

**Anton Independent School District
100 Ellwood Blvd.
Anton, Texas 79313**



**REQUEST FOR QUALIFICATIONS FOR
ARCHITECTURAL/ENGINEERING SERVICES**

RFQ # 2024-01

Potential 2025 Bond Program

Responses Due:

3:00 p.m. July 26, 2024

Anton Independent School District (“Anton ISD” or the “District”) is considering calling a bond election in May or November 2025 for improvements to and new construction of various school facilities (the “2025 Bond Program”) and is soliciting Statements of Qualifications for Architectural/Engineering Services from competent Architect and/or Engineers (“A/E”) as stated in this Request for Qualifications (“RFQ”). Responses to the RFQ shall be submitted in an opaque envelope marked on the outside with the particular firm’s name, address and RFQ number and Project name (“**RFQ #2024-01, Architect/Engineering Services, 2025 Bond Program**”) to:

Anton ISD
ATTN: Freddie Tobias, Superintendent
Mailing Address: 100 Ellwood Blvd., Anton, TX 79313

RFQ responses will be received at the above address until **3:00 PM CST, Friday, July 26, 2024** (the “**Response Deadline**”). RFQ responses will be publicly opened at 3:00 PM CST on the same day with only the names of the firms read aloud.

Responses must be submitted in sufficient time to be received and time-stamped at the above location on or before the Response Deadline. The District will not be responsible for delivering mail from the post office. Responses received after the Response Deadline will not be considered. **Faxed or emailed responses to this RFQ will not be accepted.**

The RFQ name and number must be identified on the outside envelope being delivered (*i.e.*, Federal Express, UPS, US Postal Service or Hand Delivery.) A/E must submit **one (1) original, three (3) hard copies and a USB drive** of its Statement of Qualifications for A/E Services in the form requested, together with any material required by this RFQ (the “response”) by the Response Deadline. All pages that require signatures and/or initials must be submitted with the response.

Although an A/E may be selected, Anton ISD does not assert, assure, or guarantee that acceptable contract terms will be reached with the District or that the selected firm will be awarded work, and if so, how much, what type or fee amount. Compensation will be negotiated upon selection of the A/E for the Project, but not before.

Anton ISD’s contact for this RFQ is **Freddie Tobias, Phone: (806) 997-2301 or email freddietobias@antonisd.org.**

Questions regarding this RFQ package should be directed to Mr. Tobias. However, contact by A/Es with the District following the Response Deadline and during the evaluation process is prohibited. Any attempt by an A/E to contact the District about A/E’s evaluation during this time may result in disqualification.

RFQ AWARD AND EVALUATION

- I. The decision to select an A/E will be the one who is determined to be the most highly qualified provider of the services requested based on demonstrated competence as set out in Texas Government Code, Chapter 2254, Professional and Consulting Services.

- II. The District's will consider all accurate and timely submissions of eligible A/E firms. The following criteria and weights will be used in evaluating A/E qualifications:

<u>CRITERIA</u>		<u>WEIGHTS</u>
1.	Reputation of the A/E or firm	20
2.	Experience over the last five years assisting K-12 Districts with Bond projects of similar size and scope	15
3.	References	10
4.	Resumes of key personnel	10
5.	Location of the firm and ability to provide services in District	10
6.	Claims or suits filed against the A/E or firm in past 5 years for professional negligence, if any, and the disposition of such claims, if any	10
7.	Past relationship with the District	10
8.	Responsive documents and interviews, if any	15
	Total	100

- III. Anton ISD will disclose the responses internally only to those employees and officials who have a legitimate business interest in the information submitted. After a final selection is made, all responses may be considered public records under the Texas Public Information Act. Public records must be disclosed in response to a written request unless the information is exempt under an exception provided by the statute. **If you believe that your response contains any confidential or proprietary information, or trade secrets, that information must be clearly identified as confidential and supported by a written statement of legal authority.**

- IV. Anton ISD intends to select a single A/E but reserves the right to select more than one firm to provide any of the professional services listed within the scope of services detailed in the Project Scope and Description section of this RFQ. The District does not represent or guarantee that any firm selected will receive a contract, be awarded work, and if so, how much, what type or what dollar value. Compensation for these professional services will be negotiated upon matching of the project to the firm(s) selected. **Anton ISD expects that the contract to be executed between the District and the selected firm(s), if any, will be substantially in the form of the AIA Document B101-2017 Standard Form of Agreement between Owner and Architect as modified by Anton ISD. A/Es are advised to review the Sample contract which is attached to this RFQ. Material deviations from the form of contract may not be considered.** Anton ISD reserves

the right to adopt and execute a new form of contract at any time during the term of this agreement if both parties are mutually agreeable.

GENERAL QUALIFICATIONS

The A/E should have experience and expertise with assessing school district facilities, prioritizing needs, programming, cost estimating, planning and designing, and administering construction projects for Texas school districts or other public facilities with similar regulatory and legal requirements. A/E will be involved with the initial assessment, cost estimating, and development of preliminary concept drawings relating to the District's 2025 Bond Program, including without limitation: Updating restrooms in the school, new playground, putting A/C in gym, resurfacing tennis courts and track, turf on football field, and new football stands (the "2025 Bond Program"). If the Bond Program is approved and bonds are issued, it is intended that the A/E shall be responsible for full design and administration of any renovation and/or construction undertaken by the District related to the 2025 Bond Program. The A/E need not have a local office, but experience in the Anton or surrounding areas and knowledge of local construction practices, codes, procedures, regulations, and environmental conditions is required.

TERMS AND CONDITIONS

A/E shall be responsible for any cost incurred in the preparation of a response to this RFQ and participation in the evaluation process, including all legal expenses incurred by A/E in reviewing this RFQ and sample contract documents contained herein. There is no expressed or implied obligation by the District to reimburse any individual or firm for any costs incurred in preparing or submitting a response, for providing additional information when requested by the District, or for participating in any selection demonstration/interviews, including contract negotiations.

This RFQ and any resulting award(s) shall be interpreted within the laws of the State of Texas. Mandatory venue for any legal action filed relative to this RFQ or any resulting contract shall be in a state district court in Hockley County, Texas.

In the event that any one or more of the provisions contained in this RFQ (or resulting contract) shall be held by a court of competent jurisdiction to be invalid, illegal or unenforceable, such provisions shall not affect any other provision hereof, and this RFQ (or any resulting contract) shall be construed as if the invalid, illegal or unenforceable provision(s) had never been contained herein.

The District reserves the right to cancel any contract resulting from this RFQ at any time, for any reason (or for no reason) with prior written notice to A/E(s). Any notice required or permitted to be delivered to the A/E shall be deemed to be delivered when sent via email, overnight courier, or US Postal service by registered or certified mail, return receipt requested, postage prepaid, and addressed to the A/E's email and/or U.S. mail address appearing on the face of its response to this RFQ (or as subsequently revised or changed). Any compensation due the A/E under a resulting contract with the District will be limited to services performed and accepted by the District prior to the date of such termination.

SELECTION SCHEDULE

First Published Notice for RFQs:	June 28, 2024
Second Published Notice for RFQs:	July 05, 2024
Deadline to receive RFQ's:	July 26, 2024
Notify Shortlisted Parties (if needed):	August 01, 2024
Rank Firms/Board Interview (if needed):	August 13, 2024 (subject to change)
Selected Party Notified and Begin Negotiations (Gov't Code 2254.004):	Immediately following ranking
Board Action on A/E Contract:	No later than September 30, 2024

The Board of Trustees may interview firms evaluated and recommended by the Anton ISD administration from those responding to this solicitation. Alternatively, the Board may select and rank firms on the Responses submitted to the RFQ without conducting interviews and selecting the firm that demonstrates superior competence and qualifications over all others, as determined in the Board's discretion.

Parties invited for an interview, if any, may be required to provide comprehensive evidence of engineering/architectural services for projects of similar type and size that were performed within the past five (5) years.

All responses shall be evaluated and ranked on the criteria identified herein, and final selection will be based upon the A/E's qualifications and demonstrated competence in comparison to the needs of the District, the quality of the documents provided, the criteria stated herein, and factors that any entity would consider in selecting an A/E in compliance with Texas Government Code Chapter 2254. **Fees will NOT be considered during the evaluation and must NOT be included in the Response to this RFQ.**

TIME IS OF THE ESSENCE. The District intends to approve the contract with the selected A/E within 30 days of being selected. The District intends to use the AIA B101-2017 Agreement between Owner and Architect, as amended, which is attached to this RFQ as Exhibit "A." Fees may be discussed after the A/E has been selected and contract negotiations are in process, but not before. **This is the form agreement the District intends to use. Any objection or deviation to the contract or contract amendments must be submitted with A/E's Response. A/E is advised and encouraged to review the sample Contract.** The final Contract will require subsequent Board approval. Material deviations to the sample Contract attached hereto will not be considered.

The Firm selected for final consideration will be notified after the Board selects and ranks A/Es.

PROJECT SCOPE AND DESCRIPTION

This RFQ seeks an A/E to provide services relating to the 2025 Bond Program, which if approved, the administration anticipates will include: Updating restrooms in the school, new playground, putting A/C in gym, resurfacing tennis courts and track, turf on football field, and new football stands, but the exact scope of work will be determined following A/E's assessment of such facilities. Services needed may include facility assessment, cost estimating and preliminary design concept, and full design for construction and renovation of school facilities. The A/E's services and duties may include: assessing current facilities, prioritizing facility needs, construction cost estimating, planning, programming, designing, facility construction/renovation,

producing construction documents, assisting with advertising for bids/proposals, assisting with evaluating the bids/proposals, overseeing the project, authorizing payments to contractor(s), etc. The A/E selected will be required to provide related disciplines necessary to address all design and construction contract administration needs of the work (*i.e.*, electrical, structural, plumbing, mechanical, **civil, geotechnical, engineering surveying** and equipment, etc.).

Scope of Services

This RFQ seeks an A/E to provide pre- and post-bond planning services including, but not limited to the assessment, planning, design and contract administration for the District's 2025 Bond Program, and other identified improvements from a facilities study, as needed and subject to change as facilities are assessed and District needs are refined.

In General

As part of the planning process the A/E, in coordination with District staff, shall:

1. Facilitate construction cost estimates and assist with facility needs assessment
2. Develop cost effective alternatives
3. Evaluate constructability
4. Foster a high level of quality in design
5. Identify critical design issues related to the 2025 Bond Program and assist in resolution of such issues, as needed
6. Provide ongoing cost estimating
7. Provide full architectural/engineering services for the design and construction contract administrations for the identified improvements

Construction Phase

A/E shall provide construction contract administration and related services. The details of the construction phase services of the firm will be determined as the planning process progresses.

CONFLICT OF INTEREST. Effective January 1, 2006, any person or entity, as well as agents of such persons, who contracts or seeks to contract with the District for the sale or purchase of property, goods, or services are required to file a Conflict of Interest Questionnaire with the District. A Conflict of Interest questionnaire and affidavit are included in this RFQ. The completed forms must be returned as part of your Response.

CERTIFICATION OF NO BOYCOTT OF ISRAEL. Pursuant to Texas Government Code, Chapter 2271, as amended, if A/E is a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations (specifically excluding sole proprietorships) that exists to make a profit which has ten (10) or more full-time employees and the value of the contract with Owner is \$100,000 or more, the A/E represents and warrants to the Owner that the A/E does not boycott Israel and will not boycott Israel during the term of any resulting contract. "Boycott" means refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

NO BOYCOTT OF ENERGY COMPANIES CERTIFICATION. Pursuant to Texas Government Code, Chapter 2274, if A/E is a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations (specifically excluding sole proprietorships) that exists to make a profit, which has ten (10) or more full-time employees and the value of the contract with District is \$100,000 or more, the A/E represents and warrants to the District that the A/E does not boycott energy companies and will not boycott energy companies during the term of any contract resulting from the solicitation. “Boycott energy companies” means, without an ordinary business purpose, refusing to deal with, terminating business activities with, or otherwise taking any action that is intended to penalize, inflict economic harm on or limit commercial relations with a company because the company engages in the exploration, production utilization, transportation, sale or manufacturing of fossil fuel-based energy and does not commit or pledge to meet environmental standards beyond applicable federal and state law.

NO DISCRIMINATION OF FIREARM ENTITY OR TRADE ASSOCIATION CERTIFICATION. Pursuant to Texas Government Code, Chapter 2274, if A/E is a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations (specifically excluding sole proprietorships) that exists to make a profit, which has ten (10) or more full-time employees and the value of the contract with District is \$100,000 or more, the A/E represents and warrants to the District that the A/E does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association and will not discriminate against a firearm entity or firearm trade association during the term of any contract resulting from the solicitation. A “firearm entity” means a firearm, firearm accessory, or ammunition manufacture, distribute, wholesaler, supplier or retailer, or a sport shooting range. A “firearm trade association” means any person, corporation, unincorporated association, federation, business league or business organization that is not organized or operated for profit for which none of its net earnings inures to the benefit of any private shareholder or an individual that has two or more firearm entities as members, or is exempt for federal income taxation under Section 501(c) of the Internal Revenue Code.

COMPANIES ENGAGED IN BUSINESS WITH IRAN, SUDAN, OR A FOREIGN TERRORIST ORGANIZATION. In accordance with Texas Government Code, Chapter 2252, Subchapter F, the District is prohibited from entering into a contract with a company that is identified on a list prepared and maintained by the Texas Comptroller or the State Pension Review Board under Texas Government Code Sections 806.051, 807.051, or 2252.153. By submitting a Response to this RFQ, A/E certifies to the District that it is not a listed company under any of those Texas Government Code provisions, and thereby voluntarily and knowingly acknowledges and agrees that any contract resulting from its Response shall be null and void should facts arise leading the District to believe that the A/E was a listed company at the time of this procurement.

A/E IS NOT AN ABORTION PROVIDER. A/E must verify in any subsequent contract that it is not an abortion provider or an affiliate of abortion providers.

CERTIFICATE OF INTERESTED PARTIES. Effective January 1, 2016, Texas

governmental entities must comply with the “Disclosure of Interested Parties” as implemented by the Texas Ethics Commission. Briefly stated, all contracts requiring an action or vote by the governing body of the entity or agency before the contract may be signed (regardless of the dollar amount) or has a value of at least \$1 million will require the on-line completion of Form 1295 “Certificate of Interested Parties,” per Texas Government Code § 2252.908. Form 1295 is also required for any and all contract amendments, extensions or renewals. Therefore, A/E will be required to create, electronically file, and present such Form 1295 to the District using the Texas Ethics Commission’s online filing application at final execution of any contract with the District.

PRESERVATION AND DISCLOSURE OF CONTRACT DOCUMENTS. Pursuant to Texas Government Code 552, Subchapter J, the selected A/E will be bound by the following terms if the resulting contract has a stated expenditure of at least \$1,000,000 for the purchase of goods or services by the District or if the resulting contract results in the expenditure of at least \$1,000,000 in public funds for the purchase of goods or services by the District in a fiscal year of the District. If the District receives a written request for public information related to the resulting contract that is in the possession or custody of the A/E and not in the possession or custody of the District, the District shall send, not later than the third business day after the date the District receives the written request, a written request to the A/E that A/E provide that information to the District.

The selected A/E must:

1. Preserve all contracting information related to any resulting Contract as provided by the records retention requirements applicable to the District for the duration of any resulting Contract;
2. Promptly, within four business days, provide to the District any requested contracting information that is in the custody or possession of the A/E upon request of the District; and,
3. On completion of any resulting Contract, either:
 - a. Provide to the District at no cost all contracting information related to the Contract that is in the custody or possession of the A/E; or
 - b. Preserve the contracting information related to the Contract as provided by the records retention requirements applicable to the District.
 - c. The requirements of Subchapter J, Chapter 552, Government Code, may apply to this Contract and the A/E agrees that the contract can be terminated if the A/E knowingly or intentionally fails to comply with the requirements of that subchapter.
 - d. Further, under Texas Government Code Section 552.372(c), the District may not accept a bid for or awarding of a contract to an entity that the District has determined has knowingly or intentionally failed in a previous bid or contract to comply with Subchapter J, unless the District determines and documents that the entity has taken adequate steps to ensure future compliance.
 - e. If a A/E fails to provide to the District the requested information, Texas Government Code Section 552.373 requires the District to notify the A/E in writing of the failure and allow 10 business days to cure the violation. District may terminate the Contract if A/E fails to remedy the failure, District determines the failure was knowing and intentional, and steps have not been taken to ensure future compliance.

WAIVER OF CLAIMS: BY TENDERING A RESPONSE TO THIS RFQ, THE A/E ACKNOWLEDGES THAT IT HAS READ AND FULLY UNDERSTANDS THE REQUIREMENTS FOR SUBMITTING A RESPONSE AND THE PROCESS USED BY THE DISTRICT FOR SELECTING THE MOST HIGHLY QUALIFIED A/E BASED ON DEMONSTRATED COMPETENCE. FURTHER, BY SUBMITTING A RESPONSE, THE A/E FULLY, VOLUNTARILY AND UNDERSTANDINGLY WAIVES AND RELEASES ANY AND ALL CLAIMS AGAINST THE DISTRICT AND ANY OF ITS TRUSTEES, OFFICERS, AGENTS AND/OR EMPLOYEES THAT COULD ARISE OUT OF THE ADMINISTRATION, EVALUATION, RECOMMENDATION OR SELECTION OF ANY RESPONSE SUBMITTED PURSUANT TO THE THIS RFQ.

SUBMISSION OF QUALIFICATIONS

Responses should be prepared simply and economically and must provide concise, complete answers to the information requested in the order and format noted. Failure to comply may result in the disqualification of a respondent from further consideration. The District will place emphasis upon clarity and completeness of the response, as opposed to the artistic appearance of the submission.

Please ensure that the following elements are a part of your final response:

- I. A/E Firm's Introductory Letter of Interest** – The letter should include a statement, in narrative form, that includes the following:
 - A. A description of why you believe your firm is aptly suited to perform the particular professional services for Anton ISD;
 - B. A description of any special qualities/attributes you or your firm possesses that would provide superior performance on the assignment, and
 - C. A description of specific instances where other school districts have benefited as a result of your association with their program.

- II. Firm's Qualification Statement** – Attach a completed AIA Document B305 Qualification Statement. In the event that the submitting firm has multiple offices, submit one (1) B305 for the office nearest Anton, TX, and a separate B305 providing the information for the collective company. Where articles on the B305 would be duplicated on supplemental requested information, say so on the form. Do not leave any spaces completely blank.

- III. Additional Information Required** – To the extent not addressed in the B305, explain your firm's qualifications, including general information and brief history of the firm, including a chronology of the firm's origin through its current status and any changes in ownership, locale or address since its inception. Describe your firm's ability and commitment to provide workers' compensation insurance at statutory limits and errors and omissions/professional liability insurance, which must be in limits of not less than \$1 million per occurrence, effective at least two (2) years after date of substantial completion of the project. The District reserves the right to require increased coverage, as needed, depending on the scope of a particular

project. If your firm has been involved in any litigation arising out of the professional architect services it provides, list the full style of the case, describe the nature of the claims(s) asserted and the current stage of litigation or disposition of the suit. Describe the make-up of your team and individual team members, and their ability to address the issues associated with new construction and renovation. Describe the methods and processes that your firm uses to estimate and control cost-to-budget during design. Describe your firm's construction observation procedures to include type, frequency and duration. Describe the areas you would utilize consulting services of other firms, which firms you would consider including on your team, your history with these firms and individuals, and why they are best suited for working with you and Anton ISD.

- IV. Related Work Experience** – Provide a list of at least five (5) recent K-12 projects for which your firm has provided full architectural/engineering services, including pre-bond election services. Indicate the level of school, type and magnitude of work, completion date, and the name of the district or entity. Providing this information constitutes the respondent's invitation to the District to contact the persons listed.

The list shall include, in this order, one project per letter-sized page that contains the following information:

Name of School District
Mailing Address
Telephone Number
Owner Contact
Contact Telephone Number
Name of School/Campus
Name of Project
Description of Project
Size in Square Footage of Project
Date of Construction Contract
Date of Substantial Completion
Dollar Value of Construction at Date of Contract
Dollar Value of Construction at Completion of Contract
Partner in Charge
Project Architect/Manager
General Contractor
General Contractor Contact
Contact Telephone Number

- V. Supplemental Information** – The District at its sole discretion may elect to consider or disregard any supplemental information that is submitted in evaluating responses. It is unnecessary to provide supplemental information during this initial phase of this process. However, District reserves the ability to request supplemental information during its evaluation. If the A/E so chooses, additional information may be provided in the response in the form of promotional brochures or similar material. Physical size of the submission shall be limited to 8-1/2 x 11 and may not exceed 100 pages.

**GENERAL STIPULATIONS AND CONDITIONS
OF RESPONSES TO RFQ FOR PROFESSIONAL SERVICES**

I. INVITATION TO SUBMIT STATEMENT OF QUALIFICATIONS:

- A. Anton Independent School District invites all interested and qualified A/E firms to submit responses in accordance with this RFQ.
- B. For the purpose and clarity of this document only, the term “District” will herein mean the Anton Independent School District and/or the Board of Trustees of Anton ISD, Anton, Texas. As used herein, the term “A/E” means any properly credentialed person, entity, broker, vendor, and/or firm who wants to submit a response to this RFQ. The term “response” refers to all responses or qualifications submitted hereunder.
- C. The District will receive sealed responses until the Response Deadline. Responses must be mailed to the Anton ISD Superintendent’s Office at 100 Ellwood Blvd., Anton, Texas 79313, or hand delivered to 100 Ellwood Blvd., Anton, TX 79313.

II. RESPONSE PREPARATION AND OPENING:

- A. An authorized representative of the A/E firm must sign the response. It is the intent of this RFQ that should a given response be accepted, it will automatically become a part of a binding contract, if A/E is selected and a contract is approved by the Board.
- B. Following the Response Deadline, the Superintendent, or designee, shall open and record all responses received. Sufficient time will be allotted to analyze all responses received and the final recommendation of the administration shall be prepared for review and consideration by the District’s Board of Trustees. The District will follow the review process described in the RFQ.

III. COLLUSION:

All A/Es shall sign the appropriate certification as provided on the signature sheet. The District may reject any response that does not include the required certification.

IV. ERRORS IN RESPONSES:

A/E firms and their authorized representatives shall fully inform themselves as to the conditions and requirements before submitting a response. Failure to do so will be at the A/E firm’s risk.

V. QUALITY OF PROFESSIONAL SERVICE:

Anton ISD expects that each A/E will perform all contracted services in a good, thorough and professional manner consistent with the applicable standard of care for architectural firms practicing in and around Anton, Texas.

VI. CONTINUATION OF SERVICES:

Subsequent to the execution of a service contract with Anton ISD, if there is a change in the makeup of the provider's ownership and/or the person(s) substantially performing and providing services to the District, the District reserves the option to continue the service contract with the new provider ownership or with the person(s) who substantially performed and provided services to the District. In such case, the service contract will be modified accordingly. Other provisions herein on assignment or subcontracting remain effective to the extent they do not conflict with this Continuation of Services provision.

VII. ASSIGNMENT:

No right or interest or obligation in the contract shall be assigned or delegated without the written permission of Anton ISD. Any attempted assignment or delegation by A/E shall be wholly void and totally ineffective.

VIII. AUTHORIZED SIGNATURE FOR RESPONSE:

Each response must show the full business address and telephone number of the A/E firm and be signed by the person or persons legally authorized to sign contracts. All correspondence concerning the response and contract, including Notice of Selection, will be emailed, mailed or delivered to the address shown on the response in the absence of written instructions from the A/E to the contrary. The A/E is responsible for notifying Anton ISD in writing of any change of address or change to the contact person.

IX. DISPUTE RESOLUTION:

Any disputes arising out of the selection of an A/E or subsequent contract shall be resolved informally, where possible, through conference with the District official responsible for the professional service area in question. Any dispute that cannot be promptly resolved through informal conference shall be presented to the District in writing pursuant to Board Policy GF (LOCAL)—Public Complaints. The timelines set out in that policy shall be followed. A copy of the policy is available on the District's website or from the Superintendent.

X. GOVERNING LAW & VENUE:

Any contract resulting from this RFQ and all matters related thereto shall be construed according to the laws of the State of Texas. Mandatory venue for any dispute between the parties shall lie in State District Court for Hockley County, Texas.

SIGNATURE SHEET

My/our signature below confirms that I/we:

1. Propose to provide professional services to the Anton Independent School District, as described in the accompanying response to RFQ;
2. Certify that this response is submitted without any previous understanding, agreement, or connection with any person, firm, or corporation responding to the same RFQ for services and is in all respects fair and without collusion or fraud; and
3. Certify that this firm is an equal opportunity employer and that all employment decisions are made without regard to the color, race, sex, national origin, religion, age, or disability status of otherwise qualified individuals.

COMPANY NAME: _____

SIGNATURE: _____

By: _____
(Print Name)

Title: _____

DATE SIGNED: _____

ADDRESS: _____

TELEPHONE: _____

FAX: _____

EMAIL: _____

TERMS: _____

RETURN TO: Anton Independent School District
Attn: Freddie Tobias, Superintendent
Re: RFQ # 2024-01, 2025 Bond Program
Mailing Address: 100 Ellwood Blvd., Anton, TX 79313

Return completed sheet with Response

CONFLICT OF INTEREST QUESTIONNAIRE
For vendor doing business with local governmental entity

FORM CIQ

This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.
 This questionnaire is being filed in accordance with Chapter 176, Local Government Code, by a vendor who has a business relationship as defined by Section 176.001(1-a) with a local governmental entity and the vendor meets requirements under Section 176.006(a).
 By law this questionnaire must be filed with the records administrator of the local governmental entity not later than the 7th business day after the date the vendor becomes aware of facts that require the statement to be filed. See Section 176.006(a-1), Local Government Code.
 A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.

OFFICE USE ONLY	
Date Received	

1 Name of vendor who has a business relationship with local governmental entity.

2 **Check this box if you are filing an update to a previously filed questionnaire.** (The law requires that you file an updated completed questionnaire with the appropriate filing authority not later than the 7th business day after the date on which you became aware that the originally filed questionnaire was incomplete or inaccurate.)

3 Name of local government officer about whom the information is being disclosed.

Name of Officer

4 Describe each employment or other business relationship with the local government officer, or a family member of the officer, as described by Section 176.003(a)(2)(A). Also describe any family relationship with the local government officer. Complete subparts A and B for each employment or business relationship described. Attach additional pages to this Form CIQ as necessary.

A. Is the local government officer or a family member of the officer receiving or likely to receive taxable income, other than investment income, from the vendor?

Yes No

B. Is the vendor receiving or likely to receive taxable income, other than investment income, from or at the direction of the local government officer or a family member of the officer AND the taxable income is not received from the local governmental entity?

Yes No

5 Describe each employment or business relationship that the vendor named in Section 1 maintains with a corporation or other business entity with respect to which the local government officer serves as an officer or director, or holds an ownership interest of one percent or more.

6 Check this box if the vendor has given the local government officer or a family member of the officer one or more gifts as described in Section 176.003(a)(2)(B), excluding gifts described in Section 176.003(a-1).

7

 Signature of vendor doing business with the governmental entity

 Date

EXHIBIT A

*See attached SAMPLE B101-2017, Standard Form of Agreement
between Owner and Architect, as amended by the District*

DRAFT AIA® Document B101® – 2017

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the « » day of « » in the year «two thousand twenty-four»
(In words, indicate day, month and year.)

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

«Anton Independent School District » («"Owner" or "District" »)
«100 Ellwood Blvd. »
«Anton, Texas 79313 »
«Telephone: (806) 997-2301 »

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

« »
« »
« »
« »

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

«2025 Potential Bond Program, including without limitation: »
«Updating restrooms in the school, new playground, putting A/C in gym, resurfacing
tennis courts and track, turf on football field, and new football stands »

The Owner and Architect agree as follows.



ADDITIONS AND DELETIONS: The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed.

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



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TABLE OF ARTICLES

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

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.
(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project:
(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)
«To be determined »

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

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1:
(Provide total and, if known, a line item breakdown.)
«To be determined »

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

- .1 Design phase milestone dates, if any:
«To be mutually determined between Owner and Architect »
- .2 Construction commencement date:
«To be mutually determined between Owner and Architect »
- .3 Substantial Completion date or dates:
«To be mutually determined between Owner and Architect »

.4 Other milestone dates:
«To be mutually determined between Owner and Architect »

§ 1.1.5 The Owner intends the following procurement and delivery method for the Project:
(Identify method such as competitive bid or negotiated contract, as well as any requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction.)

«To be determined. »

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

« »

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

§ 1.1.7 The Owner identifies the following representative in accordance with Section 5.3:
(List name, address, and other contact information.)

«Freddie Tobias, Superintendent »
«Anton Independent School District »
«100 Ellwood Blvd. »
«Anton, Texas 79313 »
«Telephone: (806) 997-2301 »
«Email: freddietobias@antonid.org »

§ 1.1.8 The persons or entities, in addition to the Owner's representative, who are required to review the Architect's submittals to the Owner are as follows:
(List name, address, and other contact information.)

« »

§ 1.1.9 The Owner shall retain the following consultants and contractors:
(List name, legal status, address, and other contact information.)

- .1
- .2
- .3 Other, if any:
(List any other consultants and contractors retained by the Owner.)
« »

§1.1.10 The Architect identifies the following representative, who shall be a registered professional architect licensed to practice in the State of Texas, as required by Texas Occupation Code Chapter 1051, in accordance with Section 2.3:
(List name, address, and other contact information.)

§ 1.1.11 The Architect shall retain the consultants identified in Sections 1.1.11.1 and 1.1.11.2:
(List name, legal status, address, and other contact information.)

§ 1.1.11.1 Consultants retained under Basic Services:

- .1 Structural Engineer:
« »

- « »
- .2 Mechanical Engineer:
« »« »
« »
- .3 Electrical Engineer:
« »« »
« »
- .4 Geotechnical Engineer:
« »« »
« »
- .5 Civil Engineer:
« »« »
« »

Consultants not governed by Texas Occupations Code Chapter 1001 shall be licensed or registered as required by applicable law.

§ 1.1.11.2 Consultants retained under Supplemental Services:
« »

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

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

§ 1.3 The parties may, if applicable, agree upon protocols, in writing, governing the transmission and use of Construction Documents or any other information or documentation in digital form. The parties will use AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, as may be amended by the parties, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.3.1 [this Section is deleted]

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide professional services as set forth in this Agreement. The Architect shall also comply with 19 T.A.C. §61.1040, pertaining to services and actions required of the Architect. Architect, prior to signing this Agreement and submitting it to the Owner, shall comply with the provisions of Texas Government Code Section 2252.908, requiring a Disclosure of Interested Parties filed with the Texas Ethics Commission. Architect certifies that Architect is a registered professional architect or engineer licensed to practice in the State of Texas. Pursuant to the Texas Occupations Code, any civil, structural, mechanical, or electrical plans, specifications, or opinions of probable cost for construction must be prepared by a registered professional engineer or a registered architect, whichever is appropriate, and who is licensed to practice in the State of Texas. Architect agrees to notify Owner should Architect's registration status change. Architect certifies that Architect and Architect's employees and agents are eligible to work under federal, state and local immigration laws and regulations.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances and as expeditiously as is prudent considering the ordinary professional skill and care of a competent architect, as set out in Texas Local Government Code §271.904(d) and Texas Civil Practices and Remedies Code Section 130.0021, hereinafter referred

to as the "Standard of Care." The Architect shall further, and to the extent required 19 T.A.C. §61.1040, provide all certifications required by Section 61.1040(f), and otherwise perform the services and obligations required of it by applicable laws, codes, and ordinances in accordance with the Standard of Care. Owner's approval, acceptance, use of, or payment for all or any of Architect's services shall in no way alter Architect's obligations or Owner's rights hereunder.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project. The identified Architect shall be the prime design professional for the Project.

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

§ 2.5 Prior to performing Architect's services under this Agreement, Architect shall procure, maintain and provide insurance certificates, policies and endorsements, in at least the following amounts, to protect Architect and Owner from claims arising out of the performance of the Architect's services under this Agreement and caused by any error, omission, negligent act or omission, or design defect by Architect, such insurance to be in a form approved by the Owner, with an effective date prior to the beginning date of design. Such insurance shall be written on an occurrence basis, if available, and on a claims-made basis, if occurrence basis insurance is not available. Architect shall maintain its insurance in full force and effect and uninterrupted during the term of this Agreement and after the completion of services under this Agreement until the completion of any applicable statute of limitations, such period to be not less than one year from Final Completion of all construction of this Project as to workers compensation, two years from the Final Completion of all construction of this Project as to commercial general liability, and comprehensive automobile liability, and not less than eight years from the Substantial Completion of all construction of this Project (or ten years, as allowed by Texas Civil Practice and Remedies Code §16.008), as to errors and omissions insurance. Architect shall furnish to Owner insurance certificates, policies and endorsements upon request at any time. Architect shall name Owner as an additional insured under Architect's policies for commercial general liability and comprehensive automobile liability. All insurance required herein shall be obtained from a company licensed to do business in the State of Texas by the Texas Department of Insurance, and shall be underwritten by a company rated not less than A-X in A.M. Best's Key Rating Guide, Property-Casualty, according to the latest posted ratings available on A.M. Best's website, www.ambest.com, and that permits waivers of subrogation. Deductibles or self-insured retention limits for all policies (except Architect's Errors or Omissions insurance) shall not exceed \$25,000 for a project budgeted at \$4 million or less, or \$50,000 for a project budgeted at more than \$4 million. The policies shall include a waiver of subrogation in favor of the Owner. Any deviation from these requirements can only be approved by Owner's Board of Trustees. Any nonconformity may be grounds for termination or modification of the Contract. To the extent that Architect is unable to procure the insurance designated herein because the insurance is not reasonably available or is cost-prohibitive, then Architect shall provide written notice to Owner's Board of Trustees. Said lack of insurance may then be grounds for termination or modification of this Agreement. Such policies shall be primary and non-contributory. The limits of liability for such insurance shall be in at least the following amounts:

§ 2.5.1 Commercial General Liability with policy limits of not less than ~~«one million»~~ (\$ ~~«1,000,000»~~) for each occurrence and ~~«two million»~~ (\$ ~~«2,000,000»~~) in the aggregate for bodily injury and property damage.

- .1 Medical Expense (per person) \$10,000 each occurrence
- .2 Products & Completed Operations: amount not less than 10% of total cost of work
(to be maintained for a period of two years after Final Payment; Contractor shall continue to provide evidence of such coverage to Owner on an annual basis during this period and Owner shall be named by endorsement as an Additional Insured for such coverage)
- .3 Personal & Advertising Injury \$1,000,000 aggregate
- .4 Must include explosion, collapse, and underground (X, C, and U) coverage.
- .5 Must include Completed Operations coverage.
- .6 Must Include Contractual Liability Coverage.
- .7 Must Include General Aggregate Per Project Endorsement

§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than ~~one million~~ (\$ ~~1,000,000~~) combined single limit. Business Automobile Liability (including owned, non-owned, hired, or any other vehicles): (Note: Texas statutory minimum for school district is \$100,000 per person, \$300,000 per occurrence, \$100,000 property damage)

- | | |
|---------------------------------|-----------|
| .1 Bodily Injury (per person) | \$250,000 |
| .2 Bodily Injury (per accident) | \$500,000 |
| .3 Property Damage | \$250,000 |

§ 2.5.3 Contractual Liability:

- .1 Property Damage shall be included in Commercial General Liability Coverage.
- .2 Insurance sufficient to cover Contractor's contractual indemnities.

§ 2.5.4 Professional Liability (E&O) Coverage at least \$2,000,000 per occurrence/\$4,000,000 aggregate. Deductibles or self-insured retention amounts shall not exceed \$25,000 for a project budgeted at \$4,000,000 or less, or \$50,000 for a project budgeted at more than \$4 million.

§ 2.5.4.1 Architectural and engineering consultants shall carry E&O Coverage in an amount not less than one million (\$1,000,000).

§ 2.5.5 Umbrella Excess Liability coverages shall be:

- .1 \$2,000,000 each occurrence
- .2 \$2,000,000 aggregate
- .3 \$4,000,000 Aggregate Per Project Endorsement

§ 2.5.6 REQUIRED WORKERS' COMPENSATION COVERAGES, 28 TAC 110.110(C)(7), ADOPTED TO IMPLEMENT TEXAS LABOR CODE 406.096

§ 2.5.6.1 Because Architect will be performing services on site, Architect shall provide worker's compensation coverage as to Architect's services, consistent with the coverage language required by statute, as follows:

A copy of a certificate of insurance, a certificate of authority to self-insure issued by the Texas Department of Insurance (TDI), or a coverage agreement (DWC-81, DWC-82, DWC-83, or DWC-84), showing statutory workers' compensation insurance coverage for the person's or entity's employees providing services on a project is required for the duration of the Project.

Duration of the Project includes the time from the beginning of the work on the Project until the Contractor's/person's work on the Project has been completed and accepted by the governmental entity.

Persons providing services on the Project ("subcontractor" in Texas Labor Code 406.096) include all persons or entities performing all or part of the services the Contractor has undertaken to perform on the Project, regardless of whether that person contracted directly with the Contractor and regardless of whether that person has employees. This includes, without limitation, independent Contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity that furnishes persons to provide services on the Project.

Services include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other services related to a Project. Services do not include activities unrelated to the Project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.

The Contractor shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code 401.011(44) for all employees of the Contractor providing services on the Project for the duration of the Project.

The Contractor must provide a certificate of coverage to the governmental entity prior to being awarded the contract.

If the coverage period shown on the Contractor's current certificate of coverage ends during the duration of the Project, the Contractor must, prior to the end of the coverage period, file a new certificate of coverage with the governmental entity showing that coverage has been extended.

The Contractor shall obtain from each person providing services on a Project, and provide to the governmental entity:

- .1 A certificate of coverage, prior to that person beginning work on the Project, so the governmental entity will have on file certificates of coverage showing coverage for all persons providing services on the Project; and
- .2 No later than seven days after receipt by the Contractor, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the Project.

The Contractor shall retain all required certificates of coverage for the duration of the Project and for one year thereafter.

The Contractor shall notify the governmental entity in writing by certified mail or personal delivery, within ten days after the Contractor knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the Project.

The Contractor shall post on each Project site a notice, in the text, form, and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the Project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.

The Contractor shall contractually require each person with whom it contracts to provide services on a Project, to:

- .1 Provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code 401.011(44) for all of its employees providing services on the Project for the duration of the Project;
- .2 Provide to the Contractor, prior to that person beginning work on the Project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the Project for the duration of the Project;
- .3 Provide the Contractor, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the Project.
- .4 Obtain from each other person with whom it contracts, and provide to the Contractor:
 - a. A certificate of coverage, prior to the other person beginning work on the Project; and
 - b. A new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the Project;
- .5 Retain all required certificates of coverage on file for the duration of the Project and for one year thereafter;
- .6 Identify the governmental entity in writing by certified mail or personal delivery, within ten days after the person knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the Project; and
- .7 Contractually require each person with whom it contracts to perform as required by items 1-6, with the certificates of coverage to be provided to the person for whom they are providing services.

By signing this contract or providing or causing to be provided a certificate of coverage, the Contractor is representing to the governmental entity that all employees of the Contractor who will provide services on the Project will be covered by workers' compensation coverage for the duration of the Project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the commission's Division of Self-Insurance Regulation. Providing false or misleading information may subject the Contractor to administrative penalties, criminal penalties, civil penalties, or other civil actions.

The Contractor's failure to comply with any of these provisions is a breach of contract by the Contractor that entitles the governmental entity to declare the contract void if the Contractor does not remedy the breach within ten days after receipt of notice of breach from the governmental entity.

The coverage requirement recited above does not apply to sole proprietors, partners, and corporate officers who are excluded from coverage in an insurance policy or certificate of authority to self-insure that is delivered, issued for delivery, or renewed on or after January 1, 1996. 28 TAC 110.110(i)

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

§ 2.5.8 In the event that any of the "claims made" insurance policies provided by the Architect pursuant to this Agreement are cancelled or not renewed, at any time, the Architect shall substitute insurance policy(ies), with terms and conditions and in amounts which comply with Section 2.5 of this Agreement and which provide for retroactive coverage to the date of such cancellation or nonrenewal to fill any gaps in coverage which may exist due to the cancellation or nonrenewal of the prior "claims made" policy(ies). With respect to all "claims made" policies which are renewed, the Architect shall provide coverage retroactive to the date of commencement of work under this Agreement.

§ 2.5.9 If Architect discovers that any reduction in insurance coverage as called for under this Agreement, will occur or has occurred, Architect shall immediately notify the Owner in writing.

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in Article 3 and Article 4 and in addition to the usual and customary structural, mechanical, and electrical engineering services, also include civil engineering, engineering surveying and geotechnical engineering services. Architect shall provide all plans and specifications for all site development necessary for the Project, which shall include locating any building on-site, and developing all plans and specifications for site drainage, parking, landscaping, walkways, irrigation, playgrounds, staging areas, and portable buildings and accompanying infrastructure, when appropriate. Architect certifies that Architect is a registered professional architect or engineer licensed to practice in the State of Texas. Pursuant to the Texas Occupations Code, any civil, structural, mechanical, or electrical plans, specifications, or opinions of probable cost for construction must be prepared by a registered professional engineer or a registered architect, whichever is appropriate, and who is licensed to practice in the State of Texas. Architect agrees to notify Owner should Architect's registration status change. Architect certifies that Architect and Architect's employees and agents are eligible to work under federal, state and local immigration laws and regulations.

§ 3.1.1 The Architect shall perform and manage the Architect's services, and: (i) administer the Project, in accordance with this Agreement as amended for this Project, and with the AIA Document A201-2017, General Conditions of the Contract for Construction, as amended for this Project; (ii) consult with the Owner; (iii) research applicable design criteria; (iv) attend Project meetings; (v) communicate with members of the Project team; and (vi) report progress to the Owner through the issuance of progress reports to Owner and Contractor, as more specifically defined hereafter. The Architect shall not be relieved of any obligation to perform in accordance with the Standard of Care applicable to

licensed architects in the State of Texas under the same or similar circumstances, regardless of whether or not a specific responsibility or task is included or identified in this Agreement.

§ 3.1.1.1 Upon request of the Owner's representative, the Architect shall make presentations to Owner's representatives to review the design of the Project. In addition, upon request of the Owner's representative, the Architect shall make presentations to Owner's Board of Trustees.

§ 3.1.1.2 The Architect shall submit design documents to the Owner at intervals appropriate to the design process as designated in this Agreement, as amended, for purposes of evaluation and approval by the Owner's Board of Trustees, as specified herein. The Architect shall be entitled to rely on approvals received from the Owner's Board of Trustees in the further development of the design, provided that nothing herein shall relieve Architect of responsibility or liability for its failure to provide its services in accordance with the Standard of Care.

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

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services including the dates of Architect's design services and the completion of documentation required of the Architect. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion and Final Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's and Contractor's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. The schedule shall also include commencement of construction, timed sufficiently to achieve Owner's proposed dates of Substantial Completion and Final Completion as stated in this Agreement, as amended, and within Owner's budget. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect. With the Owner's prior written approval for reasonable cause, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction. If Contractor is a Construction Manager-at-Risk, then the Architect shall assist the Construction Manager-at-Risk in the preparation and periodic update of the Project schedule.

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work, made or given without the Architect's written approval. The Architect shall review, and be responsible for compliance with, laws, codes, and regulations applicable to the Architect's services, including, without limitation, school facility standards found in 19 T.A.C. §61.1040 and Texas Health and Safety Code Chapter 341, in accordance with the Standard of Care. The Architect shall respond in the design of the Project to requirements imposed by governmental authorities having jurisdiction over the Project. The Architect shall comply with all policies, regulations and rules of the Owner, including, but not limited to, those related to employee conduct (such as prohibitions against alcohol, weapons, drugs, fraternization, harassment, and tobacco on school property), and fraud and financial impropriety. Architect shall certify that it has reviewed the standards contained in 19 T.A.C. §61.1040 and used reasonable care in accordance with the Standard of Care. Architect shall also certify that the Construction Documents are in reasonable accordance with the provisions of 19 T.A.C. §61.1040, except as indicated on the certification. Architect shall perform a building code search under applicable regulations that may influence the Project and shall certify that the design has been researched before it is final, as required by 19 T.A.C. §61.1040. Architect shall also certify that the facilities have been designed according to the provisions of 19 T.A.C. §61.1040, based on the educational program, long-range school facility plan, educational specifications, building code specifications, and all documented changes to the Construction Documents provided by the District. Architect shall complete the Texas Education Agency's Certification of Project Compliance located at www.tea.state.gov. In executing the certifications required under the provisions of this Section, Architect shall exercise his/her reasonable professional judgment and care consistent with the Standard of Care. Architect shall design the Project in such a manner that the Project or each part of the Project is readily accessible to and usable by individuals with disabilities, in

compliance with the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, federal regulations interpreting the Americans with Disabilities Act and Section 504, Texas Government Code Chapter 469, the Texas Accessibility Standards, all applicable requirements or standards of the Texas Department of Licensing and Regulation, and all applicable requirements or standards of the American National Standards Institute. Should an irreconcilable conflict exist between the published accessibility requirements of the Americans with Disabilities Act, the Texas Accessibility Standards, and the American National Standards Institute accessibility guidelines, the Architect shall follow the requirements set forth in the Texas Accessibility Standards, unless directed otherwise in writing by the Owner. It shall be the responsibility of Architect to address revisions or amendments to applicable codes or standards which become effective prior to the date of Substantial Completion. Revisions or amendments to applicable codes or standards which become effective after the date of Substantial Completion shall be addressed by the Architect and shall be compensated as an Additional Service pursuant to Section 3.1.

§ 3.1.5 The Architect shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities.

§ 3.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project. When the services under this Agreement include contract administration services, the General Conditions of the Contract for Construction shall be the edition of the AIA Document A201-2017, as amended for this Project as of the date of this Agreement, and Architect herein agrees to abide by same. Architect agrees that the AIA Document A201-2017 may be subject to subsequent amendments based upon negotiations between Owner, Architect and Contractor. As a condition of further service, Architect shall provide to Owner a signed statement stating Architect's agreement to adhere to any such negotiated amendments.

§ 3.2 Schematic Design Phase Services

§ 3.2.1 The Architect shall assist the Owner with the provision of the educational program and educational specifications, which shall be approved by Owner's Board of Trustees per 19 T.A.C. §61.1040. The Architect shall review the program and specifications furnished by Owner to ascertain the specific requirements of the Project and shall arrive at a mutual written understanding of such requirements with Owner. Architect shall include all components of Owner's program in the Project, unless specific written agreement to delete a component is received from Owner.

§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, the proposed procurement and delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project, and to ascertain that they are consistent with the requirements of the Project. The Architect shall notify the Owner, in writing, of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project. The Architect shall visit the Owner's Project site and shall provide to Owner a written report evaluating the feasibility of the Owner's site for the Project based on site conditions, and the Owner's program, schedule and budget for the Cost of the Work. The Architect shall include, in the written report, an identification and evaluation of the location, availability, adequacy, capacity, and sufficiency of all utilities necessary to serve the completed Project. The Architect shall address with the Owner any existing easements or rights-of-way which may interfere with Owner's Project. As soon as practicable after execution of this Agreement and, if possible, before Owner's Board of Trustees designates a method of construction contract procurement, the Architect shall review the Owner's proposed method of contracting for construction services and shall notify the Owner in writing of anticipated impacts that such method may have on the Owner's program, financial and time requirements, and the scope of the Project.

§ 3.2.3 The Architect shall present its written preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project. The Architect shall reach a written understanding with the Owner regarding the requirements of the Project.

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

§ 3.2.5 Based on the Owner's approval of the preliminary design and Owner's schedule and budget for the Work, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall establish the conceptual design of the Project and illustrate the scale and relationship of the Project components. 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 representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

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

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

§ 3.2.6 When the Project requirements have been sufficiently identified, including Owner's budgetary constraints, programmatic needs, and expectations as to quality, functionality of systems, maintenance costs, and usable life of equipment and facilities, the Architect, and, if applicable, the Construction Manager at Risk, shall submit to Owner a preliminary estimate of the Cost of the Work prepared in accordance with Section 6.3. This estimate may be based on current area, volume or similar conceptual estimating techniques.

§ 3.2.7 The Architect shall submit the Schematic Design Documents to the Owner and request the Owner's approval. Architect shall not proceed to the Design Development Document Phase without the approval of Owner's Board of Trustees, or the Board's designee; provided, however, this approval shall not relieve Architect of Architect's responsibility and liability to provide documents which are sufficient for Owner to complete the construction of the Project and are free from material defects or omissions. Architect shall bear full responsibility for, and all resulting excess costs incurred by Architect in, proceeding without required Owner approval.

§ 3.3 Design Development Phase Services

§ 3.3.1 Based on the approved Schematic Design Documents, and any adjustments authorized in writing by the Owner in the program, schedule or construction budget, the Architect shall prepare, for approval by Owner, Design Development Documents consisting of drawings and other documents to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, mechanical and such other elements as may be appropriate. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents, shall refine the Project design, and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other elements outlined in this Agreement. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels.

§ 3.3.2 The Architect shall update the estimate of the Cost of the Work. As the design process progresses through the end of the preparation of the Construction Documents, the Architect, and if applicable, the Construction Manager at Risk, shall prepare a preliminary estimate of the Cost of the Work. The Architect shall advise the Owner of any adjustments to previous estimates of the Cost of the Work indicated by changes in Project requirements or general market conditions. The Architect shall cooperate with the Owner, and if applicable, the Construction Manager at Risk, in developing and designing the Project to satisfy Owner's budgetary constraints, programmatic needs and expectations as to quality, functionality of systems, maintenance costs, and usable life of the equipment and facilities. If the Architect's estimate of the Cost of the Work exceeds the Owner's budget, then the Architect shall redesign elements to achieve cost savings within the Scope of the Work, but in doing so, shall not delete any essential element of the Project. Architect shall present the redesign to Owner for Owner's approval as provided in §3.3.3, and, in doing so, shall notify Owner in writing of the actions taken to bring the Project into Owner's budget. If Architect is unable to redesign the Project to meet Owner's budgetary, programmatic and quality needs, then the Architect shall make appropriate written recommendations to the Owner to adjust the Project's size, quality or budget, and the Owner shall

cooperate with the Architect in making such adjustments, with Owner having the right to approve or reject such recommendations.

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

§ 3.4 Construction Documents Phase Services

§ 3.4.1 Based on the approved Design Development Documents, and any further adjustments in the scope or quality of the Project or in the construction budget authorized in writing by the Owner, the Architect shall prepare, for approval by the Owner, Construction Documents. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. "Construction Documents" means: all Drawings, specifications, submittals, transmittals, deliverables, instructions to Contractor, and other documents, including those in electronic form, prepared by the Architect and the Architect's consultants which shall set forth in detail the requirements for construction of the Project. The Construction Documents shall reflect all agreements between Owner and Architect concerning Owner's budgetary constraints, programmatic needs and expectations as to quality, functionality of systems, maintenance costs, and usable life of equipment and facilities. Said Construction Documents shall reflect the Owner's educational program and educational specifications, the State educational adequacy standards in 19 T.A.C. §61.1040 and the standards set forth in Section 3.1.4 of this Agreement. The Architect shall provide Construction Documents which are sufficient for Owner to complete construction of the Project, are free from material defects or omissions, and comply with all applicable laws, ordinances, codes, rules, and regulations, as of the date of issuance of Construction Documents. The Owner and Architect acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4. Owner and Owner's authorized representatives shall be given the opportunity to review all Construction Documents prior to release of the Construction Documents for bidding, proposal or negotiation purposes. Architect's bid specifications and any subsequent contract shall not deny or diminish the right of a person to work because of the person's membership or other relationship status with respect to any organization. Texas Government Code Section 2269.054. Architect shall also add the following language in any document issued to solicit bids or competitive sealed proposals on the Project:

BY SUBMITTING A BID OR PROPOSAL, EACH BIDDER OR PROPOSER AGREES TO WAIVE ANY CLAIMS IT HAS OR MAY HAVE AGAINST THE OWNER, THE ARCHITECT, AND THEIR RESPECTIVE OFFICERS, TRUSTEES, EMPLOYEES, AGENTS, OR REPRESENTATIVES, ARISING OUT OF OR IN CONNECTION WITH THE ADMINISTRATION, EVALUATION, RECOMMENDATION, OR SELECTION OF ANY BID OR PROPOSAL; WAIVER OF ANY REQUIREMENTS UNDER THE BID OR PROPOSAL DOCUMENTS OR CONTRACT DOCUMENTS; ACCEPTANCE OR REJECTION OF ANY BID OR PROPOSAL; AND AWARD OF THE CONTRACT.

§ 3.4.1.1 Errors and Omissions

§ 3.4.1.1.1 Completed plans and specifications are expected to be comprehensive and free of material errors and omissions, except minor discrepancies or other items that can be corrected by minor change at no cost to the Owner, in accordance with the Standard of Care.

§ 3.4.1.1.2 Procedures and meetings in schematic and design development phases allow for adequate interaction between Owner and Architect to minimize oversights in Project requirements. It is incumbent upon the Architect to thoroughly review his work product, in accordance with the Standard of Care, to detect errors and omissions before they become costly additions to the Project during construction.

§ 3.4.1.1.3 Professional services and costs, if any as required to correct errors in construction documents, are the responsibility of the Architect, including addenda during bidding to rectify errors in the contract documents.

§ 3.4.1.1.4 Deductive change orders may be applied to offset the change order cost applicable to the Architect only to the extent that such deductive change order resulted from an oversight in the Contract Documents that was not required by the Building Program or requested by the Owner. All other deductive change orders due to Owner scope modifications or other value engineering items and unused Allowances shall not apply to this offset provision.

§ 3.4.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents and 19 T.A.C. §61.1031, and Texas Health and Safety Code Section 341.065. Architect shall certify that he/she has reviewed the standards contained in 19 T.A.C. §§61.1031 and .1040 and performed its services in accordance with the Standard of Care in executing the construction documents and 19 T.A.C. §61.1031.

Architect shall also certify that the facilities have been designed according to the provisions of 19 T.A.C. §§61.1031 and .1040, based on the educational program, long-range school facility plan, educational specifications, building code specifications, and all documented changes to the Construction Documents provided by the District, as required by 19 T.A.C. §§61.1031 and .1040. Architect shall complete the Texas Education Agency's (TEA's) Certification of Project Compliance, available on the TEA website. In executing the certifications required under the provisions of this Section, Architect shall exercise his/her reasonable professional judgment and care consistent with the Standard of Care. Architect shall design the Project in such a manner that the Project or each part of the Project is readily accessible to and usable by individuals with disabilities, in compliance with the Americans with Disabilities Act and Section 504 of the Rehabilitation Act, federal regulations interpreting the Americans with Disabilities Act and Section 504, the Pump Act (29 USC Section 218(c)), Texas Government Code Chapter 469, the Texas Accessibility Standards, all applicable requirements or standards of the Texas Department of Licensing and Regulation, and all applicable requirements or standards of the American National Standards Institute. Should an irreconcilable conflict exist between the published accessibility requirements of the Americans with Disabilities Act, the Texas Accessibility Standards, and the American National Standards Institute accessibility guidelines, the Architect shall follow the requirements set forth in the Texas Accessibility Standards, unless directed otherwise in writing by the Owner. It shall be the responsibility of Architect to address revisions or amendments to applicable codes or standards that become effective prior to the date of Substantial Completion. Revisions or amendments to applicable codes or standards which become effective after the date of Substantial Completion shall be addressed by the Architect, and shall be compensated as a Change in Service.

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner and the Owner's attorney in the development and preparation of (1) bidding, competitive purchasing, 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, or Construction Manager at Risk; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions), as amended for the Project. The Architect will ensure that any reference to mandatory arbitration in any Contract Document is deleted in its entirety. After consultation with the Owner, the Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Project Specifications and may include bidding or proposal requirements and sample forms. As required by law, all bid or proposal documents and contracts shall include, if applicable, all required information related to trench excavation safety. Texas Health and Safety Code Section 756.021 *et seq.* All outdoor lighting fixtures designated by Architect, if any, shall meet the statutory energy conservation and light pollution standards established by the Texas Department of Health. All ventilation and indoor air quality systems designed by Architect shall meet the indoor air quality voluntary guidelines established by the Texas Department of Health. Texas Health and Safety Code Chapter 385. All playground equipment designed by Architect, if any, shall comply with each applicable provision of ASTM Standard F1487-07aE1. "Consumer Safety Performance Specifications for Playground Equipment for Public Use", published by ASTM International, have no unshielded horizontal bare metal platforms; and be accessible to individuals with disabilities in accordance with the Americans with Disabilities Act Accessibility Guidelines. All playground surfacing designed by Architect shall comply with each applicable provision of ASTM Standard F2223-04e1, "Standard Guide for ASTM Standards on Playground Surfacing" published by ASTM International, and paths shall be designed for accessibility by individuals with disabilities. Texas Health and Safety Code Section 756.061; Americans with Disabilities Act. All outdoor lighting fixtures designed by Architect, if any,

shall meet the statutory energy conservation and light pollution standards established by the Texas Department of State Health Services. Texas Government Code Chapter 425. Architect shall also comply with 15 U.S.C. §8003 (Drain cover standards) if applicable, and comply with the International Energy Conservation Code. If applicable, Architect shall comply with U.S. Environmental Protection Agency rules concerning renovating, repairing, and painting work in schools built before 1978 that involves lead-based paint.

§ 3.4.3.1 As required by law, any bid or proposal document shall contain prevailing wage rates, which Architect may request from the Owner.

§ 3.4.3.2 If Owner does not provide a prevailing wage rate, the Architect shall assist the Owner with conducting a prevailing wage survey and adopting a prevailing wage schedule, or Owner may, at its discretion, use the prevailing wage rate as set out in the Davis-Bacon Act, 40 USC Section 3141 (accessed on the internet at <https://sam.gov/content/wage-determinations>), as directed by Owner.

§ 3.4.3.3 Architect shall insert in the Project Specifications the requirement that all bonds comply with the requirements of Texas Insurance Code Section 3503.001 et seq. and Texas Government Code Chapter 2253 or their successors and that all insurance companies be licensed to do business in the State of Texas and, if bond amounts exceed \$100,000, hold a certificate of authority from the U.S. Secretary of the Treasury or reinsurance for liability in excess of \$100,000 from a reinsurer authorized and admitted as a reinsurer in the State of Texas and that is a holder of a certificate of authority from the U.S. Secretary of the Treasury to qualify as a surety or reinsurer on obligations permitted or required under federal law. Owner and Architect reserve the right to rely on the Treasury list of companies holding certificates of authority to determine whether the surety or reinsurer complies with the legal requirement.

§ 3.4.4 The Architect shall advise the Owner in writing of any adjustments to the previous preliminary estimate of the Cost of the Work. If the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, then the Architect shall redesign elements to achieve cost savings within the Scope of the Work, but in doing so, shall not delete any essential element of the Project. Architect shall present the redesign to Owner for Owner's approval as provided herein, and, in doing so, shall notify Owner in writing of the actions taken to bring the Project into Owner's budget. If Architect is unable to redesign the Project to meet Owner's budgetary, programmatic and quality needs, then the Architect shall make appropriate written recommendations to the Owner to adjust the Project's size, quality or budget. Owner shall consider Architect's recommendations, but shall decide, in its discretion, what adjustments to make. Owner shall not be able to waive any services or direct any changes where recommended or required by an applicable design professional.

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval. Architect shall not proceed to the Bidding or Negotiation Phase without the approval of Owner's Board of Trustees, or Board designee; provided, however, this approval shall not relieve Architect of Architect's responsibility and liability to provide documents which are sufficient for Owner to complete the construction of the Project, and are free from material defects or omissions in accordance with the Standard of Care. Architect shall bear full responsibility for, and all resulting excess costs incurred by Architect in, proceeding without required approval.

§ 3.4.6 As required by 19 T.A.C. §61.1040, Architect shall perform a building code search under applicable regulations that may influence the Project and shall certify that the design has been researched and satisfies the applicable building codes. The Architect's or engineer's seal and signature on the Construction Documents shall indicate certification of compliance with this section. "Certify" means that the Architect has reviewed the standards contained in Texas Education Agency rules and used the best professional judgment and reasonable care consistent with the practice of architecture or engineering in the State of Texas in executing the Construction Documents.

§ 3.4.7 After Owner approves the Construction Documents, Architect shall not alter or approve any change in the Work involving an adjustment in the Contract Sum or an extension of the contract time, without the prior written consent of the Owner. The Architect shall be liable to the Owner for any damages arising from or caused by any change to the Work made or approved by the Architect without the Owner's prior written consent.

§ 3.4.8 The Owner's decisions on matters relating to aesthetic effect shall be final. To the extent that Owner's Contractor or Construction Manager at Risk recommends aesthetic revisions to Owner, Architect shall be consulted.

§ 3.4.9 Architect shall submit the Construction Documents for review and approval to the Texas Department of Licensing and Regulation any time the renovation, modification, or alteration of the Work has an estimated construction cost of \$50,000 or more and shall notify Owner of same. Architect shall not allow Contractor to file an application with any local governmental entity for a building construction permit until after Architect's submission to the Texas Department of Licensing and Regulation.

§ 3.5 Procurement Phase Services

§ 3.5.1 General

The Architect shall assist the Owner in establishing a list of prospective contractors. Such assistance shall include, if necessary, testifying in any bid or proposal dispute. Architect shall disclose in writing to Owner any prior or current relationships which Architect may have or had with any bidders or proposers. Following the Owner's approval of the Construction Documents and the latest estimate of the Cost of the Work, the Architect shall assist the Owner in (1) preparation for and attendance at pre-bid or pre-proposal conferences; (2) obtaining bids or proposals; (3) confirming responsiveness of bids or proposals; (4) evaluating bids or proposals; (5) determining the successful bid or proposal, if any; and, (6) awarding and preparing contracts for construction. The Architect shall cooperate with the Owner's legal counsel in the preparation of all Contract Documents and the General Conditions of the Contract for Construction, as amended or supplemented for the Project, to be used in the bidding or proposal documents. Architect shall ensure that his Supplementary or other Conditions of the Contract, if any, shall not contradict the provisions of Owner's AIA Document A201, as amended, except with Owner's prior written consent.

§ 3.5.2 Competitive Bidding or Proposals

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

§ 3.5.2.2 If requested by the Owner, the Architect shall assist the Owner in bidding or competitively procuring the Project by:

- .1 procuring at Owner's cost for the reproduction of Bidding Documents for distribution to prospective bidders, and distributing the Bidding Documents to prospective bidders, requesting their return upon completion of the bidding process, and maintaining a log of distribution and retrieval and of the amounts of deposits, if any, received from and returned to prospective bidders;
- .2 organizing and conducting a pre-bid conference for prospective bidders;
- .3 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to the prospective bidders in the form of addenda; and,
- .4 organizing and conducting the opening of the bids, evaluation of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

§ 3.5.2.3 In consultation with the Owner, Architect shall consider requests for substitutions, if the Bidding Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective bidders and Owner. The Architect shall review, in conjunction with the Owner, the Owner's representative, if appropriate, and the Construction Manager at Risk or Contractor, alternative approaches to design and construction of the Project in order to preserve the Scope of the Work, the Scope of the Project and the quality of the construction within Owner's overall budget for the Project.

§ 3.5.3 Proposals

§ 3.5.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents (as defined in Section 3.5.2.1 above).

§ 3.5.3.2 If requested by Owner, the Architect shall assist the Owner in obtaining proposals by:

- .1 procuring at Owner's cost the production of Proposal Documents for distribution to prospective contractors and requesting their return upon completion of the negotiation process and maintaining a

log of distribution and retrieval and of the amounts of deposits, if any, received from and returned to prospective proposers;

- .2 organizing and participating in selection interviews with prospective contractors;
- .3 preparing responses to questions from prospective contractors and providing clarifications and interpretations of the Proposal Documents to the prospective contractors in the form of addenda; and,
- .4 evaluating proposals, participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.

§ 3.5.3.3 In consultation with the Owner, the Architect shall consider requests for substitutions if the Proposal Documents permit substitutions, and prepare and distribute addenda identifying approved substitutions to all prospective contractors and Owner. The Architect shall review, in conjunction with the Owner, the Owner's representative and, if appropriate, the Construction Manager at Risk or Contractor, alternative approaches to design and construction of the Project in order to preserve the Scope of the Work, the Scope of the Project, and the quality of the construction within Owner's overall budget for the Project.

§ 3.5.4 In the event the lowest acceptable bid(s) or proposal(s) exceeds either the Project Budget or the final estimate of the Cost of Work provided by the Architect pursuant to this Agreement, the Architect, in consultation with and at the direction of the Owner, shall modify the Construction Documents, as necessary, to bring the Project Budget within the limit established by the Owner or the Architect's final estimates, whichever is determined by the Owner.

§ 3.6 Construction Phase Services

§ 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™-2017, General Conditions of the Contract for Construction, as amended for the Project, and as specified in Section 3.1.6 herein. If the Owner and Contractor modify AIA Document A201-2017 or other applicable AIA form document, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement. While on Owner's property and throughout Architect's services under this Agreement, the Architect shall comply with all policies, regulations, and rules of the Owner, including, but not limited to, those related to employee conduct (such as prohibitions against alcohol, weapons, drugs, fraternization, harassment, and tobacco on school property), and prohibitions against fraud and financial impropriety.

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

§ 3.6.1.3 Subject to Section 4.2 and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Basic Services for the Construction Phase under this Agreement commences with the award of the initial Contract for Construction and terminates at the later of the issuance to the Owner of the final Certificate for Payment to all Contractors, issuance of a Certificate of Occupancy or submission of Record Drawings.

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect, or his authorized representative, as a representative of the Owner, shall visit the site at least twice per week (or as deemed necessary by the Owner's Superintendent or when necessary to protect Owner's interests), and at other intervals appropriate to the stage of the Contractor's operations (1) to inspect the progress, quantity and quality of the Work completed; (2) to reject any observed nonconforming Work; (3) to become familiar with and to keep the Owner informed about the progress and quality of the portion of the Work completed; (4) to guard the Owner against defects and deficiencies in the Work; (5) to determine if the Work is being performed in a manner

indicating that the Work, when fully completed, will be in accordance with the Contract Documents and on time; and (6) to document progress of the Work, in written and photographic form. Furthermore, a minimum of two job site meetings per month from commencement of construction through Final Completion will be initiated by the Architect. Attendees will include Owner, the Contractor's project manager and/or superintendent, Architect's project representative, and Architect. Architect or his authorized representative will provide on-site observations prior to and during all concrete pours that contribute to the structural integrity of the building, including all pours of concrete piers, footings, grade beams, floor slabs, and concrete superstructure components, if applicable. In addition, Architect or his authorized representative will provide on-site observations prior to covering up or closing up of portions of the construction that, if covered, would conceal problems with the structural integrity of the Project. Architect will advise Owner of the need for any third-party laboratory or testing services to assist the Architect and will assist Owner in development of Requests for Proposals or other solicitations for any required testing services approved by Owner. On the basis of the site visits, on-site observations, or inspections by the Architect, Architect shall keep Owner and Owner's Contractor informed of the progress and quality of the portion of the Work completed, and promptly 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. Architect shall guard Owner against defects and deficiencies in the Work, and shall promptly notify Owner and Contractor orally regarding the defect or nonconforming Work, which notice shall be followed by notice in writing of defects and nonconforming work noted and corrective actions taken or recommended. The Architect shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents. Any services by Architect made necessary due to Architect's failure to discover a construction defect or nonconforming work shall be at no additional cost to Owner. Any services by Architect made necessary by Architect's design errors or omissions shall be at no additional cost to Owner.

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

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

§ 3.6.2.4 Interpretations and recommendations of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. While making such interpretations and initial recommendations, the Architect shall not be liable for results of interpretations or decisions rendered in good faith. However, as stated in this Agreement, the Architect is the representative of the Owner with respect to this Project. As such, the Architect shall not engage in any activity or course of conduct which is detrimental to the Owner's best interest, and the Architect shall ensure that the Construction Documents are adhered to by the Contractor. The Architect shall render initial decisions on claims, disputes or other matters in question between the Owner and Contractor as provided in the Contract Documents. The Owner's decisions, after considering the Architect's advice, on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents. The Architect's decisions on claims, disputes or other matters in question between the Owner and Contractor, except those relating to aesthetic effect, as provided in Subparagraph 3.6.2.5 shall be subject to mediation, but not arbitration, as provided in this Agreement and the Contract Documents.

§ 3.6.2.5 The Architect shall promptly render initial written recommendations or interpretations on Claims, disputes, or other matters in question between the Owner and Contractor as provided in the Contract Documents.

§ 3.6.3 Certificates for Payment to Contractor

§ 3.6.3.1 The Architect shall observe the progress of the Work, critically evaluate, review and certify the amounts due the Contractor and shall sign and issue Certificates for Payment in such amounts, if such amounts are valid, correct, and deemed due and owing, in Architect's professional opinion, within seven (7) days of receipt of Contractor's Application for Payment. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluations, observations and inspections of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that the Work has progressed to the point indicated to the best of Architect's knowledge, information and belief, that the quality of the Work is in accordance with the Construction Documents and the Contract Documents that the Work is done in a good and workmanlike manner, and critically evaluated and certified that the amounts requested in the Application for Payment are valid and correct, in the Architect's professional opinion. If Architect disputes the Contractor's payment application in whole or in part, Architect shall provide in writing to Owner and Contractor a detailed statement of the Architect's reason for withholding certification in accordance with Texas Government Code §2251.042(a) and as provided in Sections 9.4.1 and 9.5.1 of the AIA A201-2017. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect in writing to Owner.

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

§ 3.6.3.3 The Architect shall maintain all records of the Applications and Certificates for Payment.

§ 3.6.4 Submittals

§ 3.6.4.1 The Architect shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, for the purpose of checking (1) conformance with the Contract Documents; and, (2) compliance with all applicable laws, statutes, codes, rules and regulations of any governmental body having jurisdiction over the Project, and requirements applicable to Architect's design services. The Architect's action shall be taken with reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor or separate Contractors, while allowing sufficient time, in the Architect's professional judgment, to permit adequate review. If it is determined that any submittal does not comply with the requirements of the Contract Documents, then Architect shall require Contractor to come into compliance. The Architect shall promptly report in writing to the Contractor and Owner any errors, inconsistencies and omissions discovered by the Architect in the Shop Drawings, Product Data and Samples. The Architect is not authorized to approve changes involving major systems such as HVAC, roof, foundation, outward appearance, color schemes, floor plans, building materials, or mechanical equipment without Owner's prior written consent.

§ 3.6.4.2. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The Architect's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and

shall not be responsible for, the adequacy, accuracy and completeness of the services, certifications, and approvals performed or provided by such design professionals.

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

§ 3.6.4.5 The Architect shall maintain all records 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 With notice and consent of Owner, the Architect 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 or an extension of the Contract Time. Subject to Section 4.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

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

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

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

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall:

- .1 conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;
- .2 issue Certificates of Substantial Completion and of Final Completion, using Owner's forms;
- .3 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;
- .4 issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents; and,
- .5 For any Work that exceeds \$50,000, Architect shall schedule and ensure completion of inspections with the Texas Department of Licensing and Regulation as required by Texas Government Code Section 469.105.

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

§ 3.6.6.2.1 The Architect shall prepare a list of items which Architect has observed as requiring remedial work or replacement, and prior to issuing a Certificate of Substantial Completion, the Architect shall, with the assistance of the Owner, prepare a punch list or check list of incomplete work and work which does not conform to the Contract Documents. This list shall be attached to the Certificate of Substantial Completion and submitted to the Contractor to complete the work, with copies forwarded to the Owner. At this time, Architect shall contact the appropriate governmental body or agency to schedule the accessibility inspection, if necessary. The Architect, with the assistance of the Owner, shall thereafter review the corrected and/or replaced work. The Architect shall, upon the Contractor's completion of the punch list items and in consultation with the Owner, determine when the Project is finally completed. The Architect shall issue the Certificate of Final Completion with the Certificate of Payment and shall provide the Owner a written recommendation regarding final payment.

§ 3.6.6.2.2 The Architect shall receive from the Contractor and deliver to the Owner specified "closeout documents," such as written guaranties, warranties, consent of surety to Final Payment (partial payment, if applicable), Certificate of Occupancy, operating and maintenance manuals, final HVAC pneumatic control drawings, final corrected HVAC test and balance report, parts books, diagrams, charts, and other documents for the Owner's use or that are required to be provided to the Owner by Contractor under the Contract Documents. The Owner shall require in the Contract Documents that the Contractor furnish such information or documentation for the Project to the Architect for transmittal to the Owner.

§ 3.6.6.2.3 The Architect shall review, for completion of submittal requirements only, Contractor's submission of record drawings, operating and maintenance instructions and all manuals, brochures and drawings furnished by the Contractor relating to the operation and maintenance of the Project.

§ 3.6.6.2.4 The Architect shall review and approve, or take other appropriate action on, the Contractor's list of items to be completed or corrected and shall certify Final Completion when it believes that all requirements of the Contract Documents are complete. The Architect shall, as needed, provide assistance to Owner for the purpose of advising and counseling Owner's personnel in the usage, operation and maintenance of the building, mechanical, electrical, and plumbing systems.

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

§ 3.6.6.4 Before issuing a final Certificate for Payment, the Architect shall verify and 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 Prior to the expiration of six months from the date of Substantial Completion, prior to the expiration of ten months from the date of Final Completion, and upon request of the Owner at any other time within one year of Final Completion, the Architect shall meet with the Owner and the Owner's designated representative to review the facility operations and performance; to identify defects, warranty issues, and proposed corrections; and to make appropriate written recommendations to the Owner.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Included in Basic Services and Supplemental Services

§ 4.1.1 The services listed below shall be included in Architect's Basic Services to the extent needed for this Project and shall be provided without additional cost to Owner when applicable and to the extent needed for the Project, unless otherwise noted or if such services are not required for this Project or approved by Owner. Notwithstanding any provision to the contrary, no compensation shall be paid to the Architect for additional services that became necessary as a result of the fault or negligence of the Architect or his agents or employees. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Service is not being provided for the Project.

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

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

§ 4.1.2 Description of Supplemental Services

§ 4.1.2.1 A description of each Service identified in Section 4.1.1 as the Architect's responsibility is provided below. *(Describe in detail the Architect's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit. The AIA publishes a number of Standard Form of Architect's Services documents that can be included as an exhibit to describe the Architect's Supplemental Services.)*

«§ 4.1.2.34 Pre-Bond Services- Architect's pre-bond services include:

- .1 Assisting the District's staff and Community Bond Committee, if there is one, in assessing existing facility deficiencies and needs.
- .2 Assisting the District's staff in identifying facility's new construction/renovation construction requirements commensurate with TEA regulations as compared to existing construction.
- .3 Presenting drawings indicating "footprint" layouts of proposed new or renovation construction at sites selected by the District.
- .4 Developing Bond Issue graphics for posters and information mail outs.
- .5 Assisting with the development of power point presentations to present during community meetings that include, but are not limited to, a photographic tour of existing facility deficiencies, preliminary drawings, and District-furnished documents.
- .6 Recommend and assist District with procurement of a constructor, pursuant to selected construction delivery method. »

§ 4.1.2.2 A description of each Service identified in Section 4.1.1 as the Owner's responsibility is provided below. *(Describe in detail the Owner's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit.)*

« »

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

§ 4.2 Architect's Additional Services

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement, if agreed by Owner in writing prior to commencement of the services. In the absence of Owner's prior agreement in writing, the Owner shall have no obligation to pay for any Additional Services performed. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule. The Architect shall not be entitled to an upward adjustment in compensation or Reimbursable Expenses due to the fault or error of the Architect or Architect's consultants, but may be subject to a downward adjustment in compensation.

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

- .1 Services necessitated by a significant 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;
- .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 Construction Documents 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 Preparing digital data for transmission to the Owner's consultants and contractors, or to other Owner-authorized recipients;
- .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner; or
- .7 Consultation concerning replacement of Work resulting from fire or other cause during construction.

§ 4.2.2 [This section is deleted]

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

- .1 «Five» («5») reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
- .2 «Two» («2») visits to the site by the Architect per week during construction, as required by §3.6.2.1
- .3 «Five» («5») inspections for each 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 «Five» («5») inspections for each portion of the Work to determine final completion.

§ 4.2.4 [This section is deleted]

§ 4.2.5 [This section is 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, as required by 19 T.A.C. §61.1040. The Architect shall review the program and specifications furnished by Owner to ascertain the specific requirements of the Project and shall arrive at a mutual written understanding of such requirements with Owner. Architect shall include all components of Owner's program in the Project, unless specific written agreement to delete a component is received from Owner.

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

§ 5.3 Unless and only to the extent the Owner's Board of Trustees has delegated authority to a designated representative in the Contract Documents, or by Board Policy, the Board of Trustees is the only representative of Owner, an independent school district, having the power to enter into or amend a contract, to approve changes in the Scope of the Work, to approve and execute a Change Order or Construction Change Directive modifying the Contract Sum or Guaranteed Maximum Price, agree to an extension of the dates of Substantial Completion or Final Completion, or approve changes in the Architect's compensation. Owner's Board of Trustees may designate one or more representatives with authority to sign documents after Board approval and/or to advise and consult with Architect for day-to-day operations under the Agreement.

Owner's designated representative to sign contracts:

Name: Freddie Tobias Title: Superintendent, or successor.

Owner's designated representative for day-to-day operations:

Name: Freddie Tobias Title: Superintendent, or successor or designee.

§ 5.4 Upon written notice to the Architect, the Owner shall furnish surveys known to the Owner describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. Other than the metes and bounds noted in the legal description of the site, the Architect shall not be entitled to rely on the accuracy of information furnished by the Owner, but shall exercise proper precautions relating to the safe performance of the Work. Other than the metes and bounds noted in the survey if any, Owner does not guarantee the accuracy of surveys provided, including the locations of utility lines, cables, pipes or pipelines or the presence or absence of easements. Architect shall review this information and shall provide to Owner a written request for additional information needed, if any, for Architect to adequately perform services hereunder. Upon receipt of this request, the Owner will procure and provide to the Architect the information requested.

§ 5.5 The Owner may furnish services of geotechnical engineers in addition to the geotechnical engineering services Architect provides as part of his Basic Services, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsurface conditions, with written reports and appropriate recommendations.

§ 5.6 *[This section is deleted]*

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

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

§ 5.9 The Owner shall furnish tests, inspections and reports that are required by law or the Contracts, to be furnished by the Owner. To the extent that tests, inspections and reports are not required by law or the Contract Documents to be furnished by Owner, but are deemed necessary by the Architect or Owner, then they shall be furnished by Architect, unless Architect receives Owner's written permission to charge Owner for the services or Owner agrees to separately contract for the services.

§ 5.10 Unless otherwise provided in this Agreement, the Owner may, in its sole discretion, furnish legal and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.11 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Construction Documents as defined in Section 7.2 herein, or nonconformance with the Contract Documents, but the Owner's failure or omission to do so shall not relieve the Architect of his responsibilities hereunder and the Owner shall have no duty of observation, inspection or investigation. Architect shall have the reasonable amount of time required by Texas Government Code Chapter 2272 to cure its errors, omissions or inconsistencies as a precondition to any dispute resolution proceeding involving Owner and Architect. Architect acknowledges that it is the leader of the design team and is responsible for the design of the Project. Therefore, Owner shall be entitled to rely on the Construction Documents, services, and information furnished by the Architect. This Section shall not relieve Architect of any responsibility or liability for the performance of Architect's contracted services on the Project, in accordance with the Standard of Care.

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

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

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

§ 5.15 *[This section is deleted]*

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of the Architect's compensation, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and constructed by the Owner, and shall include contractors' general conditions costs, overhead and profit. To the extent that the Project is not completed or constructed, the Cost of the Work shall include the estimated cost to the Owner of all elements of the Project designed by the Architect and accepted by the Owner but not constructed by the Owner. The Cost of the Work does not include elements of the Project designed by Architect but not accepted by the Owner. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect or the Architect's consultants; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work, alternate designs of the Architect that are not constructed or accepted by the Owner, or other costs that are the responsibility of the Owner. For purposes of the Architect's compensation, the Cost of the Work shall not include the fee for management and supervision of construction or installation provided by a separate Owner representative. For purposes of the Architect's compensation, the Cost of the Work shall include the Owner's cost of labor and materials furnished by the Owner in constructing portions of the Project, if the Work is designed and construction is overseen by Architect. For purposes of the Architect's compensation, the Cost of the Work shall only include the Owner's cost of fixtures, furnishing and equipment designed by the Architect, at the request of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and shall be adjusted throughout the Project as allowed under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work, prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner have 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, if the Architect's design is determined to exceed Owner's budget, then Architect agrees to redesign the Project, at Architect's expense and as a part of Architect's Basic Services, to meet Owner's budget.

§ 6.3 The Architect, and the Construction Manager at Risk, if applicable, shall prepare a preliminary estimate of the Cost of the Work, which shall incorporate Owner's budgetary constraints, programmatic needs, and expectations as to quality, functionality of systems, maintenance costs, and usable life of equipment and facilities. As the design process progresses through the end of the preparation of the Construction Documents, the Architect, and, if applicable, the Construction Manager at Risk, shall update and refine the preliminary estimate of the Cost of the Work. The Architect shall advise the Owner of any adjustments to previous estimates of the Cost of the Work indicated by changes in Project requirements or general market conditions. The Architect shall cooperate with Owner and, if applicable, the Construction Manager at Risk, in developing and designing the Project to satisfy, in accordance with the Standard of Care, Owner's budgetary constraints, programmatic needs and expectations as to quality, functionality of systems, maintenance costs, and usable life of equipment and facilities. In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project with the prior consent of Owner's Board of Trustees; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget.

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

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, then the Architect shall redesign elements to achieve cost savings within the Scope of the Work, but in doing so, shall not delete any essential element of the Project, without the Owner's knowledge and written consent. Architect shall present the redesign to Owner for Owner's approval and, in doing so, shall notify Owner in writing of the actions taken to bring the Project into Owner's budget. If Architect is unable to redesign the Project to meet Owner's budgetary, programmatic and quality needs, then the Architect shall make appropriate written recommendations to the Owner to adjust the Project's size, quality or budget. Owner shall consider Architect's recommendation, but shall decide, in its discretion, what adjustments to make.

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

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

§ 6.7 If the Owner chooses to proceed under Section 6.6.4 or 6.6.5, the Architect, without additional compensation, shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. The Architect's modification of the Construction Documents before commencement of the Work shall be the limit of the Architect's responsibility under this Article 6.

§ 6.8 If after commencement of the Work, the Cost of the Work is exceeded due to the negligent errors or omissions of the Architect, in accordance with the Standard of Care, then the Architect shall bear financial responsibility to Owner for the increases in the Cost of the Work, except for all materials, labor, and overhead related to the betterment obtained by the Owner. By way of example, the Architect shall bear responsibility for the difference between what would have been the original cost of that portion of the Work, but for Architect's negligent error or omission, in accordance with the Standard of Care, and the actual cost of that portion of the Work performed to remedy the negligent error or omission. Further, Architect shall not be entitled to Architect's fee for the excess Cost of the Work. Unless Architect disputes the amounts due pursuant to the alternative dispute resolution process provided in Article 8 herein, Owner shall be entitled to withhold from sums due to Architect the amounts detailed above.

ARTICLE 7 COPYRIGHTS AND LICENSES

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

§ 7.2 Architect shall provide to Owner all drawings, specifications, submittals, transmittals, deliverables, instructions to Contractor (including the necessary number of paper and electronic copies) and other documents hereinafter referred to as "Construction Documents," that are within Architect's scope of services and that are sufficient for Owner to complete construction of the Project and are free from material defects or omissions. The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Construction Documents, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights, provided, however, Architect and Architect's consultants shall not use the Construction Documents on another project without Owner's written permission. Submission or distribution of Construction Documents to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 Upon execution of this Agreement, the Architect grants to the Owner a nonexclusive license to use, reproduce and distribute the Architect's Construction Documents solely and exclusively for constructing, using, maintaining,

and renovating the Project. 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 Construction Documents, solely and exclusively for use in performing services for the Project.

§ 7.4 This nonexclusive license shall survive termination of this Agreement, and Architect hereby grants permission to Owner to use the Construction Documents for future renovations, repairs, additions or alterations to the Project. In the event the Owner uses the Construction Documents without retaining the authors of the Construction Documents, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses.

§ 7.5 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Construction Documents shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by this Agreement and applicable law, but in any case not more than 8 years after the date of Final Completion of the Work, unless extended in accordance with Texas Civil Practice and Remedies Code § 16.008. The Owner and Architect waive all causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.1.1 All claims, disputes, or matters in controversy between Owner and Architect shall be discussed by the parties in good faith, in an attempt to resolve the claim, dispute, or controversy. In the event such claim, dispute, or controversy cannot be resolved by good faith discussion between the parties, any such claim, dispute or matter in controversy shall be subject to the Owner's grievance policy [GF (LEGAL) and (LOCAL) or other policy as designated by Owner] and the timelines established in such policy. Level One of the grievance process will be conducted by the Superintendent's designee or the Superintendent, as appropriate. Level Two shall be heard by the Superintendent, unless heard Level One. If the Superintendent heard Level One, then the grievance will proceed to the Owner's Board at Level Three. If Architect is dissatisfied with the outcome of Owner's grievance process, then 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 institution of legal or equitable proceedings by either party.

§ 8.1.1.2 Architect stipulates that Owner is a political subdivision of the State of Texas, and, as such, may enjoy immunities from suit and/or liability under the Constitution and laws of the State of Texas. By entering into this Agreement, Owner does not waive any of its immunities from suit and/or liability, except as otherwise specifically provided herein and as specifically authorized by law.

§ 8.1.2 Only to the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2017, General Conditions of the Contract for Construction, as amended for this Project, and if applicable. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect waives consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This waiver is applicable, without limitation, to all consequential damages due to Owner's termination of this Agreement. In any litigation (or arbitration if mutually agreed upon in writing) arising under this Agreement, the types and amounts of damages recoverable shall be subject to Subchapter I of Texas Local Government Code Chapter 271.

§ 8.1.4 In any litigation under this Agreement, reasonable and necessary attorneys' fees may be awarded to the prevailing party.

§ 8.1.5 When Owner has an applicable claim for construction defects, Owner shall comply with the provisions of Texas Government Code Chapter 2272 related to the provision of notice of defects and the Contractor's or Architect's opportunity to cure.

§ 8.2 Mediation

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution, unless the filing deadlines under applicable statutes of limitation and/or repose would otherwise expire. If suit is filed before mediation in order to avoid expiration of limitations and/or repose, then the parties agree to submit the matter to mediation as soon as reasonably possible. Claims for injunctive relief shall not be subject to this Section.

§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the mutually-acceptable person or entity administering the mediation. In the event the parties are unable to agree on a mediator, then the mediation shall be conducted by either the Center for Public Policy Dispute Resolution at the University of Texas School of Law or by a mediator selected by a local district court judge upon the joint request of the parties. The request shall be made within 30 days after the completion of Owner's grievance process. In no event shall the request for mediation be made after the date when institution of legal or equitable proceedings based on such claim, dispute, or other matter in controversy would be barred by applicable statutes of limitation.

§ 8.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the county where Owner's main administrative office is located, unless another location is mutually agreed upon. Mediation shall be subject to and in accordance with Chapter 154 of the Texas Civil Practice & Remedies Code. Agreements reached in mediation shall be reduced to writing, considered for approval by the Owner's Board of Trustees, signed by the parties if approved by the Board of Trustees, and, if signed, shall thereafter be enforceable as provided by the laws of the State of Texas.

§ 8.2.4 The parties agree that any claim, dispute, or other matter in controversy between them shall NOT be subject to mandatory arbitration. The parties may, however, mutually agree in writing to submit such claims, disputes, or matters in controversy to arbitration. Neither party may compel the other to arbitrate any claim, dispute, or matter in controversy between them. Any claim or dispute between the parties that cannot be resolved through mediation as provided in this Agreement shall be subject to litigation in a state District Court in the County where the Owner's central administration office is located.

§ 8.2.5 Architect stipulates that Owner is a political subdivision of the State of Texas, and, as such, may enjoy immunities from suit and/or liability under the Constitution and laws of the State of Texas. By entering into this Agreement, Owner does not waive any of its immunities from suit and/or liability, except as otherwise specifically provided herein and as specifically authorized by law.

§ 8.3 *[This Section and all subsections are deleted]*

§ 8.3.4 *[This Section and all subsections are deleted]*

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

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make timely payments to the Architect for undisputed sums in accordance with this Agreement and Texas law, such failure shall be considered substantial nonperformance and cause for termination if not cured after ten (10) days written notice to Owner of the delinquency. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted. Architect shall be allowed to suspend

Architect's performance of services under this Agreement for nonpayment by Owner only after the provision of ten (10) days written notice, in accordance with the applicable provisions of Texas Government Code, Chapter 2251.

§ 9.2 If the Owner suspends the Project for more than ninety (90) consecutive days, the Architect shall be compensated for services performed prior to notice of such suspension. The Architect's fees for the remaining services and the time schedules may be equitably adjusted.

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

§ 9.4 Either party may terminate this Agreement upon not less than twenty-one (21) days' written notice and opportunity to cure 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. Upon termination of this Agreement, the Architect shall perform no further services, except as requested by the Owner in writing or as may be necessary to preserve the Work.

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

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination, together with Reimbursable Expenses then due.

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

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

§ 9.9 The Owner's rights to use the Architect's Construction Documents in the event of a termination of this Agreement are set forth in Article 7 and Section 11.9.

§ 9.10 This Agreement may be terminated by Owner if Architect 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.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located. Mandatory and exclusive venue for any dispute shall be in state district court in the county in which the Owner's administrative offices are located.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2017, General Conditions of the Contract for Construction, as amended by Owner for the Project. As a material consideration of the making of this Agreement, the Modifications to this Agreement shall not be construed against the maker of said Modifications.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other.

§ 10.4 If the Owner requests the Architect to execute certificates, the language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. The Architect shall execute certificates or consents consistent with the Architect's standard of care pursuant to this Agreement and as may be required by 19 T.A.C. §61.1040.

§ 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.

§ 10.6 Unless otherwise provided in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site, unless Architect knew, directed, or specified that, or allowed such hazardous materials be used in the Project. Architect shall promptly disclose in writing to Owner any hazardous materials specified for the Project or discovered on site, regardless of the date of discovery or the date on which Architect learns of the hazardous nature of the materials.

§ 10.7 With prior written consent of the Owner, the Architect may include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations, but may not photograph students without prior written parental consent. However, the Architect's materials shall not include the Owner's confidential or proprietary information. Owner provides notice that confidential and proprietary information shall include, but shall not be limited to, all items listed in Section 10.8. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except 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. The Architect shall maintain the confidentiality of information specifically designated as confidential by the Owner, unless withholding such information would violate the law, create the risk of significant harm to the public, or prevent the Architect from establishing a claim or defense in an adjudicatory proceeding. The Architect shall require of the Architect's consultants similar written agreements to maintain the confidentiality of information specifically designated as confidential by the Owner. Owner herein designates the following as confidential information: security measures; security access codes; pending real estate purchases, exchange or lease; any information pertaining to litigation; student likenesses and student record information; employee information; and any other information deemed confidential by law. As to Owner, the parties acknowledge that as a public entity in the State of Texas, Owner is subject to and must comply with the provisions of the Texas Public Information Act, Texas Government Code Chapter 552 *et seq.* and the Texas Open Meetings Act, Texas Government Code, Chapter 551 *et seq.*

§ 10.8.1 The receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, when required by law, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.

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

§ 10.10 **NO LIENS.** The parties agree that no architect, engineer, mechanic, contractor, materialman, artisan, laborer or subcontractor, whether skilled or unskilled, shall ever, in any manner have, claim or acquire any lien upon the Project

of whatever nature or kind so erected or to be erected by virtue of this Agreement, nor upon any of the land upon which said improvements are so erected, built, or situated, such property being public property belonging to a political subdivision of the State of Texas, or upon any funds of Owner.

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

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

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

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

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

§ 10.16 CHILD SUPPORT. By signing this Agreement, the undersigned certifies as follows: Under Section 231.006, Texas Family Code, the vendor or applicant certifies that the individual or business entity named in this contract, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this contract may be terminated and payment may be withheld if this certification is inaccurate.

§ 10.17 By executing this Agreement, Architect verifies that Architect does not boycott Israel or any Israeli-controlled territory, and will not boycott Israel or any Israeli-controlled territory during the term of this Agreement. Pursuant to Texas Government Code, Chapter 2271, as amended, if Architect is a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations (specifically excluding sole proprietorships) that exists to make a profit which has ten (10) or more full-time employees and the value of the contract with Owner is \$100,000 or more, the Architect represents and warrants to the Owner that the Architect does not boycott Israel and will not boycott Israel during the term of this Agreement.

§ 10.18 By executing this Agreement, Architect verifies that it does not boycott energy companies, and it will not boycott energy companies during the term of this Agreement. Pursuant to Texas Government Code Chapter 2274, as enacted in SB13 of the 87th Legislature, if Architect is a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations (specifically excluding sole proprietorships) that exists to make a profit which has ten (10) or more full-time employees and the value of the contract with Owner is \$100,000 or more, the Architect represents and warrants to the Owner that the Architect does not boycott energy companies and will not boycott energy companies during the term of this Agreement.

§ 10.19 By executing this Agreement, Architect verifies that it does not discriminate against firearm entities or firearm trade associations, and it will not discriminate against firearm entities or firearm trade associations during the

term of this Agreement. Pursuant to Texas Government Code Chapter 2274, as enacted in SB19 of the 87th Legislature, if Architect is a for-profit organization, association, corporation, partnership, joint venture, limited partnership, limited liability partnership, or limited liability company, including a wholly owned subsidiary, majority-owned subsidiary, parent company, or affiliate of those entities or business associations (specifically excluding sole proprietorships) that exists to make a profit which has ten (10) or more full-time employees and the value of the contract with Owner is \$100,000 or more, the Architect represents and warrants to the Owner that the Architect does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association and will not discriminate against a firearm entity or firearm trade association during the term of this Agreement.

§ 10.20 To the extent required by law, Architect verifies and affirms that it is not a foreign terrorist organization as identified on the list prepared and maintained by the Texas Comptroller of Public Accounts. If Architect misrepresents its inclusion on the list, then such omission or misrepresentation shall void this Agreement.

§ 10.21 By executing this Agreement, Architect verifies that it is not an abortion provider or affiliated with an abortion provider.

§ 10.22 PRESERVATION AND DISCLOSURE OF CONTRACT INFORMATION

§ 10.22.1 By entering into this Agreement, pursuant to Texas Government Code 552, Subchapter J, the Architect agrees to be bound by the following terms if the Agreement has a stated expenditure of at least \$1,000,000 for the purchase of goods or services by the Owner or if the Agreement results in the expenditure of at least \$1,000,000 in public funds for the purchase of goods or services by the Owner in a fiscal year of the Owner. If the Owner receives a written request for public information related to this Agreement that is in the possession or custody of the Architect and not in the possession or custody of the Owner, the Owner shall send, not later than the third business day after the date the Owner receives the written request, a written request to the Architect that Architect provide that information to the Owner.

§ 10.22.2 The Architect must:

- .1 Preserve all contracting information related to the Agreement or Contract Documents as provided by the records retention requirements applicable to the Owner for the duration of the Agreement;
- .2 Promptly, within four business days, provide to the Owner any requested contracting information that is in the custody or possession of the Architect upon request of the Owner; and,
- .3 On completion of the Agreement, either:
 - .1 Provide to the Owner at no cost all contracting information related to the Agreement that is in the custody or possession of the Architect; or
 - .2 Preserve the contracting information related to the Agreement as provided by the records retention requirements applicable to the Owner.
- .3 The requirements of Subchapter J, Chapter 552, Government Code, may apply to this Agreement and the Architect agrees that the Agreement can be terminated if the Architect knowingly or intentionally fails to comply with the requirements of that subchapter.
- .4 Further, under Texas Government Code Chapter 552.372(c), the Owner may not accept a bid for or awarding of a contract to an entity that the Owner has determined has knowingly or intentionally failed in a previous bid or contract to comply with Subchapter J, unless the Owner determines and documents that the entity has taken adequate steps to ensure future compliance.
- .5 If an Architect fails to provide to the Owner the requested information, Texas Government Code § 552.373 requires the Owner to notify the Architect in writing of the failure and allow 10 business days to cure the violation. Owner may terminate the Agreement if Architect fails to remedy the failure, Owner determines the failure was knowing and intentional, and steps have not been taken to ensure future compliance.

§ 10.23 CRIMINAL HISTORY RECORD CHECKS

§ 10.23.1 So that Owner can obtain the national criminal history record information required by Texas Education Code §22.0834 on all "covered employees" (as defined in Section 10.23.3) of Architect, its subcontractors, or any subcontracting entities who will perform the Work, Architect shall submit to Owner the names and all identifying information necessary to enable Owner to obtain the national criminal history information on those covered

employees before they begin the Work. Architect's submission will include the employee's written authorization for Owner to obtain such criminal history information. Owner may, in its sole discretion, prohibit the use of any employee to perform the Work after its review of the criminal history information, but cannot disclose the criminal history information to Architect. Architect shall reimburse Owner for Owner's costs incurred in obtaining the criminal history information.

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

§ 10.23.3 For the purposes of this Section, "covered employees" means employees, agents or applicants of Architect who have or will have continuing duties related to the services to be performed on Owner's Project and has or will have direct contact with Owner's students. The Owner will decide what constitutes direct contact with Owner's students. The definition of "covered employees" does not include individuals working on the Work if the Work: (1) does not involve the construction, alteration, or repair of an instructional facility as defined herein; (2) involves construction of a new instructional facility and the person's duties related to other contracted services will be completed not later than the seventh day before the first date the facility will be used for instructional purposes; or, (3) involves an existing instructional facility and: (a) the work area contains sanitary facilities and is separated from all areas used by students by a secure barrier fence that is not less than six feet in height; and, (b) the contracting entity adopts a policy prohibiting employees, contractors, and subconsultants from interacting with students or entering areas used by students, informs employees, contractors, and subconsultants of the policy, and enforces the policy at the work area. "Disqualifying criminal history" means: any conviction or other criminal history information designated by the Owner; any felony or misdemeanor conviction that would disqualify a person from obtaining educator certification under Texas Education Code §21.060, and 19 T.A.C. §249.16; or one of the following offenses, if at the time of the offense, the victim was under 18 years of age or enrolled in a public school: a felony offense under Texas Penal Code Title 5 Offense Against Persons; an offense for which a defendant is required to register as a sex offender under Texas Code of Criminal Procedure Chapter 62; or an equivalent offense under federal law or the laws of another state; or a felony violation of Texas Penal Code §43.24 related to the sale, distribution or display of harmful material to a minor. The term "instructional facility" means real property, an improvement to real property, or a necessary fixture of an improvement to real property that is used predominantly for teaching the curriculum required under the state curriculum for kindergarten through grade 12.

§10.23.4 Architect's violation of this section shall constitute a substantial failure under Article 9.

§10.23.5 Architect shall assume all expenses associated with the background checks,

ARTICLE 11 COMPENSATION

§ 11.1 The Architect's fees shall be determined in accordance with this Section.

.1 The fee for Architect's pre-bond election services shall be as follows:

.1 Stipulated Sum: *(insert amount)*.

.2 Architect shall be compensated for pre-bond services on an hourly basis according to the rates set out in Section 11.7 herein, not to exceed \$ _____.

.3 Percentage Basis (insert percentage value) « » (« ») % of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6.

.2 For the Architect's Basic Services not included in pre-bond services described in Section 4.1.2.34 herein, the Owner shall compensate the Architect as follows:

.1 Stipulated Sum: *(insert amount)* « »

.2 Percentage Basis
(insert percentage value)

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

- .3 Other
(Describe the method of compensation)
« »

Notwithstanding anything to the contrary in this Agreement, the following shall be considered non-reimbursable expenses included in the Architect's Basic Services at no additional cost to the Owner:

- .1 Expense of travel to Anton ISD in conjunction with the design and construction of the proposed projects, after passage of the bond election, (included in Architect's fee).
.3 Printing and reproduction costs for design review documents (included in Architect's fee).
.3 Printing and distribution of PDF electronic files for bidding and construction.
.4 Professional liability insurance (errors and omissions) in the amount of \$1,000,000.00 with a \$25,000.00 deductible (additional limits are available at the direct cost to Architect)

"Bond election" in this section shall mean a special election at which the voters within Anton ISD approve or disapprove proposition(s) for the issuance of bonds for the funding of improvements, renovations, or new construction for District facilities described in RFQ 2024-01.

§ 11.2 For the Architect's Supplemental Services designated in Section 4.1.1 and for any Sustainability Services required pursuant to Section 4.1.3, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

« »

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

« For Additional Services, if any, of the Architect, as described in Article 4, except (1) Additional Project Representation, as described in Article 4; and, (2) services included in Article 12 as part of Basic Services, and excluding services of consultants, compensation shall be computed at the hourly rates set out in Section 11.7 below. »

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

« »

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

Schematic Design Phase	«fifteen»	percent («15»	%)
Design Development Phase	«twenty»	percent («20»	%)
Construction Documents Phase	«forty»	percent («40»	%)
Procurement Phase	«five»	percent («5»	%)
Construction Phase	«eighteen»	percent («18»	%)
Post Construction	two	Percent (2	%)
Total Basic Compensation	one hundred	percent (100	%)

§ 11.6 When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner's most recent

budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner's budget for the Cost of the Work.

§ 11.6.1 [This Section is deleted]

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants, if any, are set forth below. (If applicable, attach an exhibit of hourly billing rates or insert them below.) The rates shall not be adjusted by the Architect or Architect's consultants for the duration of the Project, unless approved in writing by the Owner.

Employee or Category	Rate
Principal	\$ _____ per hour
Architect/Engineer	\$ _____ per hour
Architect Intern	\$ _____ per hour
Draftsman	\$ _____ per hour
Clerical	\$ _____ per hour

§ 11.8 Compensation for Reimbursable Expenses

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

- .1 Dedicated data and communication services, Project web sites, and extranets;
- .2 Permitting and other fees required by authorities having jurisdiction over the Project;
- .3 Printing and reproductions, required by the Construction Documents, other than those required to be provided by Architect under this Agreement;
- .4 Postage, handling, and delivery of Construction Documents, other than those required to be provided by Architect under this Agreement;
- .5 Expense of overtime work requiring higher than regular rates, if authorized in advance in writing by the Owner;
- .6 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner; after providing one artist's rendering and one model or mock-up of each building in the Project; and
- .7 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective.

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

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

§ 11.10 Payments to the Architect

§ 11.10.1 Initial Payments

§ 11.10.1.1 [This Section is deleted]

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

§ 11.10.2 Progress Payments

§ 11.10.2.1 Payment, when due, shall be made to Architect monthly in accordance with Owner's ordinary business practices in proportion to the services performed. Any undisputed invoice for Progress Payments remaining unpaid after forty-five (45) days, shall be subject to simple interest as set out in Texas Government Code Chapter 2251, Subchapter B.

Nothing contained herein shall prevent or otherwise limit Owner from withholding any payment or portion of a payment for which Owner has provided Architect notice of a bona fide dispute or as set out in Section 11.10.2.2 below.

§ 11.10.2.2 The Owner may withhold payments, after appropriate notice as to the reasons for the withholding, to the Architect for the purposes of reimbursing Owner for any damages caused by the Architect, for changes in the Cost of the Work which result in Architect's compensation being reduced, or for Architect's failure to comply with the provisions of any part of this Agreement, or if a claim has been filed against Architect in an amount up to Architect's deductible or self-insured retention amount that has not been met for an insurance policy providing possible coverage for such claim. The Owner may also withhold payments to the Architect to secure performance of Architect's services and obligations under any part of this Agreement.

§ 11.10.2.3 Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be provided to the Owner upon presentation of Architect's progress payment applications.

§ 11.11 Architect shall reasonably cooperate with Owner, at no additional cost to Owner, in connection with a legal proceeding against Owner that relates to the Project.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:
(Include other terms and conditions applicable to this Agreement.)

« §12.1 INDEMNITY. Approval of any Construction Documents by Owner shall not constitute and shall not be deemed to be a release of the responsibility and liability of Architect, its agents, employees, and subcontractors, for Construction Documents which are sufficient for Owner to complete the construction of the Project and are free from material defects or omissions, nor shall such approval be deemed to be an assumption of such responsibility and liability by Owner for any defect in the Construction Documents prepared by Architect, its agents, employees, subcontractors, or consultants, it being the intent of the parties that the approval by Owner signifies Owner's approval of only the general design concept of the improvements to be constructed. In this connection, ARCHITECT SHALL, DURING THE CONSTRUCTION OF SAID PROJECT AND FOR A PERIOD OF EIGHT YEARS AFTER SUBSTANTIAL COMPLETION (PLUS AN ADDITIONAL TWO YEARS IF THE CLAIM IS PRESENTED IN ACCORDANCE WITH SECTION 16.008(C) OF THE TEXAS CIVIL PRACTICE & REMEDIES CODE), INDEMNIFY AND HOLD HARMLESS OWNER AND ALL OF ITS OFFICERS, TRUSTEES, AGENTS, REPRESENTATIVES, SERVANTS, AND EMPLOYEES FROM ANY LOSS, DAMAGE, LIABILITY, OR EXPENSE, INCLUDING ATTORNEY'S FEES INCURRED BY OWNER ON ACCOUNT OF DAMAGE OR DESTRUCTION TO PROPERTY AND INJURIES, INCLUDING DEATH, TO ANY OR ALL PERSONS, INCLUDING INVITEES AND EMPLOYEES OF THE OWNER, CONSTRUCTION MANAGER, ARCHITECT, CONTRACTOR OR SUBCONTRACTORS AND OF ALL OTHER PERSONS PERFORMING ANY PART OF THE WORK THAT IS CAUSED BY OR RESULTS FROM AN ACT OF NEGLIGENCE, INTENTIONAL TORT, INTELLECTUAL PROPERTY INFRINGEMENT, OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER, COMMITTED BY THE ARCHITECT, OR THE ARCHITECT'S AGENT, CONSULTANT UNDER CONTRACT, OR ANOTHER ENTITY OVER WHICH THE ARCHITECT EXERCISES CONTROL; provided and except, however, that this indemnification provision shall not be construed as requiring Architect to indemnify or hold Owner harmless for any loss, damage, liability, or expense on account of damaged property or injuries, including death to any person, which may arise out of or may be caused by any act of negligence or breach of obligation under this Agreement by Owner or Owner's employees or agents, except Architect.

THE PROVISIONS OF THIS SECTION 12.1 IN ITS ENTIRETY SHALL SURVIVE THE COMPLETION, TERMINATION OR EXPIRATION OF THIS CONTRACT.

It is agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of the indemnification obligations under this Section 12.1, such legal limitations are made a part of the indemnification obligation and shall operate to amend the indemnification obligation to the minimum extent necessary to bring the provision into conformity with the requirements of such limitations, and as so modified, the indemnification obligations shall continue in full force and effect.

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

§ 12.2 RECORDS RETENTION. Architect shall keep all accounting and construction records on the Project for a period of at least ten 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, Architect may provide such records to Owner for retention at any time if Owner agrees in writing to accept such records in lieu of Architect's retention under this Section.

§ 12.3 COMPLAINTS. The Texas Board of Architectural Examiner has jurisdiction over complaints regarding the professional practices of persons registered as architects in Texas under the Architects Registration Law. Texas Occupations Code Chapter 1051. The Texas Board of Architectural Examiners can be reached at Mailing Address: P. O. Box 12337, Austin, Texas 78711-2337; Physical: 505 E. Huntland Dr., Ste. 350, Austin, Texas 78701-3942, by phone at (512) 305-9000, by fax at (512) 305-8900, or on the web at <http://www.tbae.state.gov>.

§ 12.4 RIGHT TO AUDIT. At any time during the term of this Agreement and for a period of four (4) years thereafter the Owner or a duly authorized audit representative of the Owner, or the State of Texas, at its expense and at reasonable times, reserves the right to audit the Architect's records and books relevant to all services provided under this Agreement. In the event such an audit by the Owner reveals any errors/overpayments by the Owner, the Architect shall refund the Owner the full amount of such overpayments within thirty (30) days of such audit findings, or the Owner, at its option, reserves the right to deduct such amounts owing the Owner from any payments due the Architect.

§ 12.5 FEDERAL FUNDING. In the event a federal grant or other federal financing participates in the funding of this Project, the Architect shall permit access to and grant any federal representatives the right to examine his books covering its work under this Agreement. The Architect shall comply with employment and subcontract federal requirements as they relate to this Project.

§ 12.6 SEXUAL HARASSMENT PROHIBITED. Sexual harassment of employees of the Architect or employees or students of Owner by employees of the Architect is strictly forbidden. Any employee of the Architect who is found to have engaged in such conduct shall be subject to appropriate disciplinary action by the Architect, including dismissal.

§ 12.7 CONFLICT OF INTEREST. Any firm having common ownership with the Architect shall, unless otherwise agreed by the Owner, be prohibited from providing architectural, engineering or other design related services on, or the construction of, the Project. In addition, no employee of Owner shall have any personal interest, direct or indirect, in this Agreement nor shall any such member, official or employee participate in any decision relating to this Agreement which affects his or her interest or the interests of any corporation, partnership or association in which he or she is directly or indirectly interested. This subsection is subject to provisions of the Texas Local Government Code, Chapters 171 and 176.

§ 12.8 IMMIGRATION LAW COMPLIANCE. Architect represents and warrants that it will comply with all federal, state and local immigration laws, and verify all employees' eligibility to work in this country. Further, Architect will indemnify the Owner for any damages and legal fees that the Owner incurs as a result of Architect's failure to comply with applicable immigration laws. In addition, Architect shall ensure that any Contract Documents between Owner and Contractor and subcontractors will likewise require compliance by the Contractor and subcontractors to comply with all federal, state and local immigration laws, and to indemnify Owner for any damages and legal fees that Owner incurs as a result of the Contractor and/or subcontractors' failure to comply with applicable immigration laws.

§ 12.9 NOTICES. Whenever this Agreement requires that notice be given, such notice shall be in writing and may be served either personally or sent by United States mail, postage prepaid, addressed at the addresses set forth below each party's name. Notice will be deemed delivered on the first business day following the day when received, excluding weekends and school holidays. »

ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral, unless specifically provided for

otherwise in this Agreement, as amended. This Agreement may be amended only by written instrument approved by the Owner's Board of Trustees and signed by both the Owner's designated representative and Architect.

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

.1 AIA Document B101™-2017, Standard Form Agreement Between Owner and Architect, as amended for this Project

.2 AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203-2013 incorporated into this agreement.)

« »

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

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

« »

[« »] Other Exhibits incorporated into this Agreement:
(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits and scopes of services identified as exhibits in Section 4.1.2.)

« »

.4 Other documents:
(List other documents, if any, forming part of the Agreement.)

« »

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

ANTON INDEPENDENT SCHOOL DISTRICT _____

OWNER (Signature)

«Freddie Tobias, »«Superintendent »
(Printed name and title)

ARCHITECT (Signature)

« »« »
(Printed name, title, and license number, if required)