



Kenedy INDEPENDENT SCHOOL
DISTRICT 2017 BOND PROGRAM
PROJECTS

REQUEST FOR STATEMENTS OF QUALIFICATIONS
FOR
ARCHITECTURAL and ENGINEERING DESIGN
SERVICES

Article I. GENERAL INFORMATION.

1.1 Request for Statements of Qualifications. Kenedy Independent School District (“District”) is soliciting qualifications statements from qualified architectural firms (“Firms”) for design and construction administration in connection with the District’s 2017 Bond Program, as approved. On November 7, 2017, Kenedy ISD voters approved \$17 Million in Bonds to fulfill current district needs and construction projects. The proposed projects approved by voters include:

- | | |
|---|---|
| 1. Renovate JHS Gym and Cafeteria into HVAC Labs | 2. Reimbursement - ES Parking Area and Drive |
| 3. Football Stadium Upgrades | 4. HS Renovations |
| 5. Four (4) Tennis Courts and Bleachers | 6. District-wide Signage |
| 7. JHS Renovations and Upgrade | 8. Covered Canopy at Bus Barn |
| 9. JHS Top Coat Parking Area | 10. District Digital Marquee |
| 11. Remove Lockers and Replace with Trophy Cases (Front Admin Only) | |
| 12. ES Sprinkle Building and Code Upgrades | 13. Tennis Court Concession Stand / Restrooms / Storage / Vending |
| 14. ES Renovations and Upgrades | |

The delivery method for each project has not yet been established.

The District reserves the right to award portions of the work to different Architects, to make an award to a single Architect or to make no award in connection with this solicitation.

1.2 Point-of-Contact/Restriction on Communication. The District designates the following person as its representative and Point-of-Contact for this RFQ:

Kenedy ISD Interim
Superintendent Kenedy
Independent School District
Vanessa Pawelek
vpawelek@kenedyisd.com

Respondents shall direct all questions regarding this RFQ, in writing, solely to the District’s Representative specified above. No phone inquiries will be entertained. Do not contact members of the Board of Trustees or District employees of the Kenedy Independent School District. **Contact with any of these prohibited individuals after issuance of the RFQ and before selection is made, may result in disqualification of your Qualifications Statement.**

Article II. SCOPE OF SERVICES

2.1 It is the District’s objective to enter into a contract with the most qualified architect or architectural firm to act as the lead architect for the Bond Projects, providing project consultation, preparation of design documents (including cost estimation) and construction administration.

2.2 During the consultation phase, the firm will attend preliminary design meetings with District representatives and stakeholders to understand and confirm the Project objectives, Project timelines, a schedule for project deliverables and a preliminary Probable Cost Of Work for the Projects.

2.3 Additional information regarding the Scope of Services is contained in the Proposed Form of Contract Documents attached hereto as **Exhibit A** AIA Document B101-2017, *Standard form of Agreement Between Owner and Architect*, as amended by the Owner for the Project and **Exhibit A-1** AIA Document A201 (2017), *General Conditions of the Contract for Construction*, as amended by the Owner for the Project.

Article III. QUALIFICATIONS.

3.1 **Required Qualifications.** Firms submitting statements of qualifications must be represented by a professional Architect licensed to practice in the State of Texas and able to provide a professional Architect to attend meetings of any official nature concerning the Project, including but not limited to Scope Meetings, Review Meetings and other meetings as may be required for the Project.

3.2 **Selection Criteria and Weights.** Evaluation will be based on the Respondent's Qualifications Statement provided in response to this RFQ. Within forty-five (45) days after the deadline for proposal submissions, the District will evaluate the submitted Qualifications Statements and will rank each response submitted based on the following evaluation criteria and weights:

1.	Qualifications, Team, and Experience. Demonstrated firm experience in functional design of high quality and cost-effective new construction, space renovation/repurposing projects, specific design experience in Career Technology Education (CTE) Facilities and specialized sound design required for Music Facilities. Strong background in contract management, cost estimation, obtaining necessary permits, coordination with state and federal resource agencies and public involvement.	60 Points
2.	Commitment to the Projects, Success of the District's Bond Program and Availability. The firm's overall plan for allocating personnel resources to the Projects, including lead personnel and team to see the projects through to completion. Demonstrated availability of time to devote to the District's Projects, given current commitments of the firm.	20 Points
3.	Project Approach And Resources. Strong team work ethic and cooperation both within the firm and outside of the firm with contractors, consultants, and Owner. A proven firm and/or team capable of providing creative, functional, flexible, and technologically sound design solutions with an economy of means and within the project budget. Capability of the firm in the areas of support personnel, technical staff and the spectrum of services to be offered to District. The firm's overall plan for meeting the District's needs and requirements, management ability and demonstrated ability to effectively serve its clients on prior projects.	20 Points

Article IV. FORM AND SUBMISSION OF QUALIFICATIONS STATEMENT.

4.1. Statements of Qualification must be submitted in sealed opaque envelopes plainly marked: "RFQ- Architectural Services: Design and Construction Administration for 2017 Bond Projects" and shall bear the name and address of the Respondent. Responses must be received at the:

**Office of the Superintendent
Kenedy Independent School
District
401 FM 719
Kenedy, TX 78119**

NO LATER THAN 3:00 P.M., THURSDAY, March 29, 2017 Qualifications Statements submitted prior to the above time and date may be modified provided such modifications are sealed and received at the designated location, prior to the time and date set for submission of proposals. Qualification Statements received after the deadline will NOT be accepted and will be returned unopened to the Respondent.

4.2. To achieve a uniform review process and obtain the maximum degree of comparability, it is required that proposals be organized in the manner specified. One Original and one Copy of the Qualification Statement should be submitted in PAPER COPY, and one copy of the Qualifications Statement should be submitted on a Flash Drive. The Original Paper Qualifications Statement should be labeled "ORIGINAL" and contain the original signatures, preferably in blue ink. The Copy of the Original (on Paper) should be labeled "COPY". Qualifications Statements are limited to **20 letter size pages (front side only)** with minimum font size of 10 point and portrait orientation. Qualifications shall be prepared simply and economically, providing a straightforward, concise description of the respondent's ability to meet the requirements of this RFQ. Emphasis shall be on quality, completeness, clarity of content, responsiveness to the requirements, and understanding of the District's needs

4.3. Respondents are expected to examine this RFQ carefully (including the attached Contract Documents) and understand the terms and conditions for providing the services listed herein and respond completely. **FAILURE TO COMPLETE AND PROVIDE ANY OF THE ITEMS REQUIRED HEREIN MAY RESULT IN THE RESPONDENT'S QUALIFICATIONS STATEMENT BEING DEEMED NON-RESPONSIVE AND THEREFORE DISQUALIFIED FROM CONSIDERATION.**

4.4 The Qualifications Statement shall be submitted in the order set forth below. Each section behind the Cover Letter should be separated by a tab or divider of some kind to indicate the response to the individual request for information:

4.4.1 **COVER LETTER.** Submit a cover letter, prepared on the letterhead of the Respondent, which provides: the Legal Name of the Firm, as listed with the Secretary of State, the County Assumed Name Records or other records; the name of the principal contact person authorized to commit the Respondent to a contractual agreement (including that person's address, telephone number email address) and a statement of interest in the Project.

4.4.2 **COMMITMENT AND AVAILABILITY. [20 Points]**

a. Provide a summary of the relevant characteristics that distinguish the Respondent in its ability to provide the services requested by the District.

b. Provide a statement on the availability and commitment of the firm to the Project, including attendance and active participation in required monthly Project meetings through design, and bi-weekly Project meetings through construction, unless more frequent meetings are necessary.

c. Identify principal(s) and professionals to be assigned to undertake the Project, describe their respective roles and the location of the office out of which the work will be primarily handled.

d. Provide a list of all projects on which Respondent is currently engaged and the impact those projects may have on the staffing required on the District's Projects.

e. Describe the reporting responsibilities of the team members and how the firm will interface with Kenedy ISD Staff and Project Manager.

4.4.3 QUALIFICATIONS, TEAM, AND EXPERIENCE. [60 Points]

a. Describe your organization's background and experience in planning, design and administration of repurposing/renovation projects similar to the projects proposed herein and past experience with design of CTE Facilities, and repurposing of other facilities, and an overview of the services your firm proposes to provide the District which address the Projects specified.

b. Provide an organizational chart and summary resumes of not more than one page per person on the capabilities, experience, qualifications of the firm management and each team member who would handle any of the requested services for the District. Biographies should include the team member's name, title, and education, a brief overview of professional experience and licensure information, if any.

c. Provide qualifications information for subconsultants you propose to be used on the Projects, including the location of their offices, capabilities, experience, qualifications of the firm management and team member(s) who will work directly on the Project including name, title, and education, a brief overview of professional experience and licensure information.

d. Describe your firm's experience working with a Program Manager or other consultant during projects of a similar size and scope, and how you utilized their expertise and approached coordination of administration duties.

e. Provide information regarding three (3) **school district projects** of similar size and scope to the ones for which services are requested herein, that your firm acted as the design architect and provided project administration, on which you are currently working or have completed in the last five (5) years. At least one (1) of these projects should be one where a Program Manager was involved. For each, provide the following:

- Project name and location
- Services provided
- Date of completion or project status
- Original Budget and Actual Project Costs for the Project – provide any relevant information regarding a discrepancy.
- Whether the Project was completed on schedule (if not, what were the issues)
- Client name, address and telephone number(s) for contact persons that may provide information regarding the quality of your service on the Project and your qualifications.

4.4.4. PROJECT APPROACH AND RESOURCES [20 Points]

a. Provide a description of your firm's overall approach to project administration, how you view your firm's role in protecting the interests of the District, and explain how this approach will benefit the District.

b. Describe your firm's approach to working with a Program Manager during projects of a similar size and scope, and what you believe would be the best use of a Program Manager's expertise in administering this project, to compliment your own.

c. List resources of the firm that would be made available to the District that would distinguish your firm as most qualified to perform the design, administration and closeout of the Projects.

4.4.5 **THE FORM OF CONTRACT.** The form of Architect Agreement utilized for this Project shall be the *Standard Form of Agreement Between Owner and Architect (AIA Document B101-2017)* as amended by Owner. A copy of this Agreement, including Owner's amendments, is attached hereto as **Exhibit "A-1"**. The Architect will be required to 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 by Owner. A copy of these General Conditions, including Owner's amendments, is attached hereto as **Exhibit "A-2"**. Respondent must delineate any comments or requested changes and include an explanation for the requested change, **otherwise Respondent will be deemed to have accepted the form of the contract by submission of its Statement of Qualifications, without exceptions noted.** The final contract is subject to review and approval of the District's legal counsel.

4.4.6 **CONFLICT OF INTEREST QUESTIONNAIRE.** Chapter 176 of the Texas Local Government Code requires that persons, or their agents, who seek to contract for the sale or purchase of property, goods, or services with District shall file a completed Conflict of Interest Questionnaire (CIQ) with District. The Conflict of Interest Questionnaire required by Chapter 176 of the Texas Local Government Code is attached hereto as **RFQ Exhibit "B"** and must be completed and submitted as part of Respondent's response to this RFQ. Please consult your own legal advisor if you have questions regarding the statute or form.

4.4.7 **FELONY CONVICTION NOTIFICATION.** Complete, sign and submit the Felony Conviction Notification Form, **RFQ Exhibit "C"**.

4.4.8 **NON-COLLUSION AFFIDAVIT.** Complete, sign and submit the Non-Collusion Affidavit, **RFQ Exhibit "D"**.

4.4.9 **DISCLOSURE OF INTERESTED PARTIES – FORM 1295.** Texas Government Code, Section 2252.908 requires the Disclosure of Interested Parties, by a Contractor, using the form and procedure established by the Texas Ethics Commission, at the same time it submits the signed Contract, if the Contract award requires action or a vote by the Board of Trustees or the value of the Contract awarded as a result of the solicitation is at least One Million Dollars (\$1,000,000.00). The form requires disclosure of any "interested party" to the contract of which the contracting business entity is aware, and must be signed by an authorized agent of the contracting business entity acknowledging that disclosure is made under oath and under penalty of perjury. A copy of Form 1295 and further information about the process required is attached hereto as **RFQ Exhibit "E"**. By submission of its Response to the RFQ, Respondent

agrees that upon Contract award and notification by the District of the applicability of this requirement, it will timely comply with the filing requirements set forth by the Commission and required by Section 2252.908 of the Texas Government Code. **Note:** The form attached as **RFQ Exhibit "E"** may only be filed electronically and is attached to this RFQ for reference only. Please consult your own legal advisor if you have questions regarding the statute or form.

4.4.10. CRIMINAL HISTORY RECORDS CHECK ("CHRI"). Texas Education Code Chapter 22 requires entities that contract with school districts ("Contractor") to obtain criminal history record information ("CHRI") on **Covered Employees**. Covered Employees with **Disqualifying Criminal Histories** are prohibited from serving at a school district. Contractor will be required to certify to the District that it has complied and will be required to obtain similar information from its employees, subcontractors of every tier and independent contractors, to the extent they are, or employ, Covered Employees. "Covered Employees" are defined as all employees of a Contractor, or its subcontractors of any tier, and individuals who are independent contractors, who have or will have continuing duties related to the service to be performed at the District and have, or will have, direct contact with students. The District will be the final arbiter of what constitutes continuing duties and direct contact with students. A "Disqualifying Criminal History" includes existence of one of the following offenses in the CHRI Report, if at the time of the offense, the victim was under 18 or enrolled in a public school: (a) a felony offense under Title 5, Texas Penal Code; (b) an offense for which a defendant is required to register as a sex offender under Chapter 62, Texas Code of Criminal Procedure; or (c) an equivalent offense to (a) or (b) under federal law or the laws of another state. By submission of a response to this RFQ Respondent agrees that prior to commencement of its performance under the awarded Contract, it will timely obtain CHRI on Covered Employees, if required by the circumstances of the Project, at its sole expense.

4.4.11. ACKNOWLEDGEMENT OF ADDENDA. Complete, sign and submit the Acknowledgement of Addenda Form, **RFQ Exhibit "F"**. **This form is required ONLY if Addenda were issued in connection with this RFQ.**

4.4.12. SIGNATURE PAGE. Complete, sign and submit Signature Page, **RFQ Exhibit "G"**. The Signature Page must be signed by a person, or persons, authorized to bind the entity, or entities, submitting the proposal. Responses signed by a person other than an officer of the company or partner of the firm shall be accompanied by evidence of authority.

4.5 Qualification Statements may be withdrawn by written request received by the District prior to the time fixed for opening. Two (2) signed copies of any such withdrawal should be forwarded immediately to District in a sealed opaque envelope properly marked to identify the contents. No Qualification Statements, or modification to a Qualification Statement, shall be made orally or by telephone, e-mail, or by facsimile transmission ("fax").

4.6 The District reserves the right to request supplemental information of any and all Respondents to aid the Owner in the evaluation process.

4.7 Time is of the essence, and the award of the contract to the successful Respondent is expressly conditioned upon (i) the Respondent's execution and delivery of the contract and evidence of insurance, within ten (10) calendar days after the successful Respondent is notified of the acceptance of its post-selection price proposal, and (ii) the Respondent's timely fulfillment of any and all other preconditions expressly set forth in the Contract. Should the Respondent fail to timely execute and deliver the contract, evidence of insurance, or fail to

timely fulfill any other such preconditions, the Owner may, at its option and discretion rescind the award and thereafter negotiate with and award the contract to the next ranked Respondent, or may reject all Statements of Qualification.

4.8 By submission of its Statement of Qualifications, the Respondent agrees to waive all rights to claims against the District, or persons authorized by the District for any damages whatsoever arising from the District's or any person's or committee's evaluation of the Respondent's qualifications.

4.9 **Note: Texas Public Information Act:** During the course of the selection process, the Qualifications Statements submitted by Respondents are exempt from disclosure to the public under the Texas Public Information Act. The Qualifications Statements will however, upon the award of the contract, become a public record; and therefore, subject to disclosure to any person who makes a proper request for review of the documents. Some of the information you may provide in your Statement of Qualification may contain commercial or financial information which are deemed privileged or confidential by statute, or may be of a nature which you feel may cause substantial competitive harm to your business if disclosed by the District to a third-party even after the award. You may be entitled to protect this information at the time the request is made for disclosure; however, you will need to consult your legal counsel to assure that this kind of information, if included in your Response, is properly marked as confidential prior to submission. Wholesale marking of your entire proposal "Confidential" or "Proprietary" will not be effective. The District fully complies with the Texas Public Information Act. In the event information from Respondent's Qualification Statement is requested, the District will use its best efforts to notify the Respondent of such request but will have no duty to assert any claim to the Attorney General regarding that the proposal or parts thereof are not subject to disclosure under the Act.

1.9 By submitting its Response to this RFQ, Respondent certifies that it does not and will not refuse to deal with, terminate business activities with, or otherwise take 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, unless the action taken for ordinary business purposes.

Article V. AWARD OF CONTRACT.

5.1. The District reserves the right to reject any or all Qualifications Statements. There will be no contractual obligations on the part of the District to any Respondent, nor will any Respondent have any property interest or other right in the contract unless and until a reasonable price for the services is negotiated and the contract is unconditionally executed and delivered by all parties, and all conditions to be fulfilled by the Respondent have either been so fulfilled by the Respondent or waived in writing by the District.

5.2 The process followed for evaluation and award of the contract shall be substantially as follows:

5.2.1 **Step 1 of Evaluation - Qualifications Statements.** Within a reasonable time, not to exceed forty-five (45) days after the deadline for submission of responses, a committee of District representatives to whom the task has been delegated by the Board, will evaluate each Statement of Qualifications submitted in relation to the criteria set out in above, in this Request for Qualifications.

5.2.2 Step 2 of Evaluation – Interviews/Presentations. Following the Evaluation Committee’s ranking of the Qualifications Statements, the Evaluation Committee may interview two or more of the highest ranking Respondents prior to its final ranking. The Interviews will not be rescored, but the interviews will serve as a continuation of the Committee’s evaluation, considering the same criteria and weights published herein. Interviews will be limited to 45 minutes per Respondent, consisting of presentation by Respondent of 20 to 25 minutes, briefly describing the Firm’s qualification, but primarily focused on its proposed approach to the Projects. The remaining time will be utilized by the committee to ask questions of the presenting Respondent. Following the interviews, if any, the Evaluation Committee will finalize their scores and rank each of the finalist respondents in order of qualifications.

5.2.4 At the next regular or special called Board Meeting the Superintendent will present the rankings to the Board of Trustees for approval.

5.2.5 Utilizing the ranking approved by the Board of Trustees, the Superintendent or his designee will attempt to negotiate an agreement for a reasonable price with the first ranked Respondent. If the District is unable to negotiate a contract for a reasonable price with the first selected Respondent, the District will, formally and in writing, end negotiations with that Respondent and proceed to the next ranked Respondent in the order of the selection ranking until a contract is reached or all Qualifications Statements are rejected.

5.2.6 Upon reaching an agreement as to the terms of the Contract with the selected Respondent, the Superintendent, as the Board’s delegate, will notify the Respondent that its firm has been selected and within ten (10) days after notice of its selection, Respondent will execute the negotiated contract with the District and shall furnish the insurance certificates required by the Contract in forms acceptable to the District.

AIA[®] Document B101[™] – 2007

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the day of in the year
(In words, indicate day, month and year.)

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

Kenedy Independent School District
401 FM 719
Kenedy, Texas 78119
Phone: 830-583-4100
Fax: 830-583-9950

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

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

Kenedy Independent School District / Request for Qualifications for Architect

The Owner and Architect agree as follows.

ADDITIONS AND DELETIONS:

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

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

Init.

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User Notes:

(1835287630)

TABLE OF ARTICLES

1	INITIAL INFORMATION
2	ARCHITECT'S RESPONSIBILITIES
3	SCOPE OF ARCHITECT'S BASIC SERVICES
4	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

EXHIBIT A INITIAL INFORMATION

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Article 1 and in optional Exhibit A, Initial Information:

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

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

- .1 Commencement of construction date:

- .2 Substantial Completion date:

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

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

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

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User Notes:

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

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

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

§ 2.5 The Architects shall provide and maintain in effect during the performance of the Work under the Agreement insurance of the following types and with indemnification limits not less than the amounts indicated:

<u>Professional Liability:</u>	\$1,000,000 per claim and \$2,000,000 in the aggregate
<u>Worker's Compensation</u>	\$1,000,000.00
<u>Comprehensive General Liability:</u>	
Occurrence	\$1,000,000.00
Aggregate	\$2,000,000.00
Personal Injury	\$1,000,000.00 each person
(Coverage to include groups A, B, & C w/exclusion "C" aggregate removed.)	
<u>Automobile Liability:</u>	\$1,000,000.00 combined single limit
<u>Architect's Consultants</u>	\$500,000.00
<u>Excess Umbrella Liability</u>	\$5,000,000.00

- .1 The required insurance must be written by a company licensed to do business in Texas at the time the policy is issued. In addition, the company must be acceptable to the Owner. The Owner's Representative will contact the State Board of Insurance to confirm that the issuing companies are admitted and authorized to issue such policies in the State of Texas.
- .2 The policy so issued in the name of Architect shall also name the Owner as additional insured, except for professional liability insurance and worker's compensation insurance. To the extent an Architect's Consultant is named as an additional insured on any policy held by the Architect, separate coverage shall not be required of the Architect's Consultants. All policies held by the Architect shall be primary coverage.
- .3 Architect shall have its insurance carrier(s) furnish to Owner insurance certificates in form satisfactory to Owner specifying the types and amounts of coverage in effect, the expiration dates of each policy, a statement that no insurance will be canceled or materially changed while the Work is in progress without thirty (30) calendar days prior written notice to Owner, and a statement that, except for professional liability insurance and worker's compensation insurance, the Owner is named as additional insured. Architect shall permit Owner to examine the insurance policies, or at Owner's option, Architect shall furnish Owner with copies, certified by the carrier(s), of insurance policies required. If Architect neglects or refuses to provide any insurance required herein, or if any insurance is canceled, Owner may, but shall not be obligated to, procure such insurance at Architect's expense.
- .4 Insurance provided pursuant to this Section shall be considered a part of the Architect's basic services and shall not be a Reimbursable Expense within the scope of Section 11.8, or other provisions of this Agreement.

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

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

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

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

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

(Paragraph deleted)

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

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

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

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

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

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

schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary as the Project proceeds until the commencement of construction.

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

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

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

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

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

- .1 The time period during which the Architect's duty to provide Basic Services shall include that time necessary to correct any defective work caused by defects, errors or omissions of the Architect during any phase of construction. Such services shall be performed by the Architect at no additional charge, either in fee or expenses.
- .2 The Architect shall be responsible for retaining all necessary consultants to execute Architect's scope of work. Such consultants shall be professionals licensed by the State of Texas to practice the building discipline for which they are retained on the Project. Consultants required by the Architect shall at a minimum be required to make on-site visits and observations during those periods when work they have designed is being constructed[.] or [as follows:

Civil Engineer [weekly or ___ times each month]

Structural Engineer [weekly or ___ times each month]

Mechanical Engineer [weekly or ___ times each month]

Electrical Engineer [weekly or ___ times each month]

Engineering consultants and others who shall design the building in accordance with all indoor air quality standards in effect at the time of the Project.

[weekly or ___ times each month]]

- .3 The Architect shall require the Contractor and its subcontractors to maintain a set of record drawings to be furnished to the Owner in reproducible form upon Substantial Completion of the Project. The Architect shall cause the Contractor to provide all warranty documents and Owner operation manuals required by the Contract Documents. The Architect shall review the record drawings, warranties, and operation manuals for conformance with the Contract Documents and shall deliver the record drawings, warranties, and operation manuals to the Owner by written transmittal.
- .4 The Architect shall be responsible for reporting all known building deficiencies to the Contractor for a period of one year after the date of Substantial Completion. In addition, the Architect shall monitor the progress of corrections and furnish the Owner with written notification of completed corrections. The one year period shall be extended to portions of the Work first completed after the date of Substantial Completion by the period of time between Substantial Completion and the actual completion of such Work. The obligations under this Section shall survive acceptance of the Work by the Owner.

§ 3.2 SCHEMATIC DESIGN PHASE SERVICES

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

Init.

§ 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, and the proposed procurement or delivery method and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

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

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

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

§ 3.2.5.1 The Architect shall consider environmentally responsible design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain other environmentally responsible design services under Article 4.

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

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

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

§ 3.3 DESIGN DEVELOPMENT PHASE SERVICES

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

§ 3.3.2 The Architect shall update the estimate of the Cost of the Work.

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

§ 3.4 CONSTRUCTION DOCUMENTS PHASE SERVICES

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that in order to construct the Work the Contractor

will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

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

§ 3.4.3 During the development of the Construction Documents, the Architect shall, subject to review and approval of the Owner, develop and prepare: (1) bidding and procurement information that describes the time, place and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications and may include bidding requirements and sample forms.

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

§ 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.

§3.4.6 After Owner's approval of the Construction Documents, the Architect shall not make or approve any change in the Work, except for minor changes in the Work not involving an adjustment in the Contract Sum, expenditure of contingency funds or an extension of the Contract Time, without the prior written consent of the Owner. The 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.

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

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

§3.4.8 As a condition to the Project being considered Substantially Complete, the Architect shall obtain the certification of the Contractor on the Certification of Project Compliance form that the facility has been constructed in general accordance with the Construction Documents set out in Section 2.4.7 above.

§ 3.5 BIDDING OR NEGOTIATION PHASE SERVICES

§ 3.5.1 GENERAL

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction.

§ 3.5.2 COMPETITIVE BIDDING

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

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

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

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

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

§ 3.5.3 NEGOTIATED PROPOSALS

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

§ 3.5.3.2

(Paragraphs deleted)

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

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

§ 3.6 CONSTRUCTION PHASE SERVICES

§ 3.6.1 GENERAL

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

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

§ 3.6.1.3 The Architect's responsibility to provide the Contract Administration Services under this Agreement commences with the award of the initial Contract for Construction and terminates [upon final completion of the Construction Phase after Architect insures that the Contractor has completed all work required by the Contract Documents including all punchlist work] or [twelve (12) months after the dated of Substantial Completion].

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

§ 3.6.2 EVALUATIONS OF THE WORK

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.3.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make

exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work.

§ 3.6.2.2 The Architect shall notify the Owner of any Work that does not conform to the Contract Documents and shall reject such work unless the Owner objects to the rejection within twenty-four (24) hours of such notification. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. The Architect shall notify and receive approval from the Owner prior to ordering any such inspection or testing which will result in additional cost to the Owner. However, neither the Architect's authority to reject work or order inspection or testing nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work.

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

§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings.

§ 3.6.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201-2007, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

§ 3.6.3 CERTIFICATES FOR PAYMENT TO CONTRACTOR

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

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

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

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

§ 3.6.4 SUBMITTALS

§ 3.6.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review.

§ 3.6.4.2 In accordance with the Architect-approved submittal schedule, the Architect shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only

for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

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

§ 3.6.4.4 The 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 requests for information by the Contractor at no additional charge to the Owner.

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

§ 3.6.5 CHANGES IN THE WORK

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

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

[§3.6.5.3 The Architect shall prepare a set of reproducible record drawings in AutoCad format, on diskette or CD, showing significant changes made during construction based on marked-up prints, drawings and other data furnished by the Contractor to the Architect.]

§ 3.6.6 PROJECT COMPLETION

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

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

§ 3.6.6.3 When the Work is found to be substantially complete, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

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

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

[§3.6.6.6 On new buildings, the Architect’s structural engineer shall provide to the Owner a State Windstorm Certificate for use by the Owner for obtaining insurance.] [Only in Aransas, Brazoria, Calhoun, Cameron, Chambers, Galveston, Jefferson, Kenedy, Kleberg, Matagorda, Nueces, Refugio, San Patricio, Willacy or in one of the cities east of State Highway 146 in Harris County (La Porte, Morgan’s Point, Pasadena, Seabrook, Shoreacres.)]

ARTICLE 4 ADDITIONAL SERVICES

§ 4.1 Additional Services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Additional Services only if specifically designated in the table below as the Architect’s responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. *(Designate the Additional Services the Architect shall provide in the second column of the table below. In the third column indicate whether the service description is located in Section 4.2 or in an attached exhibit. If in an exhibit, identify the exhibit.)*

Additional Services	Responsibility (Architect, Owner or Not Provided)	Location of Service Description (Section 4.2 below or in an exhibit attached to this document and identified below)
§ 4.1.1 Programming		
§ 4.1.2 Multiple preliminary designs		
§ 4.1.3 Measured drawings		
§ 4.1.4 Existing facilities surveys		
§ 4.1.5 Site Evaluation and Planning (B203™–2007)		
§ 4.1.6 Building information modeling		
§ 4.1.7 Civil engineering		
§ 4.1.8 Landscape design		
§ 4.1.9 Architectural Interior Design (B252™–2007)		
§ 4.1.10 Value Analysis (B204™–2007)		
§ 4.1.11 Detailed cost estimating		
§ 4.1.12 On-site project representation		
§ 4.1.13 Conformed construction documents		
§ 4.1.14 As-Designed Record drawings		
§ 4.1.15 As-Constructed Record drawings		
§ 4.1.16 Post occupancy evaluation		
§ 4.1.17 Facility Support Services (B210™–2007)		
§ 4.1.18 Tenant-related services		
§ 4.1.19 Coordination of Owner’s consultants		
§ 4.1.20 Telecommunications/data design		
§ 4.1.21 Security Evaluation and Planning (B206™–2007)		
§ 4.1.22 Commissioning (B211™–2007)		
§ 4.1.23 Extensive environmentally responsible design		
§ 4.1.24 LEED® Certification (B214™–2007)		
§ 4.1.25 Fast-track design services		
§ 4.1.26 Historic Preservation (B205™–2007)		
§ 4.1.27 Furniture, Furnishings, and Equipment Design (B253™–2007)		
§ 4.1.28 Surveys		

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§ 4.1.29	Geotechnical Reports		

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

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

§ 4.3.1 Upon recognizing the need to perform the following Additional Services, the Architect 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 services until the Architect receives the Owner's written authorization:

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

§ 4.3.2
(Paragraphs deleted)
[Paragraph Deleted.]

§ 4.3.3 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 () reviews of each Shop Drawing, Product Data item, sample and similar submittal of the Contractor
- .2 [Subsection Deleted.]
- .3 () inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 () inspections for any portion of the Work to determine final completion
- .5 The Architect shall visit the site and observe the Work at appropriate stages of construction no less than weekly. The Architect shall report the results of all observations to the Owner in writing. Any and all observed deficiencies shall immediately be reported to the Owner and Contractor in writing.

§ 4.3.4 [Paragraph Deleted.]

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements. Within fifteen (15) days after receipt of a written

request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of or enforce lien rights.

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

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

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

(Paragraph deleted)

§ 5.5 [Paragraph Deleted.]

§ 5.6 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 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 maintain professional liability insurance as appropriate to the services provided.

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

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

§ 5.9 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 Architect's Instruments of Service.

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

§ 5.11 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.

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

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner, or to the extent the Project is not completed, the estimated costs to the Owner to construct all elements of the Project designed or specified

by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work does not include the compensation of the Architect, the costs of the land, rights-of-way, financing, contingencies for changes in the Work or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and may be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work or from any estimate of the Cost of the Work or evaluation prepared or agreed to by the Architect.

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

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

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the bid or proposal providing the best value to the Owner, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the 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.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, 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 shall be the limit of the Architect's responsibility under this Article 6.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project. If the Owner and Architect intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions.

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

consultants' Instruments of Service for information and reference in connection with the Owner's use and occupancy of the Project.

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

§ 7.3.1 The payment of fees for professional services performed under this Agreement shall constitute full payment for a one-time, perpetual license fee for those uses of the Architect's Instruments of Service set forth in Section 3.3, for all documents produced pursuant to this Agreement and in existence as of the date of any such payment.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers, as well as the Owner's consultants and separate contractors to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services for the Project.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 GENERAL

§ 8.1.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to the initiation of litigation.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and 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 A201-2007, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.

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

§ 8.2 MEDIATION

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to the initiation of litigation.

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

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

§ 8.2.3 The parties shall share the mediator's fee equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

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

(Check the appropriate box. If the Owner and Architect do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.)

Arbitration pursuant to Section 8.3 of this Agreement

Litigation in a court of competent jurisdiction

Other (Specify)

§ 8.3 ARBITRATION (NOT APPLICABLE)

(Paragraphs deleted)

ARTICLE 9 TERMINATION OR SUSPENSION

(Paragraph deleted)

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

§ 9.2 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.

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

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

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

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

§ 9.7 [Paragraph Deleted.]

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

ARTICLE 10 MISCELLANEOUS PROVISIONS

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

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

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

consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement.

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

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with or a cause of action in favor of a third party against either the Owner or Architect.

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

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

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

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

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

§10.11 Pursuant to TEXAS EDUCATION CODE section 44.034, 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.

§10.12 Architect shall keep all accounting and construction records on the Project for a period of at least twelve years after Final Completion of the Project, and thereafter shall offer the records 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.

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

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

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

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

§10.17 [Paragraph Deleted.]

§10.18 [Paragraph Deleted.]

ARTICLE 11 COMPENSATION

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

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

§ 11.2 For Additional Services designated in Section 4.1, the Owner shall compensate the Architect as follows:

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

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.3, the Owner shall compensate the Architect as follows:

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

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

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

Schematic Design Phase	percent ()	%
Design Development Phase	percent ()	%
Construction Documents Phase	percent ()	%
Bidding or Negotiation Phase	percent ()	%
Construction Phase	percent ()	%

Total Basic Compensation	one hundred percent (100	%)
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§ 11.6 When compensation is based on a percentage of the Cost of the Work and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions, in accordance with the schedule set forth in Section 11.5 based on (1) the lowest bona fide bid or negotiated proposal, or (2) if no such bid or proposal is received, the most recent estimate of the Cost of the Work for such portions of the Project. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

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

See Section 11.3.

Employee or Category	Rate
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§ 11.8 COMPENSATION FOR REIMBURSABLE EXPENSES

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

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

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect’s consultants plus _____ () of the expenses incurred.

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

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

§ 11.10 PAYMENTS TO THE ARCHITECT

§ 11.10.1 An initial payment of Zero (\$0) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner’s account in the final invoice.

§ 11.10.2 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect’s invoice. Amounts unpaid thirty (30) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect. *(Insert rate of monthly or annual interest agreed upon.)*

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

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

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

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

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

LICENSING AUTHORITY: The following information is included in this agreement as required by Texas Occupations Code section 1051.251: "The Texas Board of Architectural Examiners (333 Guadalupe Suite 2-350, Austin, Texas 78701 Telephone: 512-305-9000) has jurisdiction over individuals licensed to practice architecture in the State of Texas."

ARTICLE 13 SCOPE OF THE AGREEMENT

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

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

- .1 AIA Document B101™-2007, Standard Form Agreement Between Owner and Architect
- .2 [Subsection Deleted.]

- .3 Other documents:
(List other documents, if any, including Exhibit A, Initial Information, and additional scopes of service, if a, forming part of the Agreement.)

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

OWNER
KENEDY INDEPENDENT SCHOOL DISTRICT

ARCHITECT

(Signature)

(Signature)

(Printed name and title)

(Printed name and title)

Init.

RFQ EXHIBIT B

CONFLICT OF INTEREST QUESTIONNAIRE For vendor doing business with local governmental entity		FORM CIQ
<p>This questionnaire reflects changes made to the law by H.B. 23, 84th Leg., Regular Session.</p> <p>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).</p> <p>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.</p> <p>A vendor commits an offense if the vendor knowingly violates Section 176.006, Local Government Code. An offense under this section is a misdemeanor.</p>	OFFICE USE ONLY	
<p>1 Name of vendor who has a business relationship with local governmental entity.</p>	<p>Date Received</p>	
<p>2 <input type="checkbox"/> Check this box if you are filing an update to a previously filed questionnaire.</p> <p style="margin-left: 40px;">(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.)</p>		
<p>3 Name of local government officer about whom the information in this section is being disclosed.</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">Name of Officer</p> <p>This section (item 3 including subparts A, B, C, & D) must be completed for each officer with whom the vendor has an employment or other business relationship as defined by Section 176.001(1-a), Local Government Code. Attach additional pages to this Form CIQ as necessary.</p> <p>A. Is the local government officer named in this section receiving or likely to receive taxable income, other than investment income, from the vendor?</p> <p style="margin-left: 40px;"> <input type="checkbox"/> Yes <input type="checkbox"/> No </p> <p>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 named in this section AND the taxable income is not received from the local governmental entity?</p> <p style="margin-left: 40px;"> <input type="checkbox"/> Yes <input type="checkbox"/> No </p> <p>C. Is the filer of this questionnaire employed by 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?</p> <p style="margin-left: 40px;"> <input type="checkbox"/> Yes <input type="checkbox"/> No </p> <p>D. Describe each employment or business and family relationship with the local government officer named in this section.</p>		
<p>4</p> <p style="text-align: center;">_____</p> <p style="text-align: center;">Signature of vendor doing business with the governmental entity</p> <p style="text-align: right; margin-right: 100px;">_____</p> <p style="text-align: right; margin-right: 100px;">Date</p>		

Adopted 8/7/2015

**RFQ EXHIBIT C
FELONY CONVICTION NOTIFICATION**

The Texas Education Code, Section 44.034, Notification of Criminal History, Subsection (a), states "a person or business entity that enters into a contract with a school district must give advance notice to the district if the person or an owner or operator of the business entity has been convicted of a felony. The notice must include a general description of the conduct resulting in the conviction of a felony."

Subsection (b) states "a school district may terminate a contract with a person or business entity if the district determines that the person or business entity failed to give notice as required by Subsection (a) or misrepresented the conduct resulting in the conviction. The district must compensate the person or business entity for services performed before the termination of the contract."

This notice is not required of a Publicly-Held Corporation.

I, the undersigned agent for the firm named below, certify that the information concerning notification of felony conviction has been received by me and the following information furnished is true to the best of my knowledge.

Respondent's Business Name _____

Authorized Company Official's Name (Printed) _____

A. My firm is a publicly-held, stock-exchange corporation; therefore this requirement is not applicable.

Signature of Company Official: _____

Date Signed: _____

B. My firm is not owned or operated by anyone who has been convicted of a felony.

Signature of Company Official: _____

Date Signed: _____

C. My firm is owned or operated by the following individual(s) who has/have been convicted of a felony (printed name and general description of type of felony or felonies):

1. _____
2. _____
3. _____
4. _____

Signature of Company Official: _____

Date Signed: _____

**RFQ EXHIBIT D
NON-COLLUSION STATEMENT**

_____, being first duly sworn, deposes and says this:

(1) He is _____ of _____
(a partner or officer) (the firm of, etc.)

the Respondent who has submitted the attached Statement of Qualifications.

(2) He is fully informed respecting the preparation and contents of the attached Statement of Qualifications and of all pertinent circumstances respecting such Statement of Qualifications.

(3) That Statement of Qualifications is genuine and is not a collusive or sham response.

(4) Neither the said Respondent nor any of its officers, partners, owners, agents, representatives, employees or parties in interest, including this affiant, has in any way colluded, conspired, connived or agreed, directly or indirectly, with another Respondent, firm or person, to submit a collusive or sham Response in connection with the Contract for which the attached Statement of Qualifications has been submitted or to refrain from proposing in connection with such Contract, or has in any manner, directly or indirectly, sought by agreement or collusion, or communication or conferences, with any other Respondent, firm or person to secure through any collusion, conspiracy, connivance or unlawful agreement any advantage against the Poth Independent School District of Poth, Texas or any person interested in the proposed contract; and,

(5) The price or prices which will be offered if selected as the successful Respondent in connection with this Request for Qualifications will be fair and proper and will not be tainted by any collusion, conspiracy, connivance or unlawful agreement on the part of the Respondent or any of its agents, representatives, owners, employees, or parties in interest, including this affiant.

(Respondent's Business Name): _____

(Respondent's Representative Signature) _____

(Respondent's Representative Title) _____

Subscribed and sworn to before me on this _____ day of _____, 2011.

NOTARY PUBLIC, STATE OF TEXAS

RFQ EXHIBIT E DISCLOSURE OF INTERESTED PARTIES

Under certain circumstances, the District is required to comply with Texas Government Code, Section 2252.908, Disclosure of Interested Parties. If the District is entering into a contract with a "business entity" (defined below) which requires action by the Board of Trustees or which has a value of the contract is at least \$1 million, Section 2252.908, requires the District obtain a Disclosure of Interested Parties Form 1295 from the contracting business entity that, at the time the contract is signed binding the parties. The form requires disclosure of each "interested party" to the contract of which the contracting business entity is aware, and must be signed by an authorized agent of the contracting business entity acknowledging that disclosure is made under oath and under penalty of perjury.

Since the Respondent qualifies as a "business entity" and the contract to be entered for this solicitation is for a value greater than \$1 Million or requires action or a vote by the Board of Trustees the selected Respondent will be required complete and submit Form 1295. **THE FORM MAY ONLY BE FILED ELECTRONICALLY.**

Form 1295 must be submitted on the form promulgated by the Texas Ethics Commission and in compliance with the Commission's rules, at the time the business entity submits the signed contract to the District. The form must be completed electronically and the process for doing so can be found at the Texas Ethics Commission website at: https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm. The filing process will include:

1. **Completing Form 1295 electronically** with the Texas Ethics Commission using the online filing application. The portal for completion of Form 1295, instructions for completion and answers to Frequently Asked Questions can be found at the Texas Ethics Commission website: https://www.ethics.state.tx.us/whatsnew/elf_info_form1295.htm
2. **Printing a copy of the completed form** (make sure that it has a computer-generated certification number in the "Office Use Only" box)
3. Having an authorized agent of the business entity **sign the form before a notary public.**
4. **Submitting** the completed, signed and notarized Form 1295, showing the certification of filing with your signed contract.

The District will then acknowledge the receipt of the filed Form 1295 by notifying the Texas Ethics Commission of the receipt of the filed Form 1295 no later than the 30th day after the date the contract is executed by the District, binding all parties to the Contract. Within seven (7) business days after receiving acknowledgement from the District the Texas Ethics Commission will post the completed Form 1295 to its website.

A copy of the current Form 1295 is attached hereto for your reference. You are encouraged to contact your own legal counsel with any questions you may have about the process.

The following **definitions** apply:

1. **"Business Entity"** means an entity recognized by law through which business is conducted, including a sole proprietorship, partnership, or corporation. TEX. GOV'T CODE §2252.908(1).
2. **"Interested Party"** means a person:
 - a) who has a *controlling interest* in a Business Entity with whom the District contracts; or
 - b) who actively participates in facilitating the contract or negotiating the terms of the contract, including a broker, intermediary, adviser, or attorney for the Business Entity. TEX. GOV'T CODE § 2252.908(3).
3. **"Controlling interest"** means:
 - a) an ownership interest or participating interest in a business entity by virtue of units, percentage, shares, stock, or otherwise that exceeds 10 percent;
 - b) membership on the board of directors or other governing body of a business entity of which the board or other governing body is composed of not more than 10 members; or
 - c) service as an officer of a business entity that has four or fewer officers, or service as one of the four officers most highly compensated by a business entity that has more than four officers.
4. **"Intermediary"** means a person who actively participates in the facilitation of the contract or negotiating the contract, including a broker, adviser, attorney, or representative of or agent for the business entity who:
 - a) receives compensation from the business entity for the person's participation;
 - b) communicates directly with the governmental entity or state agency on behalf of the business entity regarding the contract; and
 - c) is not an employee of the business entity. TEX. ETHICS COMM. RULE 46.3(e).

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

Complete Nos. 1 - 4 and 6 if there are interested parties. Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.	OFFICE USE ONLY
1 Name of business entity filing form, and the city, state and country of the business entity's place of business.	
2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.	

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

4 Name of Interested Party	City, State, Country (place of business)	Nature of Interest (check applicable)	
		Controlling	Intermediary

5 Check only if there is NO Interested Party.

6 AFFIDAVIT I swear, or affirm, under penalty of perjury, that the above disclosure is true and correct.

Signature of authorized agent of contracting business entity

AFFIX NOTARY STAMP SEAL ABOVE

Sworn to and subscribed before me, by the said _____, this the _____ day of _____, 20____, to certify which, witness my hand and seal of office.

Signature of officer administering oath

Printed name of officer administering oath

Title of officer administering oath

ADD ADDITIONAL PAGES AS NECESSARY

**RFQ EXHIBIT F
ACKNOWLEDGEMENT OF ADDENDA**

I, _____, acknowledge receipt of the following Addendums to the Request for Qualifications for Architectural Services issued by Poth Independent School District, on behalf of the Respondent listed below:

Addendum No. _____. Dated: _____ Entitled: _____

Addendum No. _____. Dated: _____ Entitled: _____

Addendum No. _____. Dated: _____ Entitled: _____

Respondent's Business Name: _____

Respondent's Representative Signature: _____

Respondent's Representative Title: _____

Date: _____

RFQ EXHIBIT G
SIGNATURE PAGE AND DECLARATION OF COMPLIANCE

Check (✓) the box that indicates business structure of Respondent.

Individual/Sole Proprietorship Partnership or Joint Venture Corporation Other Entity (State Type) _____

The undersigned certifies that (s)he is _____ (title) of the Respondent entity named below; that (s)he is authorized to sign this Statement of Qualifications (if a Corporation then by resolution with Certified Copy of resolution attached) for and on behalf of the entity, if any, named below, and that (s)he is authorized to execute same for and on behalf of and bind said entity to the terms and conditions provided for in the Proposal as required by this RFQ, and has the requisite authority to execute an Agreement on behalf of Respondent, if awarded, and that the 11-digit Comptroller's Taxpayer Number for the entity, if any, is:

11-digit Comptroller's Taxpayer Number

Employer Identification No.

Respondent Organization Name

By: _____

Printed Name: _____

Title: _____

By: _____

(If Respondent is a Joint Venture, an authorized signature from a representative of each party is required.)

Printed Name: _____

Title: _____

By signing this Signature Page and Declaration of Compliance, I do hereby declare that I have read the Request for Qualifications, on which our Qualifications Statement is submitted with full knowledge of the requirements, and do hereby agree to furnish all services in full accordance with the requirements outlined in the Request for Qualifications.

By signing and executing this Qualifications Statement, I further certify on behalf of my organization and represent to the Poth Independent School District that Respondent has not offered, conferred or agreed to confer any pecuniary benefit, as defined by **TEXAS PENAL CODE ANN. § 218**, or any other thing of value, as consideration for the receipt of information or any special treatment or advantage relating to this Qualifications Statement; the Respondent also certifies and represents that Respondent has not offered, conferred or agreed to confer a pecuniary benefit or other things of value as consideration for the recipient's decision, opinion, recommendation, vote or other exercise of discretion concerning this proposal; the Respondent certifies and represents that Respondent has neither coerced nor attempted to influence the exercise of discretion by any officer, trustee, agent or employee of the Poth Independent School District concerning this Qualifications Statement on the basis of any consideration not authorized by law; the Respondent also certifies and represents that Respondent has not received any information not available to other Respondent so as to give the undersigned a preferential advantage with respect to this proposal; the Respondent further certifies and represents that Respondent has not violated any state, federal or local law, regulation or ordinance relating to bribery, improper influence, collusion or the like and that Respondent will not in the future offer, confer, or agree to confer a pecuniary benefit or other thing of value to any officer, trustee, agent or employee of the Poth Independent School District in return for the person having exercised the person's official discretion, power or duty with respect to this Qualifications Statement; the Respondent certifies and represents that it has not nor and will not in the future offer, confer, or agree to confer a pecuniary benefit or other thing of value to any officer, trustee, agent or employee of the Poth Independent School District in connection with information regarding this Proposal, the submission of this Qualifications Statement, the award or performance of a contract in connection with this RFQ.