

## ARCHITECT/ENGINEER AGREEMENT

Pursuant to Irving ISD RFQ #23B-02-600, this Architect/Engineer Agreement (“Agreement” or “Contract”) is entered into effective as of 1<sup>st</sup> day of September, 2023 (“Effective Date”), by and between the Irving Independent School District, a body corporate, created under and by virtue of the laws of the State of Texas, (hereinafter “IISD”, “District” or “Owner”) and

**{Company.Name}**  
**{Addresses.Address1}**  
**{Addresses.City}, {Addresses.State} {Addresses.Zip}**

an individual, partnership, or corporation licensed to practice architecture in the State of Texas (hereinafter “A/E”) for as needed Architect/Engineer services.

The Agreement will be in effect for one (1) year, with automatic renewals, unless otherwise terminated by either party, for four (4) additional one-year terms.

Now, therefore, IISD and A/E, for the consideration hereinafter set forth, agree as follows:

### Definitions

**Architect/Engineer (A/E):** The individual, partnership or corporation named above, licensed to practice architecture in the State of Texas, and obligated to perform the services outlined in this Agreement.

**Construction Budget:** That portion of a Project Budget allocated for the Construction Cost of an individual project.

**Construction Schedule:** The schedule prepared by the General Contractor (GC) establishing completion dates for work activities in accordance with the Contract Documents.

**Construction Contract:** The agreement between IISD and the GC.

**Design Guidelines:** Written instructions to the PM, A/E, and consultants intended to establish standards for equipment, material and finish requirements provided in the IISD Design and Construction Standards document and as adapted and/or modified in writing by IISD.

**Educational Facilities Specifications:** Detailed description of individual space requirements addressing special utilities finishes and fixed equipment provided in the IISD Design and Construction Standards document and as adapted and/or modified in writing by IISD.

**General Contractor (GC):** The organization responsible for construction of a project according to the documents prepared under this Agreement.

**Preliminary Program of Requirements (PPR):** IISD's Program for a project, stating IISD's objectives, schedule, constraints and criteria, including space requirements and relationships, special equipment, systems and site requirements.

**Program Manager (PM):** The organization selected to represent IISD in managing a project. The PM shall perform the services pursuant to a separate agreement with IISD. Should IISD not use a third-party PM on this Project, then any reference to "PM" shall be deemed references to IISD.

**Project:** The specific work described in the scope, specifications and requirements.

**Project Budget:** Funds allocated for all costs associated with a project.

**Project Schedule:** A schedule for a project showing all activities and critical and milestone dates necessary to complete a project within the allotted time.

**Project Scope:** A project Scope shall include, but not be limited to, the written description of a Project, the PPR, Educational Facility Specifications, IISD Design and Construction Standards, and any other descriptions provided by IISD or the PM.

**END OF SECTION**

## **ARTICLE 1 A/E'S RESPONSIBILITIES**

### **1.1 A/E's Services**

#### **1.1.1 Obligation**

The A/E is obligated to provide the services to be performed by A/E, A/E's employees and A/E's consultants under the terms of this Agreement and all other documents constituting a project Scope for a project assigned under this agreement.

#### **1.1.2 Standard of Care**

The A/E shall exercise a degree of care and diligence in the performance of all services under this Agreement in accordance with prevailing professional standards in the industry, skilled in design for projects of similar scope, and all of the A/E's services shall be performed as expeditiously as is consistent with said standards and the orderly progress of the Work.

#### **1.1.3 Time**

All projects covered by this Agreement are subject to the time limitations contained in each project's specifications.

The A/E's services shall be performed as expeditiously as is consistent with professional skill and care and the orderly progress of a project. Time limits established by the schedule of each project shall not, except for reasonable cause, be exceeded by the A/E.

#### **1.1.4 A/E Professional Responsibility**

A/E understands that while other members of the team (district staff, PM, GC) may suggest design ideas and components for a project, these suggestions are to be fully reviewed by the A/E and its consultants, and these suggestions do not relieve the A/E of its professional responsibility to IISD for the complete design of a project. Further, to the extent such suggestions are incorporated into the design of a project, A/E shall be responsible for the proper integration and coordination of all design changes.

#### **1.1.5 Continuation of Services During Dispute**

If there is a dispute between the A/E and IISD respecting any service provided or to be provided hereunder by the A/E, including a dispute as to whether such service is a Basic Service or Additional Service, the A/E agrees to continue providing on a timely basis all services to be provided by the A/E hereunder, including any service as to which there is a dispute.

#### **1.1.6 Direction by IISD**

A/E shall work with the PM, IISD representative, other IISD consultants, and staff as directed by IISD.

## **ARTICLE 2 SCOPE OF A/E BASIC SERVICES**

### **2.1 General**

#### **2.1.1 Basic Services**

The A/E's Basic Services consist of all of the services required to be performed by A/E, A/E's employees and A/E's consultants under the terms of this Agreement except the services identified as Additional Services. Basic Services includes normal civil, structural, mechanical and electrical engineering services, plumbing, food service, acoustical and landscape services, accessibility design, cost estimating, and any other design services that are normally or customarily furnished and reasonably necessary for a project. The A/E shall contract and employ at its expense consultants necessary for the design of a project, and such consultants shall be licensed as required by the State of Texas and approved in writing by IISD.

#### **2.1.2 Designation of Principal**

The A/E shall designate a principal of the firm reasonably satisfactory to IISD who shall, so long as employed by A/E and acceptable to IISD, remain in charge of architectural services through completion and be available for general consultation throughout a project. Any replacement of that principal shall be approved in writing (which shall not be unreasonably withheld) by IISD, prior to replacement.

#### **2.1.3 Coordination of Drawing and Design Documentation**

Except as otherwise expressly provided herein, A/E is responsible for a complete design of a project and retention of all subcontractors necessary in connection therewith. A/E shall be responsible for the coordination of all drawings and design documents relating to A/E's design and used on a project, regardless of whether such drawings and documents are prepared by A/E. A/E shall be responsible for the completeness and accuracy of all drawings and specifications submitted by or through A/E and for their compliance with all applicable codes, ordinances, regulations, laws and statutes.

#### **2.1.4 Interface with Appropriate Authorities**

The A/E shall assist IISD in fulfilling requirements set forth by appropriate authorities and/or funding agencies whose interest bears on the design, cost and/or construction of a project.

#### **2.1.5 Project Meetings**

The A/E shall attend all Project meetings. The A/E shall record, transcribe, and distribute minutes of meetings to all attendees and other appropriate parties within 2 working days of the meeting. If requested by IISD, the A/E shall attend additional meetings as scheduled to provide Project updates to the district and its constituents.

### **2.1.6 Hazardous Materials**

Unless otherwise provided in this Agreement, the A/E shall have no responsibility for the discovery, presence, handling, removal or disposal of or exposure of persons to hazardous materials or toxic substances in any form at a project site. Should the A/E become aware of the presence of hazardous materials or toxic substances at a project site, the A/E shall promptly notify IISD, the PM, and GC.

### **2.1.7 Scope of Services Change**

The duties, responsibilities and limitations of authority of the A/E may be reasonably restricted, modified or extended by IISD after the date of this Agreement, and if they are substantially restricted, modified or extended, then the A/E's fixed compensation shall be equitably adjusted upward or downward as deemed appropriate by IISD.

## **2.2 Schematic Design Phase**

### **2.2.1 Project Specific A/E Orientation**

The A/E shall attend a Project Orientation Meetings conducted by the PM. During the orientation, the PM shall review project Scope, project Schedule, which includes design phase milestones, and the Construction Budget.

### **2.2.2 Third Party Testing**

The A/E shall advise IISD of any need or advisability of IISD's securing tests, analyses, studies, reports, or consultant's services, not to be otherwise provided by A/E, in connection with the development of the design and construction documents for a project.

### **2.2.3 Existing Conditions/As-Built**

The A/E shall verify the observable existing conditions of a project and verify any existing as-built drawings. The A/E shall document observable as-built conditions as required for the design of a project

### **2.2.4 Scope Verification**

The A/E shall familiarize itself with the site and review the PPR, Educational Facility Specifications, and Design Standards furnished by IISD to ascertain the requirements of a project, and shall arrive at a mutual understanding of such requirements with IISD and the PM. The A/E shall consult, to the extent required by IISD, with authorized employees, agents, consultants and/or representatives of IISD relative to the design and construction of a project, and shall adhere to the furnished design considerations unless otherwise authorized by IISD in writing. The A/E shall verify availability of all utilities necessary for a project.

### **2.2.5 Schedule Verification**

The A/E shall confirm that a project Scope can be designed and constructed within the time limits outlined in a project schedule. The A/E shall prepare a detailed design phase schedule which includes all review and approval periods during the schematic design, design development and construction document phases.

### **2.2.6 Budget Verification**

The A/E shall confirm that a project scope can be designed and constructed for the dollar amount of a project's Budget.

### **2.2.7 Scope, Schedule, and Budget Reconciliation**

The A/E shall work with IISD and the PM to reconcile any differences between IISD's Project Scope, Schedule, and Budget. Reconciliation of a project Scope, Schedule and Budget shall be made in terms of one another. All revisions shall require written approval of IISD.

### **2.2.8 Value Engineering**

The A/E shall provide to IISD and the PM value engineering studies of major construction components during Schematic Design.

### **2.2.9 Schematic Design Documents**

**2.2.9.1** Based on the mutually agreed-upon Project Scope, Schedule and Construction Budget requirements between A/E and IISD, or its designated representative, the A/E shall prepare, for approval by IISD, and the PM, Schematic Design Documents consisting of drawings and narrative descriptions necessary to describe the concept of a project. The Schematic Design Documents shall be provided to the PM for review. The PM shall provide recommendations to IISD regarding the documents. The Schematic Design Documents shall be approved in writing by the PM and IISD before being deemed acceptable.

**2.2.9.2** Should there be substantial revisions to a project Scope after the approval of schematic drawings, which changes substantially increase the scope of design services to be furnished hereunder, A/E shall so notify IISD, before proceeding with revisions necessitated by such changes. No payments, of any nature whatsoever, will be made to A/E for such additional work or services, without prior written approval by IISD. Absent such written approval, all such additional work claims are hereby **Waived and Released** by A/E.

### **2.2.10 Schematic Design Cost and Time Estimates**

The A/E shall provide a Schematic Design Estimate in Cost Model format at the conclusion of the Schematic Design phase. This Schematic Design Estimate shall be accompanied by a report to IISD identifying variances with the original budget and

making recommendations for appropriate corrective action, if required.

### **2.2.11 Schematic Design Presentations**

The A/E shall present the Schematic Design to the PM and IISD in a format and forum as determined by IISD.

## **2.3 Design Development Phase**

### **2.3.1 Design Development Documents**

Upon receipt of written authorization to proceed and based on the approved Schematic Design Documents and comments from IISD and the PM and any adjustments authorized by IISD in a project Scope, Schedule, or Construction Budget, the A/E shall prepare, for approval by IISD and the PM, Design Development Documents consisting of drawings, outline specifications, and other documents to fix and describe the size and character of a project as to architectural, structural, mechanical, electrical, and plumbing systems, materials and such other elements as may be appropriate. The Design Development Documents shall comply with the requirements of the PPR, Educational Facility Specifications, and IISD Design Standards. The documents shall be provided to the PM and IISD for review. The Design Development Documents must be approved in writing by the PM and IISD before being deemed acceptable.

### **2.3.2 Design Development Cost and Time Estimates**

The A/E shall provide a Design Development Estimate in Cost Model format at the conclusion of the Design Development phase. This Design Development Estimate shall be accompanied by a report to IISD and the PM identifying variances with the original budget and making recommendations for appropriate corrective action if required. Unless otherwise directed by IISD, the A/E shall not be authorized to proceed into the next successive phase of design for each respective project until the A/E and the PM have agreed, in writing, upon the Construction Cost estimate. Any delay in this regard shall not entitle A/E to additional compensation.

### **2.3.3 Design Development Design Calculations**

If requested, the A/E shall submit reproduced copies of design calculations for all elements, components and systems of the design to the PM and IISD at no additional cost to IISD.

### **2.3.4 Design Development Presentations**

The A/E shall present the Design Development Work to IISD and the PM in a format and forum as determined by IISD.

### **2.3.5 Confirmation of Scope, Schedule, and Cost**

The A/E shall, at the end of the Design Development Phase, document in writing that the drawings and outline specifications fulfill, to the best of the A/E's knowledge and belief, that a project Scope requirements and that the construction can be completed for the Construction Budget amount, and within a project Schedule. Unless otherwise directed by IISD, the A/E shall not be authorized to proceed into the next successive phase of

design for each respective project until the A/E and the PM have agreed, in writing, upon the Construction Cost estimate. Any delay in this regard shall not entitle A/E to additional compensation.

## **2.4 Construction Documents Phase**

### **2.4.1 Construction Documents**

Upon receipt of written authorization to proceed and based on the approved Design Development Documents and comments from the PM and IISD, such standards or special documents as may be furnished by IISD, and any further adjustments in a project Scope or quality of a project, or in the Construction Budget authorized by IISD, the A/E shall prepare, for approval by PM and IISD, Construction Documents consisting of Drawings and Specifications setting forth in detail the requirements for the construction of a project.

The Construction Documents shall include working Drawings and Specifications developed to set forth in detail all aspects of design, and will be used for estimating the Construction Cost, securing bids for constructing a project, and directing a GC in construction of a project.

The A/E shall exercise usual and customary professional care to see to it that the Construction Documents comply with a project Scope and PPR, Educational Facility Specifications, IISD Design and Construction Standards, and with applicable laws, statutes, ordinances and codes in effect at the time of their preparation. The Construction Documents shall be provided to the PM and IISD for review. The PM shall provide recommendations to IISD regarding the documents. The Construction Documents must be approved in writing by PM and IISD before being deemed acceptable.

### **2.4.2 Construction Documents Review**

Construction Drawings and Specifications, or other Construction Documents submitted by the A/E to IISD and the PM for approval, or to any contractors for bidding or negotiation, shall be prepared in conformance to the usual and customary professional standard of care to the end that they adequately describe and specify a project to be built, to a contractor who will be selected to build a project, and comply with all applicable codes, ordinances, statutes, regulations and laws, except to the extent expressly and specifically otherwise stated in detail in writing by the A/E at the time of such submission. In addition, the A/E shall certify that the A/E has informed IISD of any tests, studies, analyses or reports that are necessary or advisable to be performed by or for IISD at that point in time. The A/E shall submit to the PM and IISD for review and approval check sets of Construction Documents when these Documents are 60% and 100% complete. The 60% and 100% check sets of Construction Documents must be approved in writing by PM and IISD.

### **2.4.3 Bid Documents**

The A/E shall assist the PM and IISD in preparing the necessary bidding information, bidding forms, and Conditions of the Contract, and any Special Conditions as required for special Project requirements. In performing its work on bidding documents, A/E

shall take great care to assure that no items are designated as "Owner Furnished" or "Owner Installed," that IISD intended to be included within the scope of the Construction Contract. All documents are subject to IISD approval.

#### **2.4.4 Construction Documents Cost and Time Estimates**

The A/E shall provide a 60% Construction Document Estimate in Cost Model format at completion of 60% of the Construction Document phase. This 60% Construction Document Estimate shall be accompanied by a report to IISD and the PM identifying variances with the original budget and making recommendations for appropriate corrective action, if required.

The A/E shall provide a 100% Construction Document Estimate in Cost Model format at the conclusion of the 100% Construction Document phase. This 100% Construction Document Estimate shall be accompanied by a report to IISD, PM and Design Consultant, identifying variances with the original budget and making recommendations for appropriate corrective action, if required. The 100% Construction Document estimate shall be based on an update of the 60% Construction Document estimate. Unless otherwise directed by IISD, the A/E will not be authorized to proceed into the next successive phase of design for each respective project until the A/E and the PM have agreed, in writing, upon the Construction Cost estimate. Any delay in this regard shall not entitle A/E to additional compensation.

#### **2.4.5 Agency Review and Approval**

The A/E shall affix professional architecture and engineering seals and signatures on all Construction Documents, including addenda, as required by Texas and local laws. The A/E shall file documents required for the approval of governmental authorities having jurisdiction over a project.

#### **2.4.6 Permits**

Upon completion and approval of Construction Documents, and prior to the release for bids, the A/E shall submit to the City, the State of Texas, and/or other permitting authorities the required number of sets of plans and specifications in order to expedite the process and time required for the successful bidding GC to secure the building permit(s). Revisions to the Construction Documents required for permitting shall be made by the A/E at no cost to IISD.

#### **2.4.7 Construction Documents Design Calculations**

The A/E shall submit to IISD and the PM copies of design calculations for all elements, components, and systems of the design.

#### **2.4.8 Confirmation of Scope, Schedule and Cost**

The A/E shall, at the end of the Construction Documents Phase, confirm in writing that, to the best of the A/E's knowledge, information and belief, the Drawings and Specifications fulfill a project Scope requirements and that the construction can be completed for the Construction Budget amount, and within a project Schedule.

## **2.5 The Bidding Phase**

### **2.5.1 Notices and Advertisements**

The A/E shall assist IISD and the PM in preparing notices and advertisements to solicit bids or proposals for a project.

### **2.5.2 Distribution of Bid Documents**

The A/E shall assist IISD with distributing the required sets of Bid Documents or Requests for Proposals to IISD bidders and plan rooms specified by IISD.

### **2.5.3 Pre-bid Conference**

The A/E shall attend the Pre-bid Conferences and assist the PM as directed. The A/E shall prepare responses to questions from prospective bidders and provide clarifications and interpretations of the Bid Documents to all prospective bidders in the form of addenda.

### **2.5.4 Addenda**

The A/E shall prepare addenda, as required, during the bidding period as needed to explain or clarify the intent of the Construction Documents. The A/E shall also provide information to the PM and IISD on the effect of addenda on the Construction Cost and Project Schedule.

### **2.5.5 Bid Opening and Recommendations**

The A/E shall assist IISD at the bid opening, analyze and evaluate bids or proposals as directed, and make recommendations to the PM.

### **2.5.6 Construction Contract**

The A/E shall assist the PM and IISD in the preparation of the Construction Contract between IISD and GC.

### **2.5.7 Construction Set**

The A/E shall assemble a set of Contract Drawings and Specifications, and/or other Documents prepared for construction that includes all revisions required after the Construction Documents were issued for bids. These revisions shall include all addenda, permit revisions, accepted alternates, value engineering, and negotiated revisions. The A/E shall provide the assembled documents to IISD in electronic format (CAD and pdf files).

### **2.5.8 Notice to Proceed**

If requested by IISD, the A/E shall prepare the Notice to Proceed for execution by IISD.

## **2.6 Construction Phase Services**

### **2.6.1 Basic Services Period**

The A/E's responsibility to provide Basic Services for the Construction Phase under this Agreement commences with the award of the Construction Contract and terminates one year after approval by IISD of the Final Certificate for Payment or LEED® Certification, whichever is later, unless extended by mutual agreement of the A/E and IISD.

### **2.6.2 Pre-Construction Conference**

The A/E shall assist the PM in conducting a Pre-Construction Conference, to be attended by the GC, and IISD at its option, during which the Construction Documents, Project schedule, Project procedures and other pertinent issues shall be reviewed. The A/E shall record, transcribe, and distribute minutes of meetings to all attendees and other appropriate parties within 2 working days of the meeting

### **2.6.3 Project Meetings**

The A/E shall attend scheduled construction progress meetings (as appropriate to the scope of a project and phase of the work) conducted by the PM and attended by IISD at its option, as well as other parties. These meetings shall serve as a forum for the exchange of information and resolution of construction decisions, and will be a point where construction progress is reviewed and noted. In addition, the A/E shall attend as scheduled meetings to provide Project updates to IISD and its constituents.

### **2.6.4 Contract Administration**

The A/E shall cooperate with the PM in providing administration of the Construction Contracts as set forth in General Conditions of the Contracts for Construction together with, and as amended by other documents included or incorporated into the Construction Contract.

### **2.6.5 Owner's Representative**

The A/E shall advise and consult with IISD and the PM during construction and until one year after the issuance of the Final Certificate for Payment and/or LEED® Certification, whichever is later. The A/E shall have authority to act on behalf of IISD only to the extent provided in this Agreement unless otherwise modified by written instrument.

### **2.6.6 Quality Assurance**

The A/E and its consultants shall visit project sites during stages of construction or as otherwise determined by IISD and A/E. The A/E shall become generally familiar with the progress and quality of the Work completed and determine if the Work is being performed in accordance with the Contract Documents. However, the A/E 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 on-site observations as an architect, the A/E shall keep the PM and IISD informed of the progress and quality of the Work, and shall endeavor to guard

IISD against defects and deficiencies in the Work. The A/E shall promptly submit to the PM a weekly detailed, written report subsequent to each such on-site visit, noting the progress and quality of the Work, and any observed defects or deficiencies in the Work. The A/E shall require the consulting engineers and its other consultants to make on-site observations of the Work and provide written reports as construction progresses. The observations of consulting engineers shall be made as frequently as necessary to verify that construction is proceeding according to Construction Documents, but not less than one site visit per month. The consultants shall also make inspections at the time of Substantial Completion and Final Completion.

#### **2.6.7 Construction Responsibilities**

The A/E shall not have control over or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work. The A/E shall not have control over or charge of acts or omissions of the GC, GC's Subcontractors, or their agents or employees, or of any other persons performing portions of the Work.

#### **2.6.8 Rejection of Non-conforming Work**

The A/E shall recommend to IISD and the PM the rejection of work which does not conform to the Construction Contract Documents. Whenever necessary, the A/E shall recommend to the PM special inspection or testing of the Work in accordance with the provisions of the Construction Contract Documents, whether or not such Work is fabricated, installed or completed.

#### **2.6.9 Schedule Reviews**

The A/E shall assist the PM in evaluating and approving schedules provided by the GC.

#### **2.6.10 Review and Certification of Payment**

The A/E shall review and certify the GC's Applications for Payment, by providing information based on A/E's observations at the site, and A/E shall approve Applications for Payment.

#### **2.6.11 Communication**

Communications by and with the A/E's consultants shall be through the A/E.

#### **2.6.12 Testing Report**

The A/E shall analyze and make recommendations to the PM as to the acceptability of laboratory test reports and results.

#### **2.6.13 Submittal Review**

**2.6.13.1** The A/E shall review and approve or take other appropriate action upon GC's submittals such as Shop Drawings, Product Data and Samples, for the purpose of (1) assuring compliance with applicable laws, statutes, ordinances, codes, orders, rules and regulations; and (2) assuring that the Work affected by and represented by such submittals is in compliance with the requirements of the Construction Contract

Documents. A/E shall be responsible for determining what aspect of the Work shall be the subject of Shop Drawings and submittals, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Construction Contract Documents. The A/E's action shall be taken with such reasonable promptness as to cause no delay in the Work.

**2.6.13.2** The A/E's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the A/E, of any construction means, methods, techniques, sequences or procedures. The A/E's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

#### **2.6.14 Requests for Change**

The A/E shall prepare requests for changes in the Work, including information necessary for evaluation of the request and the cause of the request. The A/E and consultants shall review and make recommendations to the PM on all proposed changes in the Work, including changes in the Construction Cost priced by the GC, and requests for changes in a project Schedule.

#### **2.6.15 Orders**

**2.6.15.1** The A/E shall prepare Change Orders and Construction Change Documents for IISD's approval and execution in accordance with the Construction Contract. The A/E may authorize minor changes in the Work not involving an adjustment in the Construction Contract Sum or an extension of the Construction Contract Time which are consistent with the intent of the Construction Contract Documents ("Contract Documents"). If necessary, the A/E shall prepare, reproduce, and distribute Drawings and Specifications to describe Work to be added, deleted or modified.

**2.6.15.2** The A/E shall review properly prepared timely requests by IISD or GC for changes in the Work, including adjustments to the Construction Contract Sum or Construction Contract Time. Review of change proposals from Contractors shall include an appropriate assessment by the A/E of proposed labor and material costs, including evaluating labor hours, labor rates, material quantities and unit prices, whenever feasible. A/E shall obtain documentation as necessary in order to complete the assessments. If the A/E determines that the requested changes in the Work are not materially different from the requirements of the Contract Documents, the A/E may issue an order for a minor change in the Work or recommend to IISD that the requested change be denied.

**2.6.15.3** If the A/E determines that implementation of the requested changes would result in a material change to the Construction Contract that may cause an adjustment to the Construction Contract Time or Construction Contract Sum, the A/E shall make a recommendation to IISD, who may authorize further investigation of such change. Upon such authorization, and based upon information furnished by the GC, the A/E shall estimate the additional cost and time that might result from such change, including

any additional costs attributable to a change in services of the A/E. With IISD's approval, the A/E shall prepare a Change Order or other appropriate documentation for IISD's execution or negotiation with the GC. The A/E shall maintain records relative to changes in the Work.

## **2.6.16 Interpretation of the Construction Contract Documents**

### **2.6.16.1 Interpretation of Documents**

The A/E shall interpret the Contract Documents and judge the performance thereunder by the GC, and A/E shall, within a reasonable time, but in any event so as to avoid any delay in the progress of the Work, render such interpretations and clarifications as it may deem necessary for the proper execution and progress of the Work. The A/E's decisions in matters relating to artistic effect shall be final if consistent with the intent of the Contract Documents and with concurrence of IISD. The A/E shall receive no additional compensation for providing clarification of the Drawings and Specifications.

### **2.6.17 Claims Recommendations**

If so requested by IISD, the A/E shall make recommendations on all claims of IISD or the GC relating to the execution and progress of the Work and on all other matters or questions related thereto. The A/E shall render written decisions within a reasonable time on all claims, disputes or other matters in question if so requested by IISD.

### **2.6.18 Material Substitutions**

The A/E and the PM shall review and make recommendations to IISD as to the acceptability of substitutions of materials proposed by the GC. The recommendation shall include, but not be limited to the impact of the substitution on a project Scope, Schedule and Construction Cost. The materials substitution must be approved in writing by IISD before being deemed acceptable.

### **2.6.19 Checklist**

Prior to issuing a Certificate of Substantial Completion, the A/E shall, with the assistance of the PM and IISD, prepare a checklist of incomplete work and work which does not conform to the Contract Documents. This list shall be attached to the Certificate of Substantial Completion and submitted to the GC to complete the Work, with copies forwarded to the PM and IISD.

### **2.6.20 Occupancy Permit**

When requested by IISD, the A/E shall assist the GC in obtaining an Occupancy Permit by accompanying governing officials during inspections of a project if requested to do so by IISD.

### **2.6.21 Accessibility Compliance Certificate**

The A/E shall obtain the Accessibility Compliance Certificate when required for a project. During the construction phase, the A/E shall obtain the services of a Registered Accessibility Specialist (RAS) when a project is ready for inspection. The A/E shall accompany the RAS during the inspection. The A/E shall review the inspection report prepared by the RAS, and advise the GC to correct non-complying items that are the responsibility of the GC. If the report identifies non-complying items that are the result of an A/E error or omission, the A/E shall request pricing for the correction of the non-complying items. The A/E shall advise IISD of the cost of correction, and upon IISD's approval, the A/E shall prepare a change order to the Construction Contract. If

necessary, the A/E shall make arrangements for extension of deadlines for compliance. After the A/E has verified that all corrections have been made, the A/E shall advise the RAS that a project is ready for re-inspection. The A/E shall assist IISD in resolution of all non-complying items until such time that a project has been found to be in substantial compliance of applicable accessibility standards by the Texas Department of Licensing and Regulation (TDLR) and a Notice of Substantial Compliance certificate is issued by TDLR for a project.

#### **2.6.22 Substantial Completion**

In consultation with IISD and the PM, the A/E shall determine when a project is substantially complete and issue a Certificate of Substantial Completion. At Substantial Completion, the A/E, IISD, and PM shall establish the date for Final Completion, including the submission of all closeout documents, warranties and other documents, in a project Manual, or as required by the Owner's auditors, which date of Final Completion shall in no event be more than 60 days from the date of Substantial Completion.

#### **2.6.23 As-built Documentation**

The A/E and its consultants shall review monthly the GC's As-built drawings for accuracy and completeness, and shall report its findings to GC, the PM and IISD. The A/E shall maintain records of all issued revisions to the Contract Documents, including revisions that result from responses to requests for information from the GC.

#### **2.6.24 Warranties and Operation and Maintenance Materials**

The A/E shall review Warranties and Operations and Maintenance Materials provided to the A/E by the GC. The A/E shall notify the GC of any amendments or corrections to these materials necessary to meet the requirements of the Contract Documents. When complete, the A/E shall recommend acceptance of the materials and forward them to the PM.

#### **2.6.25 Final Payment**

The A/E shall, upon the GC's completion of the checklist items and in consultation with IISD and the PM, determine when a project is finally completed. The A/E shall issue a final Certificate of Payment and shall provide to IISD a written recommendation regarding final payment.

#### **2.6.26 Delivery of Drawings and Specifications**

Within sixty (60) days after date of Substantial Completion, A/E shall deliver to IISD electronic (CAD and pdf files) versions of construction drawings and specifications, including all A/E modifications made during construction.

#### **2.6.27 LEED® Points**

If LEED is applicable to a project, the A/E shall review all requests to use alternatives or other changes to determine any impact on obtaining LEED® points. The A/E shall meet with the GC and IISD as appropriate to discuss any potential impacts.

## **2.7 Post Construction Phase Services**

### **2.7.1 Warranty Period Services**

The A/E and its consultants shall be available for consultation during the GC's Warranty Period.

### **2.7.2 Warranty Expiration Inspection**

A/E shall inspect a project no later than thirty (30) days prior to the expiration of the warranty period and prepare a checklist of items to be completed by the GC. The A/E shall forward the checklist to the GC to complete the work, with a copy to the PM and IISD.

## **2.8 Requirements as Basic Services for Projects that Include Additions, Rehabilitation and/or Repair-Replacement**

### **2.8.1 On-Site Investigation**

For projects involving additions to existing buildings, new construction at sites of existing facilities, rehabilitation, alteration, repair and/or replacement of existing construction, the Basic Services of the A/E shall include the necessary on-site investigations, measurements, and documentation of existing facilities and infrastructure as required; the review of as-built documents, if any, of the existing facility; and comparison of actual construction with such documents and measurements and investigations as required to be fully informed on the observable portions of the existing improvements.

### **2.8.2 Additional Compensation**

No additional fee will be authorized for job site observations and measurements of existing improvements by the A/E.

### **2.8.3 Contractor Verification of Existing Conditions**

In the case of such projects, the A/E shall incorporate into the Construction Documents such requirements as will fix with the GC the responsibility to verify the accuracy of information provided for existing construction conditions, to verify existing conditions and promptly disclose in writing any variances and request directions, to verify the presence of underground utilities and improvements, and to protect existing facilities, including, but not limited to, data networks, intrusion alarms, surveillance systems, intercoms and other infrastructure, from damage resulting from construction operations.

## **ARTICLE 3 ADDITIONAL SERVICES OF THE A/E**

### **3.1 Additional Services**

The following services of the A/E, when authorized in advance in writing by IISD, shall be considered Additional Services and paid for by IISD.

#### **3.1.1 Special Analysis**

Providing special analysis of IISD'S needs not otherwise included in Basic Services.

#### **3.1.2 Studies**

Providing comparative studies of prospective sites.

#### **3.1.3 Surveys**

Providing boundary and topographic surveys prepared by a licensed land surveyor.

#### **3.1.4 technical Reports**

Providing geotechnical soil borings, soil analysis and geotechnical reports prepared by a geotechnical engineer.

#### **3.1.5 Traffic Studies**

Providing a traffic study required for obtaining a building permit and/or as requested by IISD prepared by a licensed traffic engineer.

#### **3.1.6 Additional Revisions Requested By Owner**

Extensive revisions of Schematic, Design Development and Construction Documents previously approved in writing by IISD, when so directed in writing by IISD; provided, however, that no compensation for Additional Services shall be paid for revisions which may be required when due to errors or omissions by the A/E or when due to the fact that the lowest bona fide construction bid or proposal exceeds the Construction Budget.

#### **3.1.7 Regarding Damaged Work**

Providing consultation concerning replacement of any Work damaged by fire and other causes during construction, and furnishing professional services as may be required in connection with the replacement of such Work.

#### **3.1.8 Services Regarding Default of GC**

Providing professional services made necessary by substantial default of the GC in the performance of the Construction Contract.

#### **3.1.9 Interior Design and Other Services Related to Furnishings**

Providing interior design and other services required in connection with the selection of furniture and furnishings not included in the Construction Contract.

#### **3.1.10 Order Preparation**

Preparing change orders and related documents required by changes (whether

increases or decreases) in a project Scope as requested by IISD, and not due to the error or omission of the A/E, and when the volume of change orders substantially exceeds that which could be expected on a project of similar scope.

### **3.2 Services Due to Errors and Omissions by the A/E**

Notwithstanding anything to the contrary expressed elsewhere in Article 3, no services made necessary, in whole or in part, by any fault or omissions of the A/E to perform its duties, responsibilities or obligations under this Agreement, shall be compensated as an Additional Service under this Agreement.

## **ARTICLE 4 OWNER'S RESPONSIBILITIES**

### **4.1 Project Requirements**

IISD shall consult with the A/E regarding requirements for each Project, including IISD'S contemplated objectives, schedule constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements. IISD may satisfy its obligations under this Article 4 by or through the PM acting as a representative of IISD.

### **4.2 Owner's Designated Representative**

IISD shall designate a Representative authorized to act on IISD's behalf with respect to a project. IISD or such authorized representative shall render decisions in a timely manner pertaining to documents submitted by the A/E in order to avoid unreasonable delay in the orderly and sequential progress of the A/E's services. Such decisions, or the presence of such representative at the site, shall not at any time relieve the A/E, in whole or in part, from any duty or responsibility placed upon the A/E under the terms of this Agreement.

### **4.3 Surveys**

IISD may elect to have the A/E obtain surveys as an Additional Service as provided for in Article 3. Otherwise, IISD shall furnish surveys. The surveys, obtained by the A/E or furnished by IISD, shall describe physical characteristics, legal limitations and utility locations for the site of a project, and include a written legal description of the site which shall be a part of this Agreement. 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 (if available) and necessary data pertaining 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.

### **4.4 Geotechnical Services**

When the services of geotechnical engineers are reasonably required for a project, IISD may elect to have the A/E obtain these services as an Additional Service as provided for in Article 3. Otherwise, IISD shall furnish the services of geotechnical engineers. IISD's written approval is necessary before the services of geotechnical engineers can be enlisted. Such services may include, but are not limited to, test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, ground corrosion and resistivity tests, including necessary

operations for anticipating subsoil conditions, with reports and appropriate professional recommendations. The A/E shall review the completeness and confirm in writing to IISD the sufficiency of the type of tests and information, whether furnished through the A/E or furnished by IISD.

#### **4.5 Consulting Services**

When the services of other consultants are reasonably required by a project Scope and are requested by the A/E and approved for a project by IISD, IISD may elect to have the A/E obtain these services as an Additional Service as provided for in Article 3. Otherwise, IISD shall furnish the services of other consultants. IISD shall approve such consultants only if such consultants are not to be provided by A/E under this Agreement. IISD's written approval is necessary before the services of these other consultants can be enlisted.

#### **4.6 Testing Services**

IISD shall furnish structural, mechanical, chemical, air and water pollution tests, tests for hazardous materials, and other laboratory and environmental tests, inspections and reports required by law. Should the A/E or its consultants at any time suspect the presence of asbestos or other hazardous material at a project site or any related structure, the A/E shall notify the PM and IISD in writing immediately.

#### **4.7 A/E Review of Information Provided by IISD**

The services, information, surveys and reports required by Articles 4.3 through 4.6 shall be furnished at IISD's expense, and, absent the negligence of A/E, the A/E shall be entitled to rely upon the information provided by IISD. The A/E shall provide timely review of such information, surveys and reports and advise IISD whether such data is sufficient for A/E to perform its services under this Agreement.

#### **4.8 Forms and Contract Documents**

IISD shall provide necessary forms of contracts, bonds, General, Supplementary and Special Conditions of the Construction Contract, advertisement for bids, request for proposals, and other forms IISD may deem appropriate.

#### **4.9 No Waiver of Claim**

Nothing in this Agreement, nor any act or failure to act on the part of IISD or the PM shall be construed as a waiver of a claim by IISD for any defects or deficiencies in the Drawings and Specifications, or for any other breach of this Agreement.

## **ARTICLE 5 CONSTRUCTION COST**

### **5.1 Responsibility for Construction Cost**

#### **5.1.1 Basis for Construction Budget**

A/E's evaluations of IISD's Project Budgets and the A/E's preliminary estimates of Construction Cost and detailed estimates of Construction Cost, represent the A/E's best judgment as a design professional familiar with the construction industry and local market conditions.

This Construction Budget shall not be exceeded unless the amount is approved by the IISD Board and changed in writing by IISD. When multiple campuses or sites are included in project, the Construction Budget for each campus or site shall not be exceeded unless approved by the IISD Board and changed in writing by IISD.

#### **5.1.2 Budget Exceeded by All Bids**

If the Construction Budget is exceeded by the lowest bonafide bid or negotiated proposal, IISD may:

1. Cooperate in revising a project Scope and/or quality as required to reduce the Construction Cost prior to rebidding. In this event, the A/E shall modify the Contract Documents without additional charge as necessary to comply with the Construction Budget.
2. Authorize rebidding or re-issuing for proposals of a project within a reasonable time;
3. Increase the Construction Budget; or
4. Abandon a project and terminate in accordance with Article 7.

## **ARTICLE 6 USE OF A/E'S DRAWINGS, SPECIFICATIONS AND OTHER DOCUMENTS**

### **6.1 Drawings Specifications and Documents**

The Drawings, Specifications and other documents prepared by the A/E and A/E's consultants for a project shall become the property of IISD, whether a project is completed or not. IISD shall be furnished and permitted to retain reproducible copies and electronic versions of A/E's Drawings, Specifications and other documents.

### **6.2 Use of Documents by IISD**

The documents prepared by A/E may be used as a prototype for other facilities by IISD. IISD may elect to use the A/E to perform the site adaptation and other architectural services involved in reuse of the prototype. If so, the A/E is obligated to perform the work for an additional compensation that will fairly compensate the A/E and its consultants only for the additional work involved. It is reasonable to expect that the fair additional compensation will be significantly less than the fee provided for under this Agreement. If IISD elects to employ a different architect to perform the site adaptation and other architectural services involved in reuse of the prototype, that architect shall be entitled to use A/E's consultants on the same basis that A/E would have been entitled to

use them for the work on the reuse of the prototype, and such architect shall be entitled, to the extent allowed by law, to duplicate the design and review and refer to the Construction Documents, approved shop drawings and calculations, and change order drawings in performing its work. The A/E will not be responsible for errors and omissions of a subsequent architect and will not be responsible for damages resulting from its own errors and omissions to the extent that the drawings result from a reuse by other professionals on a subsequent project. The A/E shall commit its consultants to the terms of Section 6.2.

### **6.3 Release of Documents upon Termination**

In the event of termination of this Agreement for any reason, IISD shall receive all original documents prepared to the date of termination and shall have the right to use those documents and any reproductions in any way necessary to complete a project.

### **6.4 Use of Construction Drawings by A/E**

Only the details of the drawings relating to this Project may be used by the A/E on other projects, but they shall not be used as a whole without written authorization by IISD. IISD furnished forms, conditions, and other written documents shall not be used on other projects by the A/E.

## **ARTICLE 7 TERMINATION**

### **7.1 Termination for Cause by IISD**

This Agreement may be terminated by IISD with cause upon not less than seven days written cure notice to the A/E. In the event A/E:

- (a) fails in any respect to prosecute all or part of its work with promptness and diligence; or
- (b) fails to perform or honor any of the provisions in this Agreement; or
- (c) becomes insolvent, bankrupt or is put into receivership; or
- (d) fails to pay its sub consultants, vendors or others providing labor, materials, or services to a project, by through or under A/E when due; or
- (e) appears that it is unable to meet the Owner's scheduling requirements for A/E's work in whole or in part,

then A/E, failing to cure, shall be in default and IISD may immediately terminate for cause and withhold any payment then due or becoming due to compensate IISD for any loss it incurs in relation to the default. In the event IISD incurs costs in excess of A/E's Agreement amount to complete A/E's work, then A/E shall compensate IISD for any shortfall upon demand.

### **7.2 Termination by IISD for Convenience**

#### **7.2.1 Timing**

IISD may at any time, at will and without cause, terminate any part or all of the Agreement. Such termination for convenience shall be effective immediately by giving A/E written notice. A/E shall continue to prosecute any part of the Agreement not

terminated. A/E shall require a comparable termination for convenience provision in all lower-tier subcontracts and agreements.

### **7.2.2 Payments**

If IISD terminates any part or all of this Agreement for convenience, IISD shall incur no liability to A/E because of such termination, except that A/E may be entitled to payment for (i) Work properly executed in accordance with this Agreement prior to the effective date of the termination and for (ii) Reimbursable Expenses then due; provided, however, A/E must satisfy the other conditions precedent to payment described in this Agreement. In no event shall A/E be entitled to any other cancellation costs, including but not limited to, special overhead, anticipated profits, or to any direct, indirect, incidental or consequential damages.

### **7.3 Termination by A/E**

If IISD substantially breaches this Agreement, then A/E may terminate this Agreement if A/E gives IISD written notice of the basis on which it seeks to terminate, and IISD has failed to commence to cure any such breach within 30 days of receipt of such notice.

## **ARTICLE 8 MISCELLANEOUS PROVISIONS**

### **8.1 Compliance with Federal Requirements**

In the event a federal grant or other federal financing participates in the funding of a project, the A/E shall permit access to and grant any federal representatives the right to examine his books covering his work under this Agreement. The A/E shall comply with federal requirements as they relate to a project.

To the extent that Federal Funds are utilized for payment under this contract, A/E agrees to comply with the Education Department General Administrative Regulations ("EDGAR"). A/E shall complete the EDGAR A/E Certifications which certifications are incorporated by reference herein, and shall ensure that such A/E Certifications are promptly updated as necessary during the term of this Contract. Noncompliance or misrepresentation regarding the A/E Certifications may, in IISD's sole discretion, be grounds for immediate termination of this Contract

### **8.2 Conflict of Interest**

Any firm having common ownership with the A/E shall be prohibited from providing architectural, engineering or other design related services on, or the construction of, a project. In addition, no employee of IISD shall have any personal interest, direct or indirect, in this Agreement nor shall any such member, official or employee of IISD participate in any decision relating to this Agreement which affects his or her interest or the interests of any corporation, partnership or association in which he or she is directly or indirectly interested. This subsection is subject to provisions of the Texas Local Government Code at 171.002 et. seq., which require a public official with substantial interest in a business entity to file an affidavit stating the nature and extent of the interest and to abstain from a vote or decision on any matter involving the business entity.

### **8.3 Provision of Services In Compliance with Applicable Laws**

The A/E hereby represents that the services provided hereunder shall be performed by, or under the direct supervision of, an A/E duly licensed pursuant to licensing laws, including but not limited to Chapter 1051, V.T.C.A. Occupations Code, Regulation of Architecture and Related Practices, and Chapter 1001, V.T.C.A. Occupations Code, Texas Engineering Practice Act, as applicable. Furthermore, A/E hereby agrees to exercise usual and customary professional care to assure that all plans and specifications, drawings, and all other documents and services provided hereunder, comply with applicable laws, statutes, building and zoning codes, ordinances, rules and regulations generally and specifically related to public school districts, and with the aforementioned Chapters 1001 and 1051. Additionally, A/E represents to IISD that the Construction Documents it provides IISD are sufficient to direct the GC to construct a project in accordance with the scope IISD has provided the A/E.

### **8.4 Audit**

A/E's records, which shall include but not be limited to accounting records (hard copy, as well as computer readable data if it can be made available), written policies and

procedures; subcontract files (including bid recaps, original estimates; estimating work sheets; correspondence; back-charge logs and supporting documentation and any other supporting evidence deemed necessary by IISD to substantiate charges related to any matters related to the Agreement (including interviews with A/E's personnel and Professional Consultant personnel) shall be open to inspection and subject to audit and/or reproduction by IISD's agent or its authorized representative to the extent necessary to adequately permit evaluation and verification of (i) A/E compliance with Agreement requirements; (ii) compliance with IISD's business ethics policies; and (iii) compliance with provisions for pricing or claims submitted by the A/E or any of its payees. IISD or its designee shall be afforded access to all of the A/E's records pursuant to the provisions of this Article throughout the term of this Agreement and for a period of five years after final payment, or longer if required by law, or until pending litigation has been completely and fully resolved, whichever occurs last.

### **8.5 Business Ethics**

During the course of pursuing agreements, and the course of performance of this Agreement, A/E and its Professional Consultants and vendors shall maintain business ethics standards aimed at avoiding real or apparent impropriety or conflicts of interest. No substantial gifts, entertainment, payments, loans or other considerations beyond that which would be collectively categorized as incidental shall be made to any personnel of IISD, its contractors, consultants, or its Program Managers, or to family members of any of them. At any time A/E believes there may have been a violation of this obligation, A/E shall notify IISD of the possible violation. IISD is entitled to request a representation letter from A/E, its Professional Consultants or vendors at any time to disclose all things of value passing from A/E, its professional consultants or vendors to IISD's personnel, its contractors, consultants and Program Managers.

### **8.6 No Waiver of Immunity**

IISD does not waive or relinquish any immunity or defense on behalf of itself and its officers, trustees, employees, and agents as a result of their execution of this Agreement and performance of the functions or obligations described herein. Nothing herein shall be construed as creating any personal liability on the part of any officer, trustee, director, employee or representative of IISD.

### **8.7 No Waiver**

No waiver of a breach of any provision of this Agreement shall be construed to be a waiver of any breach of any other provision. No delay in acting with regard to any breach of any provision shall be construed to be a waiver of such breach.

### **8.8 National Criminal Background Checks**

Pursuant to Sections 22.0834, 22.0835 and 22.085 of the Texas Education Code, A/E hereby certifies that all employees, subcontractors and volunteers of the A/E who are hired by A/E on or after January 1, 2008, and who have or will have continuing duties related to the contracted services, and have or will have direct contact with students, have passed a national criminal history background record information review as required by those

sections. A/E must provide a list of the names and dates of birth of all employees who have passed the background check to District.

A/E must also provide assurances that all of its employees, subcontractors and volunteers, including those hired before January 1, 2008, who have contact with students have passed a criminal history background check current within the last year. If an employee, subcontractor or volunteer of the A/E has a criminal conviction or has received deferred adjudication for a felony offense or a misdemeanor involving moral turpitude, the District may elect not to enter into this Contract, or cancel the Contract

WARNING: Section 44.034 of the Texas Education Code requires that 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

District may terminate this Agreement for cause if the District determines that the person or business entity failed to comply with any of these provisions, failed to give notice as required by Section 44.034 (a) or misrepresented the conduct resulting in the conviction.

### **8.9 Debarment and Suspensions**

A/E certifies, to the best of its knowledge and belief, that it is not presently debarred, suspended for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency.

A/E agrees to comply with all applicable requirements of all federal laws, executive orders, regulations, applicable guidelines, and policies governing this program, particularly relating to nondiscrimination. These include but are not limited to: (i) Title VI of the Civil Rights Act of 1964, as amended; (ii) Title IX of the Education Amendments of 1972, as amended; (iii) Section 504 of the Rehabilitation Act of 1973, as amended; the Age Discrimination Act of 1975, as amended; and (iv) the American with Disabilities Act, as amended.

### **8.10 Use of District Seal, Logo(s), or Phrases**

The A/E shall not use the district's seal, logo(s), or any phrase associated with the district in any documents or deliverables without the written permission from the Board of Trustees, the Superintendent of Schools, or their designee.

### **8.11 Texas Public Information Act (TPIA)**

A/E acknowledges that IISD is subject to the Texas Public Information Act (TPIA). As such, upon receipt of a request under the TPIA, IISD is required to comply with the requirements of the TPIA. In the event that the request involves documentation that the A/E has clearly marked as confidential and/or proprietary, IISD shall provide the A/E with the notices under the TPIA. A/E acknowledges that it has the responsibility to file exceptions with the Texas Attorney General's Office on why the documents identified as confidential and/or proprietary fall within an exception to public disclosure.

### **8.12 Notice**

Any notice required to be given relating to this Agreement shall be in writing and shall be duly served when hand-delivered to the addressees set forth below, or shall have been deposited, duly registered or certified, return receipt requested, via the United

States Postal Service, addressed to the other party at the following addresses. Either party may designate a different address by giving the other party ten (10) days prior written notice in the manner provided above.

To: **{Company.Name}**  
Attn: {Contacts.DisplayName}  
{Addresses.Address1}  
{Addresses.City}, {Addresses.State} {Addresses.Zip}

To: Irving Independent School District  
Attn: Jerome Pilgrim  
2621 W. Airport Freeway  
Irving, Texas 75062

Any party may designate a different address by giving the other party ten (10) days written notice in the manner provided above.

**ARTICLE 9  
PAYMENTS TO THE A/E**

**9.1 Invoicing & Payments**

**9.1.1 Invoicing and Payment**

Irving ISD pays net 30 or at point of sale and complies with the State of Texas payment law, Texas Government Code, Chapter 2251. See statute for specifics or consult your legal counsel. No payments shall be made on invoices not listing an Irving ISD purchase order number. Invoices will be paid upon completion of delivery and acceptance. Invoices must reflect only the amount due for goods or the portion of the services performed, materials and equipment furnished for the period covered by each invoice. Invoices shall be priced per unit price as awarded.

Please include the following items on your invoices.

- a. Payment will be made within 30 days after the later of, receipt of goods/services and a properly submitted invoice. The district considers an invoice properly submitted when the following conditions are met:
- b. All invoices will be sent to: Irving ISD/Accounts Payable, PO Box 152637, Irving, TX 75015-2637**
- c. Invoice is received at the address indicated on the purchase order
- d. Purchase Order Number
- e. Pricing on the invoice matches the price on the purchase order
- f. Include a description of the goods or services provided, the purchase order number, invoice number and any applicable cash discount.
- g. Quantities on the invoice do not exceed those specified on the Purchase Order
- h. Unique invoice number used for each billing
- i. Merchandise has been shipped or service performed.
- j. Description of goods and services on the invoice shall match the description on the Purchase Order.

Purchase Orders will serve as the order instrument(s) against this Request for Proposal. Orders will be placed as items are approved for purchase and funds become available.

## **9.2 Payments on Account of Reimbursable Expenses**

### **9.2.1 Recovery of Reimbursable Expenses**

The A/E shall be entitled to recover monthly for the expenses set out in Sections 9.3.2, 9.3.3, 9.3.4, 9.3.5, 9.3.6, 9.3.7, and 9.3.8 on the terms set out in those sections for the following expenses when necessarily incurred in performing services under this Agreement by A/E or its consultants. No other categories of expenses are reimbursable to A/E. The actual cost with applicable taxes only is allowed with no percentage for mark-up.

### **9.2.2 Transportation and Traveling Outside of Greater Dallas Area**

Cost of transportation and living when traveling outside of the greater Dallas area in connection with a project, at IISD's request and authorization.

### **9.2.3 Production of Actual Construction Documents**

Cost of reproduction for actual Construction Documents (plans, specifications and addenda only for bidding and construction) and reproduction of required documents for formal submittal of Schematic Design and Design Development, and the cost of reproduction printing for 60% and 100% Construction Document check sets only as ordered by IISD, and cost of reproduction of IISD's drawings of existing structures. A/E shall utilize only printing companies approved in advance by IISD.

### **9.2.4 Models/Color Renderings**

The expense of models or color renderings for IISD's use, if authorized in writing by IISD in a pre-determined lump sum amount.

### **9.2.5 Delivery Services**

Reasonable costs of necessary delivery services in the Dallas area.

### **9.2.6 State Accessibility Plan Review and Inspection**

Cost of reproductions, application fees for approval of plans, and inspection fees for approval of construction paid to the Texas Department of Licensing and Regulation or a Registered Accessibility Specialist.

### **9.2.7 Permit Fees and Permit Expediting**

Cost of payment to City of Dallas/Irving plan checking department and/or plan/permit consulting service to expedite plan checking process, if deemed necessary by IISD, to achieve completion of an accelerated Project Schedule.

### **9.2.8 On-Line Charges**

If applicable, cost of LEED® registration, application, and review fees for projects seeking LEED® certification. Prior written approval from IISD is required before incurring any additional cost associated with appealing a decision on an unapproved LEED® point.

### **9.2.9 Liable for A/E's Failure to Pay A/E's Consultants**

In no event shall IISD be liable for any of A/E's consultant and/or contracted services. In the event that a project is delayed or otherwise affected by A/E's failure to pay his consultants and/or contracted services, then IISD has the right to withhold payments

otherwise due A/E.

**9.2.10 Invoice Back-up Information**

The A/E's original invoices for services performed and expenses incurred shall be accompanied by back-up information in accordance with IISD requirements. A/E records shall be available for inspection by IISD or its designated representative upon request during the Agreement term and for a period of five years after final payment.

**9.2.11 A/E's Accounting Records**

Records of Reimbursable Expenses and expenses pertaining to Additional Services and services performed on an hourly basis shall be available for inspection by IISD or IISD's authorized representative at mutually convenient times.

## **ARTICLE 10 INSURANCE AND INDEMNIFICATION**

### **11.1 Basic Insurance Requirements**

The A/E shall carry insurance with responsible underwriters acceptable to IISD and with minimum limits of liability, as stated below, against claims for damages caused by bodily injury, including death, to employees and third parties, claims for property damage; and claims arising out of the performance of professional services caused by any of his own errors, omissions or negligent acts, or the errors, omissions or negligent acts of any person and/or consultant employed by him or by others for which he is legally liable. The A/E shall furnish certificates of insurance on state approved forms to IISD indicating compliance with this Section.

#### **Type of Coverage**

The architect shall secure non-declining, non-expense within limits professional liability insurance in a minimum amount of \$1,000,000.00 from an insurer lawfully authorized to do business in the jurisdiction in which the Project is located and which shall apply to claims made with respect to this Project for negligent acts, errors or omissions of the architect, the architect's consultants, and agents and employees of any of them, subject to the standard terms and conditions of such policies, as acceptable to and approved by the Owner's Project Representative.

The architect shall furnish to the Owner's Project representative copies of Certificates of such Project professional liability insurance. The costs and premiums for such insurance will be at the expense of the architect. In addition the architect may be asked to provide the following insurance coverage in the following amounts:

**The insurance required shall be written by an insurance company having an A VIII rating or better by A.M. Best and shall be written in limits for not less than the minimum required by law or the following:**

1. Commercial General Liability (including Premises- Operations; Independent Contractors' Protective; Products and Completed Operations; Broad Form Property Damage):
  - (a) General Aggregate \$2,000,000
  - (b) Products Comp/Ops.Aggregate \$1,000,000
  - (c) Personal & Adv. Injury \$1,000,000
  - (d) Each Occurrence \$1,000,000
  - (e) Per Project Aggregate \$2,000,000
  
2. Workers Compensation Coverage & Employers Liability:
  - (a) Each Accident \$1,000,000
  - (b) Disease-Policy Limit \$1,000,000
  - (c) Disease-Each Employee \$1,000,000

3. Automobile Liability:
  - (a) Owned/Non-owned and Hired \$1,000,000
4. Excess/Umbrella Liability:
  - (a) \$1,000,000
5. Architects/Engineers Professional:
  - (a) \$1,000,000

An "Original Certificate of Insurance" will evidence compliance with the insurance requirements and must be submitted with the packet.

Other insurance requirement as agreed upon in the contract addendum for each individual project.

Firm shall not commence work under this agreement until satisfactory evidence of such insurance has been delivered to, and approved by the district.

### **11.2 Evidence of A/E Professional Liability Errors and Omissions Insurance**

The A/E shall submit evidence at the time of execution of this Agreement that it has in full force and effect professional liability errors and omissions insurance. The A/E shall maintain such insurance in full force and effect throughout the duration of this Agreement, and thereafter for a period of three years provided that such coverage is reasonably available at commercially affordable premiums. In the event that it becomes commercially infeasible to maintain it during the period required by this Agreement, A/E shall supply IISD with equivalent assurance to the required insurance acceptable to IISD.

### **11.3 Certificates of Insurance**

The A/E shall furnish evidence to IISD of insurance in the form of state approved certificates from insurance carriers acceptable to IISD. Upon request, A/E shall provide IISD copies of all policies and endorsements applicable to this Contract. Where possible, each policy shall be endorsed to provide that carrier will not cancel or significantly diminish coverage by endorsement without thirty days written notice to IISD. In the event there is a deductible on any policy, A/E shall furnish evidence that it is able to satisfy the deductible.

### **11.4 Additional Insured**

A/E shall add IISD as an additional insured to any and all policies of insurance purchased by A/E, using an endorsement form at least as broad as CG 2026 1185, excepting workers' compensation and professional liability, whether or not such policies of insurance are required under this Agreement.

### **11.5 Waiver of Subrogation**

All of A/E's policies shall state that they shall be primary and non-contributory to any and all IISD policies of insurance and shall be endorsed to waive subrogation, using an

endorsement form at least as broad as CG 24 04 [Ed. 11-85].

**11.6 Alternate Employer**

IISD shall be added as an “alternate employer” on A/E’s workers’ compensation insurance.

**11.7 Meeting of Minimum Insurance Requirement**

Consultants to the A/E shall be required to show evidence of coverage of the types indicated above. The required minimum limits of liability of such coverage for consultants to the A/E shall be determined by the A/E and shall be subject to approval in writing by IISD, and shall be commensurate with the type and level of involvement and service of the consultants to a project.

**IN WITNESS WHEREOF, THE IRVING INDEPENDENT SCHOOL DISTRICT** has caused this Contract to be signed by its Superintendent, duly authorized to execute same in its behalf by the Irving ISD Board of Trustees, thereby binding the parties hereto, their successors, assigns and representatives for the faithful and full performance of the terms and provisions of this Contract.

**ATTEST:**

FOR THE FIRM.

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**ATTEST:**

IRVING INDEPENDENT SCHOOL DISTRICT

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MAGDA HERNANDEZ,  
SUPERINTENDENT OF SCHOOLS