's~~ consultants, Owner's budget for the Cost of the Work, authorized representatives, anticipated procurement method, and other information relevant to the Project.)

...

To be determined by the Owner.

...

To be determined by the Owner.

§ 1.3 The Owner and ~~Architect-Engineer~~ may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the ~~Architect-Engineer~~ shall appropriately adjust the schedule, the ~~Architect's-Engineer's~~ services and the ~~Architect's-Engineer's~~ compensation.

ARTICLE 2 — ARCHITECT'S RESPONSIBILITIES

ARTICLE 2 ENGINEER'S RESPONSIBILITIES

§ 2.1 The ~~Architect-Engineer~~ shall provide the professional services as set forth in this Agreement.

§ 2.2 The ~~Architect-Engineer~~ shall perform its services consistent with the professional skill and care ordinarily provided by ~~architects-Engineers~~ practicing in the same or similar locality under the same or similar circumstances. The ~~Architect-Engineer~~ shall be responsible to the Owner for all costs and damages resulting from (1) defects in design, (2) non-workability of design details, (3) failure of the Engineer to comply with the terms of this Agreement, and (4) errors and omissions of the Engineer. Any designs, drawings or specifications prepared or furnished by ~~Engineer that contain errors, conflict or omissions will be promptly corrected by Engineer at no additional cost to Owner.~~ Owner's approval, acceptance use of or payment for all or any part of Engineer's services shall in no way alter Engineer's obligations or Owner's rights hereunder. The Engineer 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-Engineer~~ shall identify a representative authorized to act on behalf of the ~~Architect-Engineer~~ with respect to the Project.

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

§ 2.5 The Engineers shall provide and maintain in effect during the performance of the Work under the Agreement insurance of the following types and with indemnification limits not less than the amounts indicated: *(Identify types and limits of insurance coverage, and other insurance requirements applicable to the Agreement, if any.)*

Worker's Compensation:

(Including Waiver of Subrogation
Endorsement)

All liability arising out of Engineer's employment
of workers and anyone for whom Engineer shall be
liable for Worker's Compensation claims.
Worker's Compensation is required and no
"alternative" form of insurance shall be permitted.

Professional Liability:

Engineer

\$1,000,000.00 per claim and
\$1,000,000.00 in the annual aggregate.

Engineer Consultant

\$1,000,000.00 per claim

Commercial General Liability:

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User Notes:

Each Occurrence	\$1,000,000.00
General Aggregate.....	\$2,000,000.00
Personal and Advertising Injury	\$1,000,000.00 each person

Automobile Liability \$1,500,000.00 combined single limit

Excess Umbrella Liability..... \$2,000,000.00

- .1 The required insurance must be written by a company authorized to do business in Texas at the time the policy is issued. In addition, the company must be acceptable to the Owner. The Owner's Representative will contact the State Board of Insurance to confirm that the issuing companies are authorized to issue such policies in the State of Texas.
- .2 The Commercial General Liability and Automobile policies issued in the name of Engineer shall also name the Owner as additional insured. Evidence of additional insured status will be provided to Owner by providing a copy of the endorsement being utilized to effect the additional and shall be subject to the Owner's reasonable approval.
- .3 It is the intent of the parties to this Agreement that all coverage provided herein shall be primary to and shall seek no contribution for all insurance available to Owner, with Owner's insurance being excess, secondary and non-contributing. The Commercial General Liability coverage shall be endorsed to provide such primary and non-contributing liability.
- .4 Engineer shall have its insurance carrier(s) furnish to Owner insurance certificates in form satisfactory to Owner specifying the types and amounts of coverage in effect, the expiration dates of each policy, a statement that no insurance will be canceled or materially changed while the Work is in progress without thirty (30) calendar days prior written notice to Owner, and a statement that, except for professional liability insurance and worker's compensation insurance, the Owner is named as additional insured. Engineer shall permit Owner to examine the insurance policies, or at Owner's option, Engineer shall furnish Owner with copies, certified by the carrier(s), of insurance policies required. If Engineer neglects or refuses to provide any insurance required herein, or if any insurance is canceled, Owner may, but shall not be obligated to, procure such insurance at Engineer's expense.
- .5 Insurance provided pursuant to this Section shall be considered a part of the Engineer's basic services and shall not be a Reimbursable Expense within the scope of Section 11.8, or other provisions of this Agreement.

§ 2.5 The Architect shall maintain the following insurance for the duration of this Agreement. If any of the requirements set forth below exceed the types and limits the Architect normally maintains, the Owner shall reimburse the Architect for any additional cost:
(Identify types and limits of insurance coverage, and other insurance requirements applicable to the Agreement, if any.)

- .1 — General Liability

- .2 — Automobile Liability

- .3 — Workers' Compensation

- .4 — Professional Liability

ARTICLE 3 — SCOPE OF ARCHITECT'S BASIC SERVICES

§ 2.6 Upon the written request of the Owner, the Engineer shall remove from the Project any employee of the Engineer to whom the Owner makes a reasonable objection. The Engineer shall replace any such employee with an equally qualified employee in a timely manner.

§ 2.7 The Engineer shall provide a design which when constructed in accordance with the Contract Documents will comply with all applicable federal, state and local laws, statutes, ordinances, rules, regulations orders and other legal requirements including but not limited to all zoning restrictions or requirements of record, building, occupancy, environmental, disabled person accessibility and land use laws, requirements regulations and ordinances relating to the construction use and occupancy of the Project ("Governmental Requirements") existing on the date of this Agreement and which may be enacted prior to Owner's approval of completed Construction Documents. Engineer shall use its best efforts to avoid incorporating into the Project design elements that would give rise to code interpretation questions and to discuss in advance all such situations with the Owner.

§ 2.8 The Engineer represents to Owner that all Design Documents, Contract Documents and other documents prepared and issued by Engineer pursuant to this Agreement will be of good quality, free from substantial defects, and in conformance with and satisfying all applicable federal, state, municipal and local ordinances, codes, and other governmental requirements and shall be fit for the particular purpose intended thereby. Engineer shall notify the Owner in a prompt and timely manner of any discovered discrepancies inconsistencies or missing information necessary to provide reasonably accurate and complete documents. Failure to so notify Owner will be considered a breach of the standard of professional practice set forth in this Agreement.

§ 2.9 Notwithstanding any provision of this Article to the contrary, services made necessary as a result of the Engineer's failure to timely provide accurate or complete information, approvals or clarifications, or to timely render a decision, shall be considered Basic Services.

§ 2.10 (Paragraph Deleted.)

§ 2.11 The Engineer shall furnish services of geotechnical engineers as required for the Project which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with reports and appropriate recommendations. The Engineer shall be reimbursed by the Owner for the Engineer's cost for such services.

ARTICLE 3 SCOPE OF ENGINEER'S BASIC SERVICES

§ 3.1 The Architect's-Engineer's Basic Services consist of those described in Article 3 and include usual and customary structural, mechanical, civil and electrical engineering services. Services not set forth in this Article 3 or denoted as Basic Services in Article 4 are Additional Services.

§ 3.1.1 The Architect-Engineer shall manage the Architect's-Engineer's services, consult with the Owner, research applicable design criteria, attend Project meetings, communicate with members of the Project team and report progress to the Owner.

§ 3.1.2 The Architect-Engineer shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect-Engineer shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner and the Owner's consultants. The Architect-Engineer shall provide prompt written notice to the Owner if the Architect-Engineer becomes aware of any error, omission or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect-Engineer shall submit for the Owner's approval a schedule for the performance of the Architect's-Engineer's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner'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-Engineer or Owner. With the Owner's approval, the Architect

Engineer shall adjust the schedule, if necessary, necessary as the Project proceeds until the commencement of construction.

§ 3.1.4 The Architect-Engineer shall not be responsible for an Owner's directive or substitution made without the Architect's-Engineer's approval.

§ 3.1.5 The Architect-Engineer shall, at appropriate times, contact the governmental authorities required to approve the Construction Documents and the entities providing utility services to the Project. In designing the Project, the Architect-Engineer shall respond to applicable design requirements imposed by such governmental authorities and by such entities providing utility services. Any changes required by governmental authorities, if approved by the Owner, shall be made by the Engineer at no additional cost to the Owner.

§ 3.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility-Engineer shall be responsible for filing documents required for the approval of governmental authorities having jurisdiction over the Project-the Project, subject to review and approval of the Owner.

§ 3.1.7 When the services under this Agreement include contract administration services, the General Conditions of the Contract for Construction shall be AIA Document A201-2007, as amended by the Owner for the Project.

§ 3.1.8 Notwithstanding any other provision of the Agreement, the following are Services of the Engineer fully compensated under Section 11.1 as Basic Services:

- .1 The time period during which the Engineer's duty to provide Basic Services shall include that time necessary to correct any defective work caused by defects, errors or omissions of the Engineer during any phase of construction. Such services shall be performed by the Engineer at no additional charge, either in fee or expenses.
- .2 The Engineer shall be responsible for retaining all necessary consultants to execute Engineer's scope of work. Such consultants shall be professionals licensed by the State of Texas to practice the building discipline for which they are retained on the Project. Consultants required by the Engineer shall at a minimum be required to make on-site visits and observations during those periods when work they have designed is being constructed.
- .3 The Engineer shall require the Contractor and its subcontractors to maintain a set of record drawings to be furnished to the Owner in reproducible form upon Substantial Completion of the Project. The Engineer shall cause the Contractor to provide all warranty documents and Owner operation manuals required by the Contract Documents. The Engineer shall review the record drawings, warranties, and operation manuals for conformance with the Contract Documents and shall deliver the record drawings, warranties, and operation manuals to the Owner by written transmittal.
- .4 The Engineer shall be responsible for reporting all known Construction deficiencies to the Contractor for a period of one (1) year after the date of Substantial Completion. In addition, the Engineer shall monitor the progress of corrections and furnish the Owner with written notification of completed corrections. The one (1) year period shall be extended to portions of the Work first completed after the date of Substantial Completion by the period of time between Substantial Completion and the actual completion of such Work. The obligations under this Section shall survive acceptance of the Work by the Owner.

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

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

§ 3.2.3 The Architect-Engineer shall present its preliminary evaluation to the Owner 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-Engineer shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project's requirements agreed upon with the Owner, the Architect-Engineer shall prepare and present for the Owner's approval a preliminary design illustrating the scale and relationship of the Project components.

§ 3.2.5 Based on the Owner's approval of the preliminary design, the Architect-Engineer shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital modeling. Preliminary selections of major building systems and grading and drainage plan and preliminary construction details. Preliminary selections of any building systems or construction materials shall be noted on the drawings or described in writing.

§ 3.2.5.1 ~~The Architect shall consider environmentally responsible 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 other environmentally responsible design services under Article 4. (Paragraph Deleted.)~~

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

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

§ 3.2.7 The Architect-Engineer shall submit the Schematic Design Documents to the Owner, and request the Owner's approval.

...

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect-Engineer 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, engineering,~~ structural, mechanical and electrical systems, and such other elements as may be appropriate. 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-Engineer shall update the estimate of the Cost of the Work.

§ 3.3.3 The Architect-Engineer shall submit the Design Development ~~Documents~~ documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval.

...

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect-Engineer 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 of materials and systems and other requirements for the construction of the Work. The Owner and Architect-Engineer acknowledge that in order to construct the Work the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect-Engineer shall review in accordance with Section 3.6.4.

§ 3.4.2 The ~~Architect-Engineer~~ shall incorporate into the Construction Documents the design requirements of governmental authorities having jurisdiction over the Project.

§ 3.4.3 During the development of the Construction Documents, the ~~Architect shall assist the Owner in the development and preparation of~~ Engineer shall, subject to review and approval of the Owner, develop and prepare: (1) bidding and procurement information that describes the time, place and conditions of bidding, including bidding or proposal forms; (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-Engineer~~ 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.

§ 3.4.4 The ~~Architect-Engineer~~ shall update the estimate for the Cost of the Work.

§ 3.4.5 The ~~Architect-Engineer~~ 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 approval.

§ 3.4.6 After Owner's approval of the Construction Documents, the Engineer shall not make or approve any change in the Work, except for minor changes in the Work not involving an adjustment in the Contract Sum, expenditure of contingency funds or an extension of the Contract Time, without the prior written consent of the Owner. The Engineer shall be liable to the Owner for any damages arising from or caused by any change to the Work made or approved by the Engineer without the Owner's prior written consent.

§ 3.4.7 Pursuant to 19 Texas Administrative Code § 61.1036, the Engineer shall sign and seal the Construction Documents and certify on the Certification of Project Compliance form developed by the Texas Education Agency as follows:

- .1 It has reviewed the standards contained in 19 TAC Chapter 61 and has used the best professional judgment and reasonable care consistent with the practice of Engineering in the State of Texas in executing the construction documents and that these documents conform with the provisions of 19 TAC § 61.1036.
- .2 It has performed a building code search under applicable regulations that may influence the project and the design has been researched prior to becoming final.
- .3 It has designed the facility according to the provisions of 19 TAC § 61.1036 based on the long-range school facility plan and/or education specifications, building code specifications, and all documented changes to the Construction Documents provided by the District.

§ 3.4.8 As a condition to the Project being considered Substantially Complete, the Engineer shall obtain the certification of the Contractor on the Certification of Project Compliance form that the facility has been constructed in general accordance with the Construction Documents set out in Section 3.4.7 above.

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The ~~Architect-Engineer~~ shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the ~~Architect-Engineer~~ 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.

...

§ 3.5.2.2 ~~The Architect shall assist the Owner in bidding the Project by~~ If requested by the Owner, the Engineer shall assist the Owner in the procurement process for construction services by:

- .1 ~~procuring the reproduction of Bidding Documents for distribution to prospective bidders; [Subsection Deleted.]~~
- .2 distributing the ~~Bidding-Procurement~~ Documents to prospective bidders, requesting their return upon completion of the ~~bidding-procurement~~ process, and maintaining a log of distribution and retrieval and of the amounts of deposits, if any, received from and returned to prospective ~~bidders; bidders/proposers;~~

- ~~.3 organizing and conducting a pre-bid conference for prospective bidders; participating in or organizing and conducting, at the Owner's discretion, a pre-bid/proposal conference for prospective bidders/proposers;~~
- ~~.4 preparing responses to questions from prospective bidders-bidders/proposers and providing clarifications and interpretations of the Bidding-Procurement Documents to all prospective bidders bidders/proposers in the form of addenda; and~~
- ~~.5 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, participating in or organizing and conducting, at the Owner's discretion, the opening of the bids/proposals, and subsequently documenting and distributing the results of the procurement process, as directed by the Owner.~~

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

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

- ~~.1 procuring the reproduction 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; and~~
- ~~.3 participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner. If requested by Owner, the Engineer shall organize and participate in selection interviews with prospective contractors and/or participate in negotiations with ranked contractors and prepare any summary reports requested by the Owner in related to the results of such processes.~~

§ 3.5.3.3 The ~~Architect-Engineer~~ shall consider requests for substitutions, if the Proposal Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective contractors.

...

§ 3.6.1.1 The ~~Architect-Engineer~~ shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™–2007, General Conditions of the Contract for ~~Construction~~. Construction, as amended by the Owner dated May 23, 2017, a copy of which has been provided to the Engineer concurrent with the execution of this Agreement. If the Owner and Contractor modify AIA Document A201–2007, those modifications shall not affect the ~~Architect's-Engineer's~~ services under this Agreement unless the Owner and the ~~Architect-Engineer~~ amend this Agreement.

§ 3.6.1.2 The ~~Architect-Engineer~~ shall advise and consult with the Owner during the Construction Phase Services. The ~~Architect-Engineer~~ shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The ~~Architect-Engineer~~ 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-Engineer~~ be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The ~~Architect-Engineer~~ shall be responsible for the ~~Architect's-Engineer'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. Notwithstanding the foregoing, the Engineer shall be responsible for providing at no additional cost to the Owner Engineering services made necessary by major defects or deficiencies in the Contractor's work which the Engineer should have discovered through reasonable care.

§ 3.6.1.3 ~~Subject to Section 4.3, the Architect's responsibility to provide Construction Phase Services-The~~ Engineer's responsibility to provide the Contract Administration Services under this Agreement commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment-initial Contract for Construction and terminates upon final completion of the Construction Phase after Engineer insures that the Contractor has completed all work required by the Contract Documents including all punchlist work.

§ 3.6.1.4 The Engineer shall prepare Drawings, Specifications, and other documentation and supporting data evaluating Contractor's proposals, and providing other services in connection with Change Orders and Construction Change Directives at no additional expense to the Owner.

...

§ 3.6.2.1 ~~The Architect-Engineer~~ shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.3.3, to become generally familiar with the progress and quality of the portion of the Work completed, 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-Engineer~~ shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, ~~the Architect-Engineer~~ shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (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.

§ 3.6.2.2 ~~The Architect has the authority to reject-Engineer shall notify the Owner of any Work that does not conform to the Contract Documents. Whenever the Architect-Engineer shall reject such work unless the Owner objects to the rejection within twenty-four (24) hours of such notification. Whenever the Engineer considers it necessary or advisable, the Architect shall have the-Engineer will have authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect-The Engineer shall notify and receive approval from the Owner prior to ordering any such inspection or testing which will result in additional cost to the Owner. However, neither the Engineer's authority to reject work or order inspection or testing 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-Engineer to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work.~~

§ 3.6.2.3 ~~The Architect-Engineer shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's-Engineer'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 of the ~~Architect-Engineer~~ 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 to secure faithful performance by both Owner and Contractor, shall not show partiality to either, 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 A201-2007, ~~the Architect-Engineer shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.~~

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§ 3.6.3.1 ~~The Architect-Engineer shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's-Engineer's certification for payment shall constitute a representation to the Owner, based on the Architect's-Engineer's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's-Engineer'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 Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the Architect-Engineer.~~

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the ~~Architect-Engineer~~ has (1) made ~~exhaustive or continuous on-site~~ inspections to check the quality or quantity of the ~~Work, Work except as otherwise required by this Agreement.~~ (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) or (3) 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-Engineer~~ shall maintain a record of the Applications and Certificates for Payment.

§ 3.6.3.4 The ~~Engineer~~ shall observe the Work prior to approving any Certificate for Payments to the Contractor to determine if the Project is progressing in accordance with the approved schedule and to determine the dates of substantial completion and final completion. The ~~Engineer~~ shall report the results of observations to the Owner in writing prior to approving any Certificate for Payments.

...

§ 3.6.4.1 The ~~Architect-Engineer~~ shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval. The ~~Architect's-Engineer'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-Engineer's~~ professional judgment to permit adequate review.

§ 3.6.4.2 In accordance with the ~~Architect-approved-Engineer-approved~~ submittal schedule, the ~~Architect-Engineer~~ 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-Engineer's~~ review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the ~~Architect, Engineer,~~ of any construction means, methods, techniques, sequences or procedures. The ~~Architect's-Engineer's~~ approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 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-Engineer~~ shall specify the appropriate performance and design criteria that such services must satisfy. The ~~Architect-Engineer~~ shall review ~~Shop Drawings shop drawings~~ and other submittals related to the Work designed or certified by the design professional retained by the Contractor that bear such professional's seal and signature when submitted to the ~~Architect. The Architect-Engineer.~~ The ~~Engineer~~ shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals.

§ 3.6.4.4 Subject to the provisions of Section 4.3, the ~~Architect-The~~ ~~Engineer~~ shall review and respond to requests for information about the Contract Documents. The ~~Architect-Engineer~~ 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-Engineer'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-Engineer~~ shall prepare and issue supplemental Drawings and Specifications in response to requests for ~~information-information~~ by the Contractor at no additional charge to the Owner.

§ 3.6.4.5 The ~~Architect-Engineer~~ shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

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§ 3.6.5.1 The ~~Architect-Engineer~~ shall prepare Change Orders, Construction Change Directives and documents authorizing expenditures of contingency funds, with supporting documentation and data if deemed necessary by the Engineer, as Basic Services compensated under Section 11.1, for the Owner's approval and execution in accordance with the Contract Documents. The ~~Engineer~~ may authorize 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 not involving an adjustment in the Contract Sum, an expenditure of contingency funds or an extension of the Contract Time. Subject to the provisions of Section 4.3, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents. Time which are consistent with the intent of the Contract Documents. If necessary, the Engineer shall prepare, reproduce and distribute Drawings and Specifications to describe Work to be added, deleted or modified as Basic Services compensated under Section 11.1.~~

§ 3.6.5.2 The ~~Architect~~ Engineer shall maintain records relative to changes in the Work.

§ 3.6.5.3 The Engineer shall prepare a set of reproducible record drawings in electronic format showing significant changes made during construction based on marked-up prints, drawings and other data furnished by the Contractor to the Engineer.

...

§ 3.6.6.1 The ~~Architect~~ Engineer shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; receive from the Contractor and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and assembled by the Contractor; and issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The ~~Architect's~~ Engineer'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 the Work is found to be substantially complete, the ~~Architect~~ Engineer 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.

§ 3.6.6.4 The ~~Architect~~ Engineer 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 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~~ Engineer shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

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§ 4.1 Additional Services listed below are not included in ~~Basic Services~~ Services, unless denoted as such, but may be required for the Project. The ~~Architect~~ Engineer shall provide the listed Additional Services only if specifically designated in the table below as the ~~Architect's~~ Engineer's responsibility, and the Owner shall compensate the ~~Architect~~ Engineer as provided in Section ~~4.2-11.2~~ or Section 11.1, as appropriate.

(Designate the Additional Services the ~~Architect~~ Engineer shall provide in the second column of the table below. In the third column indicate whether the service description is located in Section 4.2 or in an attached exhibit. If in an exhibit, identify the exhibit.)

...

§ 4.1.1	Programming (B202™ 2009)	<u>Engineer – Basic Services*</u>	
§ 4.1.2	Multiple preliminary designs	<u>Engineer – Basic Services*</u>	
§ 4.1.3	Measured drawings	<u>Engineer – Basic Services*</u>	

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§ 4.1.4	Existing facilities surveys	Not Provided	
§ 4.1.5	Site Evaluation and Planning (B203™–2007)	Engineer – Basic Services*	
§ 4.1.6	Building Information Modeling (B202™ 2008)information modeling	Not Provided	
§ 4.1.7	Civil engineeringArchitect Services	Engineer	
§ 4.1.8	Landscape design	Engineer	
§ 4.1.9	(Subsection Deleted.)	Not Provided	
§ 4.1.9	Architectural Interior Design (B252™ 2007)		
§ 4.1.10	(Subsection Deleted.)	Not Provided	
§ 4.1.10	Value Analysis (B204™ 2007)		
§ 4.1.11	(Subsection Deleted.)	Not Provided	
§ 4.1.11	Detailed cost estimating		
§ 4.1.12	On-site project representation	Engineer – Basic Services*	
§ 4.1.12	On-site Project Representation (B207™ 2008)		
§ 4.1.13	(Subsection Deleted.)	Not Provided	
§ 4.1.13	Conformed construction documents		
§ 4.1.14	As-Designed Record drawings	Not Provided	
§ 4.1.15	As-Constructed Record drawings	Engineer – Basic Services*	
§ 4.1.16	(Subsection Deleted.)	Not Provided	
§ 4.1.16	Post-occupancy evaluation		
§ 4.1.17	(Subsection Deleted.)	Not Provided	
§ 4.1.17	Facility Support Services (B210™ 2007)		
§ 4.1.18	Tenant-related services(Subsection Deleted.)	Not Provided	
§ 4.1.19	Coordination of Owner’s consultants	Engineer – Basic Services*	
§ 4.1.20	Telecommunications/data design(Subsection Deleted.)	Not Provided	
§ 4.1.21	(Subsection Deleted.)	Not Provided	
§ 4.1.21	Security Evaluation and Planning (B206™ 2007)		
§ 4.1.22	Commissioning (B211™ 2007)(Subsection Deleted.)	Not Provided	
§ 4.1.23	Extensive environmentally responsible design	Not Provided	
§ 4.1.24	TCEQ SWPPP Permit	Not Provided	
§ 4.1.24	LEED® Certification (B214™ 2012)		
§ 4.1.25	Fast-track design services	Not Provided	
§ 4.1.26	City Building Permit	Not Provided	
§ 4.1.26	Historic Preservation (B205™ 2007)		
§ 4.1.27	City NPSP Permits	Not Provided	
§ 4.1.27	Furniture, Furnishings, and Equipment Design (B253™ 2007)		
§ 4.1.28	Surveys	Not Provided	
§ 4.1.29	Geotechnical Reports	Engineer	

§ 4.2 Insert a description of each Additional Service designated in Section 4.1 as the Architect’s-Engineer’s responsibility, if not further described in an exhibit attached to this document.

Each element set out in 4.1 is commonly known in the Engineer’s professional experience.

§ 4.3 Additional Services may be provided 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 4.3 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect’s schedule. All services under the terms of this Agreement which would otherwise be constructed as

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Additional Services will be treated as Basic Services compensated under Section 11.1 for which no additional compensation is authorized, unless such services are requested in writing by the Engineer and approved in writing by the Owner prior to the time such services are performed.

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

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including, but not limited to, size, quality, complexity, the Owner's schedule or budget for Cost of the ~~Work, or procurement or delivery method; Work;~~

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- .5 ~~Preparing digital data for transmission to the Owner's consultants and contractors, or to other Owner authorized recipients; [Subsection Deleted.]~~
- .6 ~~Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner; [Subsection Deleted.]~~
- .7 ~~Preparation for, and attendance at, a public presentation, meeting or hearing; [Subsection Deleted.]~~
- .8 ~~Preparation for, and attendance at a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto; [Subsection Deleted.]~~
- .9 ~~Evaluation of the qualifications of bidders or persons providing proposals; [Subsection Deleted.]~~
- ...
- .11 ~~Assistance to the Initial Decision Maker, if other than the Architect. [Subsection Deleted.]~~

§ 4.3.2 ~~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 the Owner subsequently determines that all or parts of those services are not required, the Owner shall give prompt written notice to the Architect, and the Owner shall have no further obligation to compensate the Architect for those services:~~

- ~~.1 Reviewing a Contractor's submittal out of sequence from the submittal schedule agreed to 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;~~
- ~~.5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom; or~~
- ~~.6 To the extent the Architect's Basic Services are affected, providing Construction Phase Services 60 days after (1) the date of Substantial Completion of the Work or (2) the anticipated date of Substantial Completion identified in Initial Information, whichever is earlier. [Paragraph Deleted.]~~

§ 4.3.3 The ~~Architect-Engineer~~ shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the ~~Architect-Engineer~~ shall notify the Owner:

- .1 ~~()~~ One (1) reviews of each Shop Drawing, Product Data item, sample and similar submittal of the Contractor
- .2 ~~()~~ visits to the site by the Architect over the duration of the Project during construction ~~[Subsection Deleted.]~~
- .3 ~~()~~ One (1) 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 ~~()~~ One (1) inspections for any portion of the Work to determine final completion

.5 The Engineer shall visit the site and observe the Work at appropriate stages of construction no less than weekly. The Engineer shall report the results of all observations to the Owner in writing. Any and all observed deficiencies shall immediately be reported to the Owner and Contractor in writing.

~~§ 4.3.4 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. [Paragraph Deleted.]~~

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

§ 5.2 The Owner shall establish and periodically update 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. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the ~~Architect~~, Engineer. The Owner and the ~~Architect~~ Engineer shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the ~~Architect's~~ Engineer's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the ~~Architect's~~ Engineer's services.

...

~~§ 5.5 The Owner shall furnish services of geotechnical engineers, which may include but are not limited to 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 subsurface conditions, with written reports and appropriate recommendations. [Paragraph Deleted.]~~

§ 5.6 The Owner shall coordinate the services of its own consultants with those services provided by the ~~Architect~~, Engineer. Upon the ~~Architect's~~ Engineer'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 in this Agreement, or authorize the ~~Architect~~ Engineer to furnish them as an Additional Service, when the ~~Architect~~ Engineer requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants maintain professional liability insurance as appropriate to the services provided.

§ 5.7 ~~The~~ Unless otherwise provided in this Agreement, 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.

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§ 5.9 The Owner shall provide prompt written notice to the ~~Architect~~ Engineer if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the ~~Architect's~~ Engineer's Instruments of Service.

§ 5.10 Except as otherwise provided in this Agreement, or when direct communications have been specially authorized, the Owner shall endeavor to communicate with the Contractor and the ~~Architect's~~ Engineer's consultants through the ~~Architect~~ Engineer about matters arising out of or relating to the Contract Documents. The Owner shall promptly notify the ~~Architect~~ Engineer of any direct communications that may affect the ~~Architect's~~ Engineer's services.

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

§ 5.12 ~~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-Engineer and the Owner shall at all times have access to the Work wherever it is in preparation or progress.~~

...

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner, or to the extent the Project is not completed, the estimated costs to the Owner to construct all elements of the Project designed or specified by the ~~Architect-Engineer~~ and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work does not include the compensation of the ~~Architect-Engineer~~, the costs of the land, rights-of-way, financing, contingencies for changes in the Work or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and may be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work prepared by the ~~Architect-Engineer~~, represent the ~~Architect's-Engineer's~~ judgment as a design professional. It is recognized, however, that neither the ~~Architect-Engineer~~ 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-Engineer~~ 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-Engineer~~.

§ 6.3 In preparing estimates of the Cost of Work, the ~~Architect-Engineer~~ 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 make reasonable adjustments in the program and scope of the Project; and to include in the Contract Documents alternate bids as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget for the Cost of the Work. The ~~Architect's-Engineer's~~ estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requests detailed cost estimating services, the ~~Architect-Engineer~~ shall provide such services as an Additional Service under Article 4.

§ 6.4 If the Bidding or Negotiation Phase has not commenced within ~~90-ninety (90)~~ days after the ~~Architect-Engineer~~ submits the Construction Documents to the Owner, through no fault of the ~~Architect-Engineer~~, 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-Engineer's~~ estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the ~~Architect-Engineer~~ shall make appropriate 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-Engineer~~ in making such adjustments.

§ 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, bid or proposal providing the best value to the Owner,~~ the Owner shall

...

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

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the ~~Architect, Engineer,~~ 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. The Architect's-Engineer's modification of the Construction Documents shall be the limit of the Architect's-Engineer's responsibility under this Article 6.

...

§ 7.1 The ~~Architect-Engineer~~ 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. If the Owner and ~~Architect-Engineer~~ intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions.

§ 7.2 The ~~Architect-Engineer~~ and the ~~Architect's-Engineer'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.~~ Engineer and the Engineer's consultants. The Owner shall be permitted to retain copies, including those in electronic format and reproducible copies, of the Engineer's and the Engineer's consultants' Instruments of Service for information and reference in connection with the Owner's use and occupancy of the Project.

§ 7.3 ~~Upon execution of this Agreement, the Architect-Engineer 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, including prompt payment of all sums when due, under this Agreement. 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 material or equipment suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service 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.~~ reproduce the Engineer's Instruments of Service solely for purposes of constructing, using, and maintaining the Project, and shall obtain similar, nonexclusive licenses from the Engineer's consultants.

§ 7.3.1 ~~In the event the Owner uses the Instruments of Service without retaining the author 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. The payment of fees for professional services performed under this Agreement shall constitute full payment for a one-time, perpetual license fee for those uses of the Engineer's Instruments of Service set forth in Section 3.4, for all documents produced pursuant to this Agreement and in existence as of the date of any such payment.~~

§ 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-Engineer.~~ 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. Engineer and the Engineer's consultants. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers, as well as the Owner's consultants and separate contractors to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services for the Project.

...

~~§ 8.1.1 The Owner and Architect shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other. Any claim, dispute or other matter in question arising out of or related to this Agreement in accordance with the requirements of the method of binding dispute resolution selected in this Agreement 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, shall be subject to mediation as a condition precedent to the initiation of litigation.~~

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and ~~Architect-Engineer~~ Engineer 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 A201-2007, General Conditions of the Contract for Construction. The Owner or the ~~Architect, Engineer,~~ Engineer, 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.

§ 8.1.3 The ~~Architect-Engineer~~ Engineer and Owner waive 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.

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~~§ 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, the initiation of litigation.~~

~~§ 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 the Agreement. A request for mediation shall be made in writing, delivered to the other party to the 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. Unless the parties mutually agree otherwise, mediation shall be administered in accordance with the following:~~

- ~~.1 Request for mediation shall be in writing, and shall request that the mediation commence not less than thirty (30) or more than ninety (90) days following the date of the request, except upon agreement of both parties.~~
- ~~.2 In the event the Owner and the Engineer are unable to agree to a date for the mediation or to the identity of the mediator or mediators within thirty (30) days following the date of the request for mediation, all conditions precedent in this article shall be deemed to have occurred.~~
- ~~.3 At all times during the course of any dispute resolution process, the Engineer shall continue diligently and without delay to perform the services and obligations of the Agreement.~~

§ 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.

...

(Check the appropriate box. If the Owner and Architect-Engineer do not select a method of binding dispute resolution below, 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.)

...

~~_____~~ Litigation in a court of competent jurisdiction

...

§ 8.3 ARBITRATION (NOT APPLICABLE)

~~§ 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.~~

~~§ 9.1 If the Owner fails to make payments to the Architect-Engineer in accordance with this Agreement, Agreement through no fault of the Engineer, such failure shall be considered substantial nonperformance and cause for termination or termination, or at the Architect's-Engineer'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 Architect shall be paid 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~~

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~~schedules shall be equitably adjusted. Agreement if not cured by the Owner within seven (7) days following notice of any past-due payment. If the Engineer elects to suspend services, prior to suspension of services, the Engineer shall give seven (7) days written notice to the Owner.~~

~~§ 9.2 If the Owner suspends the Project, 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. This Agreement may be terminated by Owner if Engineer engages in conduct that would constitute a violation of state or federal criminal law, 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.~~

~~§ 9.3 If the Owner suspends the Project for more than 90 cumulative 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. Project is suspended by the Owner for more than ninety (90) consecutive days, the Engineer may terminate this Agreement upon not less than seven (7) days' written notice. Should the Engineer elect to so terminate this Agreement, the Engineer shall be compensated for services actually performed and expenses actually incurred prior to notice of such termination.~~

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

~~§ 9.5 The Owner may terminate this Agreement upon not less than seven (7) days' written notice to the Architect Engineer for the Owner's convenience and without cause.~~

~~§ 9.6 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Section 9.7. Engineer, the Engineer shall be compensated only for services actually performed and reimbursable expenses actually incurred prior to termination.~~

~~§ 9.7 Termination Expenses are in addition to compensation for the Architect's services and include expenses directly attributable to termination for which the Architect is not otherwise compensated, plus an amount for the Architect's anticipated profit on the value of the services not performed by the Architect. [Paragraph Deleted.]~~

~~§ 9.8 The Owner's rights to use the Architect's Engineer's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 11.9.~~

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~~§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, except that if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3. State of Texas without regard to the choice-of-law rules of any jurisdiction. Venue for any lawsuit arising under this contract shall be in the county in which the Project is located. No provision of this Agreement is a waiver of any immunity or defense. No provision of this Agreement is a consent to suit.~~

...

~~§ 10.3 The Owner and Architect-Engineer, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Architect-Engineer 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.~~

~~§ 10.4 If the Owner requests the Architect-Engineer to execute certificates, the proposed language of such certificates shall be submitted to the Architect-Engineer for review at least 14 fourteen (14) days prior to the requested dates of execution. If the Owner requests the Architect-Engineer to execute consents reasonably required to facilitate assignment to a lender, the Architect-Engineer shall execute all such consents that are consistent with~~

this Agreement, provided the proposed consent is submitted to the ~~Architect-Engineer~~ for review at least ~~14~~ fourteen (14) days prior to execution. The ~~Architect-Engineer~~ 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-Engineer~~.

§ 10.6 ~~Unless otherwise required in this Agreement, the Architect-Engineer and Engineer's consultants 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 handling, removal, or disposal or exposure of persons to hazardous materials in any form at the Project site, including but not limited to asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic substances. The Engineer and the Engineer's consultants shall have no responsibility to initially discover the presence of such hazardous materials on the Project site, but shall have an affirmative duty to immediately report to the Owner the existence of such materials actually known by the Engineer or the Engineer's consultants to be present on the Project site.~~

§ 10.7 ~~The Architect-Engineer~~ With prior written consent of the Owner, the Engineer shall have the right to include photographic or artistic representations of the design of the Project among the ~~Architect-Engineer's~~ promotional and professional materials. The ~~Architect-Engineer~~ shall be given reasonable access to the completed Project to make such representations. However, the ~~Architect-Engineer's~~ materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the ~~Architect-Engineer~~ in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the ~~Architect-Engineer~~ in the Owner's promotional materials for the Project.

§ 10.8 If the ~~Architect-Engineer~~ or Owner receives information specifically designated by the other party as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information. Owner herein designates the following as confidential information: security measures; 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.

§ 10.9 In any adjudication or claim under this Agreement, reasonable and necessary attorney's fees that are equitable and just may be awarded to the prevailing party.

§ 10.10 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.

§ 10.11 Pursuant to TEXAS EDUCATION CODE section 44.034, Engineer must give advance written notice to the Owner if the Engineer or an owner or operator of the Engineer has been convicted of a felony. The Owner may terminate this Agreement if the Owner determines that the Engineer 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.

§ 10.12 Engineer 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 to the Owner in writing, in order for Owner to comply with its records retention requirements, per the Texas Government Code section 441.158 *et seq.* and the Texas Library and Archives Commission's Local Schedule GR (Government Records). In the alternative, Engineer may provide such records to Owner for retention at any time if Owner agrees in writing to accept such records in lieu of Engineer's retention under this Section.

§ 10.13 When the services under this Agreement include contract administration services, the General Conditions of the Contract for Construction shall be AIA Document A201-2007, as amended by the Owner for the Project.

§ 10.14 Any notice required by or permitted under this Agreement must be in writing unless otherwise provided herein. Any notice required by this Agreement will be deemed to be delivered (whether actually received or not) when deposited with the United States Postal Service, postage prepaid, certified mail, return receipt requested, and addressed to the intended recipient at the address shown in this Agreement. Notice may also be given by regular mail, personal delivery, courier delivery, facsimile transmission, or other commercially reasonable means and will be effective when actually received. Any address for notice may be changed by written notice delivered as provided herein.

§ 10.15 If any provision of this Agreement is held to be illegal, invalid, or unenforceable under any present or future law, such provision shall be fully severable and this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part of this Agreement. The remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid, or unenforceable provision or by its severance herefrom.

§ 10.16 The Owner shall have the right to examine, copy, and/or audit the books and other records of the Engineer relating solely to this Agreement upon reasonable request to the Engineer.

§ 10.17 [Paragraph Deleted.]

§ 10.18 [Paragraph Deleted.]

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

...

The Fee for Basic Services shall be Ten Percent (10%) of the Cost of Work.

§ 11.2 For Additional Services designated in Section 4.1, the Owner shall compensate the ~~Architect as follows: Engineer as follows: Actual cost of additional services designated in Section 4.1.~~

PAGE 19

See the hourly rates at Article 11.7.

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.3, the Owner shall compensate the ~~Architect as follows: Engineer as follows: actual cost of agreed to Additional Services.~~

...

See the hourly rates at Article 11.7.

§ 11.4 Compensation for Additional Services of the ~~Architect's-Engineer's~~ consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the ~~Architect plus — percent (—%), or as otherwise stated below: Engineer.~~

See the hourly rates at Article 11.7.

...

Schematic Design Phase	<u>Ten</u>	percent (	<u>10</u>	%)
Design Development Phase	<u>Ten</u>	percent (	<u>10</u>	%)
Construction Documents Phase	<u>Sixty-five</u>	percent (	<u>65</u>	%)
Bidding or Negotiation Phase	<u>Five</u>	percent (	<u>5</u>	%)
Construction Phase	<u>Ten</u>	percent (	<u>10</u>	%)

...

§ 11.6 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 estimate of the Cost of the Work for such portions of the Project. The ~~Architect-Engineer~~ shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the ~~Architect-Engineer~~ and the ~~Architect's-Engineer's~~ consultants, if any, are set forth below. The rates shall be adjusted in accordance with the ~~Architect's and Architect's-Engineer's~~ and ~~Engineer's~~ consultants' normal review practices.

...

<u>Engineering Principal</u>	<u>\$185.00/Hour</u>
<u>Engineering Professional VI</u>	<u>\$180.00/Hour</u>
<u>Engineering Professional IV</u>	<u>\$165.00/Hour</u>
<u>Engineering Professional III</u>	<u>\$130.00/Hour</u>
<u>Engineering Professional II</u>	<u>\$125.00/Hour</u>
<u>Project Manager</u>	<u>\$100.00/Hour</u>
<u>Engineering Technician II</u>	<u>\$85.00/Hour</u>
<u>Engineering Technician I</u>	<u>\$75.00/Hour</u>
<u>Resident Project Inspector</u>	<u>\$60.00/Hour</u>
<u>CAD Terminal Charge</u>	<u>\$25.00/Hour</u>
<u>Clerk, Word Processor</u>	<u>\$40.00/Hour</u>

...

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

- ~~.1 Transportation and authorized out-of-town travel and subsistence; [Subsection Deleted.]~~
- ~~.2 Long distance services, dedicated data and communication services, teleconferences, Project Web sites, and extranets; [Subsection Deleted.]~~

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- ~~.5 Postage, handling and delivery; [Subsection Deleted.]~~

...

- ~~.7 Renderings, models, mock-ups, professional photography, and presentation materials requested by the Owner; [Subsection Deleted.]~~
- ~~.8 Architect's Consultant's expense of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits if the Owner requests such insurance in excess of that normally carried by the Architect's consultants; [Subsection Deleted.]~~
- ~~.9 All taxes levied on professional services and on reimbursable expenses; [Subsection Deleted.]~~
- ~~.10 Site office expenses; and [Subsection Deleted.]~~
- ~~.11 Other similar Project-related expenditures; [Subsection Deleted.]~~

§ 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 ~~Engineer and the Engineer's consultants.~~

§ 11.9

~~COMPENSATION FOR USE OF ARCHITECT'S INSTRUMENTS OF SERVICE~~ **COMPENSATION FOR USE OF ENGINEER'S INSTRUMENTS OF SERVICE**

If the Owner terminates the Architect for its convenience under Section 9.5, or the Architect terminates this Agreement under Section 9.3, the Owner shall pay a licensing fee as compensation for the Owner's continued use of the Architect's Instruments of Service solely for purposes of completing, using and maintaining the Project as follows:

The Owner shall have the right to use the Engineer's Instruments of Service and to make derivative Works thereof for the purpose of completing the project in the event Engineer is terminated for cause pursuant to this Agreement, without regard to whether such termination shall subsequently be adjudicated to have been wrongful, or whether such termination is for the convenience of the Owner. In the event the Owner shall make derivative works of the Engineer's Instruments of Service pursuant to this Section, the Engineer shall bear no liability for errors or omissions appearing in such derivative works.

~~§ 11.10 PAYMENTS TO THE ARCHITECT~~ **PAYMENTS TO THE ENGINEER**

§ 11.10.1 An initial payment of (~~\$—~~) Zero (\$0.00) 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.

§ 11.10.2 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~~ Engineer's invoice. Amounts unpaid (~~—~~) thirty (30) 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.)

~~—~~% below:

Unless otherwise agreed payments for services and Reimbursable Expenses incurred, shall be made monthly upon presentation of Engineer's invoice. Amounts unpaid thirty (30) days after the invoice date shall bear interest at the rate stated in the Texas Prompt Payment Act, TEXAS GOVERNMENT CODE, Chapter 2251.

§ 11.10.3 The Owner shall not withhold amounts from the ~~Architect's~~ Engineer's compensation to impose a penalty or liquidated damages on the ~~Architect, Engineer,~~ 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.~~ Engineer agrees or has been found liable.

§ 11.10.4 Records of Reimbursable Expenses, of expenses pertaining to Additional Services, and of services performed on the basis of hourly rates or a multiple of Direct Personnel Expense shall be made available to the Owner or the Owner's authorized representative upon request at mutually convenient times. "Direct Personnel Expense" is defined as the direct salaries of the Engineer's personnel engaged in the Project and the portion of the cost of their mandatory and customary contributions and benefits related thereto, such as employment taxes and other statutory employee benefits, insurance, sick leave, holidays, vacations, employee retirement plans and similar contributions.

...

LICENSING AUTHORITY: The following information is included in this agreement as required by Texas Occupations Code Chapter 1001: Texas Board of Professional Engineers, 1917 S Interstate 35, Austin, Texas 78741-3702 has jurisdiction over individuals licensed to practice engineering in the State of Texas.

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

...

- .1 AIA Document B101™-2007, Standard Form Agreement Between Owner and ~~Architect~~ Engineer
- .2 ~~AIA Document E201™-2007, Digital Data Protocol Exhibit, if completed, or the following:~~ [Subsection Deleted.]

...

None.

...

OWNER

MARBLE FALLS INDEPENDENT SCHOOL DISTRICT

OWNER

ENGINEER

WILLIS ENVIORNMENTAL ENGINEERING, INC.

ARCHITECT

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Ann E. Greenberg, 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 16:15:17 on 05/25/2017 under Order No. 3688904484_1 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™ – 2007, 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)



**LEARNERS TODAY,
LEADERS TOMORROW,
MUSTANGS FOREVER!**

**Marble Falls ISD
Board of Trustees
Agenda Item Information**

Meeting Date:		
Meeting Type: Regular Meeting Special Meeting/Workshop Hearing	Agenda Placement: Public Hearing Information Items Presentation/Discussion Items Consideration Items Consent Agenda	
Date Submitted:		
Subject:		
Executive Summary:		
Fiscal Impact: Cost: Recurring One-Time No Fiscal Impact	Funding Source: General Fund Grant Funds Bond Funds Other Funds (Specify)	Fiscal Year: Amendment Required? Yes No
Administration's Recommendation:		
Submitted By:		
Board Approval Required: Yes No		



800.922.9965

Quote Results

Name: Melissa Fields

School: MARBLE FALLS ISD

Email: mfields@mfisd.txed.net

Length of Subscription: 8 Years

Description	Teacher			Student			Student License + Certification Voucher Combo		
	ISBN	Quantity	Total	ISBN	Quantity	Total	ISBN	Quantity	Total
iCEV Agricultural Science	9781614593089	5	\$18,900	9781614593126	347	\$24,984	N/A	0	\$0
iCEV Architecture, Construction, Manufacturing & Transportation	9781614593461	3	\$11,340	9781614593485	167	\$12,024	N/A	0	\$0
iCEV Business, Marketing, Finance, IT & Media	N/A	0	\$0	N/A	0	\$0	N/A	0	\$0
iCEV Career Explorations (High School)	N/A	0	\$0	N/A	0	\$0	N/A	0	\$0
iCEV Career Explorations (Middle School)	N/A	0	\$0	N/A	0	\$0	N/A	0	\$0
iCEV Family & Consumer Science	9781614594949	2	\$7,560	9781614594963	195	\$14,040	N/A	0	\$0
iCEV Health Science	N/A	0	\$0	N/A	0	\$0	N/A	0	\$0
iCEV Law, Public Safety, Corrections & Security	N/A	0	\$0	N/A	0	\$0	N/A	0	\$0

Quote Total: \$88,848

Savings of \$9,872 for purchasing multi-year subscriptions!

[✎ Revise \(/Home/ReviseQuote\)](#)

Your sales rep is Jim Missildine. If you have a question, please contact Jim Missildine at 210-862-3672 or jim.missildine@cevmultimedia.com (<mailto:jim.missildine@cevmultimedia.com>)

MLCs for Selected Products

MLC stands for multiple list code and is used in the EMAT ordering system as a course identifier. Each of our products is state-approved for multiple courses; however, when entering your order into the EMAT ordering system, only one MLC will need to be chosen for each product ordered. Even though you are only entering one MLC for each product, a subscription allows access to all state-approved courses for that product. You will also need to enter the corresponding TEKS percentage for the chosen course/MLC in EMAT as well.

Agricultural Science Product		
MLC	Course Name	TEKS Percentage
9529	Advanced Animal Science	100%
9727	Advanced Energy & Natural Resource Technology	100%
9704	Advanced Plant & Soil Science	100%
9724	Agribusiness Management & Marketing	100%
9695	Agricultural Equipment Design & Fabrication	100%
9706	Agricultural Mechanics & Metal Technologies	100%
9694	Agricultural Structures Design & Fabrication	100%
9707	Agricultural Power Systems	100%
9726	Energy & Natural Resources Technology	100%
9495	Equine Science	100%
9419	Floral Design	100%
9709	Food Processing	92.86%
9710	Food Technology & Safety	100%
9711	Forestry & Woodland Ecosystems	100%
9749	Horticultural Science	100%
9732	Landscape Design & Management	100%
9714	Livestock Production	100%
9716	Practicum in Ag, Food & Natural Resources	100%
9717	Principles of Agriculture, Food & Natural Resources	100%
9723	Professional Standards in Agribusiness	100%
9510	Small Animal Management	100%
9725	Veterinary Medical Applications	100%
9518	Wildlife, Fisheries & Ecology Management	100%

Architecture, Construction, Transportation & Manufacturing Product

MLC	Course Name	TEKS Percentage
9762	Construction Technology I	90.74%
9463	Diesel Equipment Technology I	78.57%
9464	Diesel Equipment Technology II	100%
9680	Principles of Architecture	100%
9683	Principles of Construction	100%
9445	Principles of Distribution & Logistics	60%
9440	Principles of Transportation Systems	60.66%
9438	Small Engine Technology I	100%
9447	Small Engine Technology II	81.67%
9584	Introduction to Welding	100%
9897	Principles of Manufacturing	76.92%
9561	Welding I	100%
9586	Welding II	100%

Family & Consumer Sciences Product		
MLC	Course Name	TEKS Percentage
9478	Interior Design I	100%
9868	Advanced Culinary Arts	90.28%
9486	Child Development	100%
9870	Child Guidance	100%
9873	Counseling & Mental Health	51.43%
9860	Culinary Arts	100%
9874	Dollars & Sense	100%
9875	Family & Community Services	100%
9780	Fashion Design I	100%
9816	Fashion Design II	100%
9849	Food Science	100%
9471	Hospitality Services	86.67%
9861	Hotel Management	77.78%
9743	Human Growth & Development	100%
9876	Interpersonal Studies	100%
9867	Introduction to Culinary Arts	100%

MLC	Course Name	TEKS Percentage
9878	Lifetime Nutrition & Wellness	100%
9746	Principles of Education & Training	100%
9864	Principles of Hospitality & Tourism	100%
9880	Principles of Human Services	100%
9866	Travel & Tourism Management	54.39%



**LEARNERS TODAY,
LEADERS TOMORROW,
MUSTANGS FOREVER!**

**Marble Falls ISD
Board of Trustees
Agenda Item Information**

Meeting Date:		
Meeting Type: Regular Meeting Special Meeting/Workshop Hearing	Agenda Placement: Public Hearing Information Items Presentation/Discussion Items Consideration Items Consent Agenda	
Date Submitted:		
Subject:		
Executive Summary:		
Fiscal Impact: Cost: Recurring One-Time No Fiscal Impact	Funding Source: General Fund Grant Funds Bond Funds Other Funds (Specify)	Fiscal Year: Amendment Required? Yes No
Administration's Recommendation:		
Submitted By:		
Board Approval Required: Yes No		

MEMORANDUM OF UNDERSTANDING
BETWEEN THE MARBLE FALLS ISD EDUCATION FOUNDATION
AND MARBLE FALLS INDEPENDENT SCHOOL DISTRICT

This Memorandum of Understanding ("Agreement") is entered into by and between the Board of Trustees ("School Board") of the Marble Falls Independent School District (the "District") and the Board of Directors of the Marble Falls ISD Education Leadership Foundation (the "Foundation"), desiring to memorialize the nature of their relationship, ratify and approve past activities and mutually acknowledge, for the future, the respective obligations and rights of the parties.

Recitals

Whereas, the District is a public school and political subdivision of the State of Texas; and

Whereas, the Foundation is an independent nonprofit corporation organized under the Texas Business Organizations Code (hereinafter called the "Act"), and exempt from taxation pursuant to the Internal Revenue Code 501(c)(3); and

Whereas, the Foundation was organized and incorporated in [insert year] for the purpose of stimulating voluntary alternative support from alumni, parents, friends, corporations, foundations and others for the benefit of the District; and

Whereas, the Foundation exists to raise and manage alternative resources supporting the mission and priorities of the District and provide opportunities for students and a margin of institutional excellence unavailable with state funds; and

Whereas, as stated in its Articles of Incorporation, the Foundation is a separately incorporated 501(c)(3) organization and is responsible for aiding in the fulfillment of teaching and service functions of the District; soliciting, accepting, administering and disbursing gifts, grants and bequests of property for the support of the District, and acknowledging and stewarding such gifts in accordance with donor intent; and

Whereas, the District and its Board of Trustees recognize the assistance and contribution to be made by the Foundation and, with the Foundation, are desirous of memorializing the relationship, interaction and cooperation between the District, its Board of Trustees and the Foundation.

Now therefore, in consideration of the mutual covenants, promises and conditions herein contained, the District and the Foundation agree as follows:

- A. Foundation Name, Seal and Logotype: The Foundation will operate under its own name, seal and logotype except in those instances where the Superintendent of MFISD, said position being described in Texas Education Code §11.201, specifically approves the Foundation's use of the District's name or service marks.
- B. Commitment: The District agrees to provide the following to the Foundation, provided that the public purposes provided herein continue to be met and the controls continue to be implemented.
 1. The District shall share annually with the Foundation its strategic plan, institutional priorities and projects, and resource requirements, so that the Foundation may represent the direction and needs of the District to donor prospects and align its programs and campaigns consistent with the strategic objectives of the District.

2. The District shall promptly alert the Foundation to prospective gifts, so that each opportunity for enhancing gift potential and donor relations is fully utilized.
3. The District shall provide:
 - (i) All or a portion of the salary and benefits for the employees of the District assigned to assist the Foundation, with the specific contribution to be determined by the Superintendent in consultation with the Foundation. Any employee assigned to by the District to assist the Foundation shall be done so in the District's sole discretion.
4. The Superintendent of the District or his/her designee; and the President of the Board of Trustees or his/her designee shall serve as ex-officio Directors of the Foundation with no voting rights. Neither of these individuals shall receive compensation for their respective service in such position.
5. The District, with adequate oversight by its Board of Trustees to assure a public purpose is being served with adequate consideration flowing to the public, will provide to the Foundation office space, equipment, clerical support from the District personnel, assistance in the development of logos, stationary, CDs and DVDs, press releases, email and web site announcements.
6. The District will administer grants, gifts and donations in accordance with the Foundation's requests and will provide an accounting to the Foundation evidencing the status of all such grants, gifts and donations.
7. A job description will be developed by the District with input from the Foundation Board.

C. Responsibilities of Foundation:

1. The Foundation agrees that, during the term of this Agreement, the Foundation will use its best efforts to solicit, collect, invest and administer funds for the Foundation, which shall be used to enrich the educational environment of the District.
2. The Foundation agrees that, in each of the Foundation's fiscal years, the Foundation shall contribute more to the District than the value of the District's contribution to the Foundation or funding may, in the School Board's discretion, either cease or be decreased for the coming fiscal year. For purposes of this Agreement, amounts contributed to the District in any fiscal year shall include all grants to teachers, educational programs, and all payments to an endowment fund made in that fiscal year, but shall not include monies deposited into retained earnings until those retained earnings are spent for the benefit of the District through a teacher grant, educational program or endowment payment.
3. The Foundation agrees that it will continue to recognize the District as the sole beneficiary of its solicitation program. The Foundation has fiduciary responsibility for the operation of the Foundation and the authorization of the expenditures of funds upon request by the District. The Foundation is responsible for providing to the assisting District employee any necessary training, guidance, or other information regarding the business, operations, or any special needs of the Foundation. The Foundation shall collect and authorize such funds to be used for educational projects in alignment with the District's strategic plan and institutional priorities.

5. The Foundation shall conduct its activities in such a manner to maintain its status as a tax exempt, charitable organization under state and federal laws.
6. The Foundation shall consult with the District before accepting any gift for the benefit of the District that contains restrictive terms or conditions. The Foundation understands that the School Board has the final authority to accept or reject any donation.
7. The Foundation shall be solely responsible for obtaining financial and legal advice independent of the District.
8. The Foundation is a separately incorporated nonprofit organization created to raise, manage, distribute and steward alternative resources to support the various endeavors of the District and shall maintain its independently incorporated status..
9. The Foundation board of directors is responsible for the control and management of all assets of the Foundation, including the prudent management of all gifts consistent with donor intent.
10. The Foundation's use of school property, including but not limited to office space, equipment, clerical support from the District personnel, assistance in the development of logos, stationery, CDs and DVDs, press releases, email and web site announcements will serve a public purpose, appropriate to the function of an independent school district allowing adequate consideration to flow to the public which the board of trustees of the District will oversee.

D. Controls: The School Board and the Foundation Board agree on the following controls, to ensure that a proper public educational purpose is served by this arrangement:

1. The Foundation shall provide the School Board with an annual report, which shall be presented to the School Board at a public School Board meeting.
2. The Foundation shall provide an IRS Form 990 annually to the School Board, which shall reflect the District's contributions to the Foundation and which shall be reviewed against the District's accounting records to ensure accuracy.
3. The Foundation shall abide by all policies and procedures of the District related to facility and equipment use, personnel, public information, and all other applicable policies.
4. Either party may, upon ninety (90) days prior written notice to the other, terminate this Agreement in the event the other party defaults in the performance of its obligations and fails to cure the default within a reasonable time after receiving written notice.
5. Should the Foundation cease to exist or cease to be a 501(c)(3) organization, the Foundation will transfer its assets and property to the District, to a reincorporated successor Foundation, or to the state government for public purposes in accordance with the law and donor intent.

6. The relationship of District and the Foundation is limited to that which is set forth herein. No action(s) or undertaking(s) of either party will be construed to create or suggest a partnership, expressed or implied.
7. As separately incorporated organizations, neither District nor Foundation intends nor will either District or Foundation profess a right to obligate or bind the other party; any suggestion of such, orally or in writing, will be considered void and of no further legal effect.
8. If any provision of Agreement is held to be in violation of the Constitution of the State of Texas or any laws of the State of Texas, such provision shall be fully severable and the remaining provisions of this Agreement shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance.
9. The District shall determine each year, at the time of development of the District's budget, whether adequate consideration has been received from the Foundation in the previous fiscal year and will likely be received in the following fiscal year, to assist the Foundation Board in determining funding for the coming fiscal year. Notwithstanding anything contained herein, in the event it is determined by the District that adequate consideration has not been received from the Foundation in the previous fiscal year, the District may immediately terminate this Agreement upon written notice to the foundation of such determination.
10. The Foundation understands that, as a result of the District's investment in the Foundation, the documents of the Foundation are possibly subject to the Public Information Act, if applicable, absent any specific exemption.
11. Any District employees assigned to assist the Foundation shall be at-will employees of the District, under the direct supervision and control of the District. The Foundation may consult with the Superintendent regarding the job performance of assigned employees.

E. Term and Termination:

1. This Agreement shall have an initial term of three years beginning on the effective date and may be renewed upon approval of the District for additional terms, each of the one year duration, by written agreement signed by each party.
2. This Agreement may be terminated by either party by giving sixty days written notice to the other party.
3. The parties shall review the terms of this Agreement on an annual basis.

AGREED TO this ____ day of _____, 2017.

SCHOOL BOARD

EDUCATION FOUNDATION

President

President

ATTEST:

Secretary

ATTEST:

Secretary