



TEXAS A&M UNIVERSITY-CORPUS CHRISTI
PURCHASING DEPARTMENT
6300 OCEAN DRIVE
CORPUS CHRISTI, TX 78412

RFQ Number:
RFQ4-0001

**ON-GOING PROFESSIONAL SERVICES for VARIOUS PROJECTS IN
SUPPORT OF COASTAL FACILITIES INCLUDING TEXAS &M
CORPUS CHRISTI**

Addendum # 1

Revisions to the Request for Qualification are attached and incorporated into this Addendum. These revisions include addition, deletions, modifications, or clarifications to the original requirements. The revised requirements should be considered incorporated as part of this RFQ.

1. In Section 3. Requirements for Statement of Qualifications (at the top of page 11) the phrase and wording indicated below should be disregarded and considered struck from the RFQ:
“If the Respondent has answered “Yes” to any questions 5.1.1 through 5.1.4 in Section 5 - General Information, Submission Documents No. 2, indicate below by marking with a checkmark which questions were answered affirmatively.

Question 1 _____ Question 2 _____ Question 3 _____ Question 4 _____”

2. Please replace Attachment B of the RFQ (Master Service Agreement) with the attached Attachment B (Master Services Agreement).

This document and attachments shall be attached to and become a part of the contract documents for this project. This addendum shall be signed for acknowledgement that you have received Addendum #1 and shall be returned with your proposal.

COMPANY NAME: _____

STREET ADDRESS: _____

CITY/STATE: _____

TELEPHONE AND FAX: _____

SIGNATURE: _____ **DATE:** _____

ATTACHMENT B

MASTER SERVICES AGREEMENT BY AND BETWEEN TEXAS A&M UNIVERSITY – CORPUS CHRISTI

re: for Projects under 4 Million Dollars Only

This Master Services Agreement (hereafter referred to, with all exhibits attached hereto, as amended from time to time, as “MSA” and/or "Agreement") shall become effective upon final signature (the “Effective Date”), by and between **Texas A&M University – Corpus Christi** (hereafter referred to as “TAMU-CC”), a member of the Texas A&M University System, an agency of the State of Texas, and _____ (hereinafter referred to as “Provider”, “Architect/Engineer” and/or “A/E”). TAMU-CC and Provider are sometimes hereafter referred to as “Party” individually or “Parties” collectively.

TAMU-CC and Provider hereby agree as follows:

1. SCOPE OF WORK

Provider will work with TAMU-CC to provide facility programming and Programs of Requirements (“POR”) services on an as needed basis. The services included (but not limited to) in the scope of this MSA are listed in RFQ No. _____ (the “RFQ”), and the Exhibits attached hereto, including Exhibit A. If Provider is awarded a Project (as defined below) under a Statement of Work/Work Order (as defined below) issued pursuant to this Agreement, such Project will be subject to terms and conditions within this Agreement and all Exhibits attached hereto and made a part hereof, including, but not limited to, the terms and conditions of Exhibit C attached hereto.

2. TERM OF THE AGREEMENT

The initial term of this MSA shall become effective upon final signature by the Parties for an initial twelve (12) month term, with an option to renew on an annual basis thereafter via renewal letter or amendment, unless terminated earlier. Initial term with any renewal shall not exceed five (5) years without a newly executed Agreement

3. PAYMENT TERMS

A. TAMU-CC shall not pay any costs or fees as a direct result of this MSA. For services rendered as a result of this MSA, TAMU-CC shall pay Provider for the services based on fees negotiated at the time an individual project(s) (individually, a “Project”) is assigned and a statement of work or work order (as applicable individually, a “Statement of Work/Work Order”) detailing the terms and conditions for an individual Project is fully executed, to include reimbursables.

- (i) Reimbursable Services are in addition to the Compensation for Basic Services and Additional services. These include actual not-to-exceed expenditures made by the Provider or its consultants incurred solely and directly in connection with Provider’s performance of its services.
- (ii) Expenses not allowed for reimbursement include the cost of review documents required to be provided to TAMU-CC, telephone charges, cell phone and PDA charges, FAX service, alcoholic beverages, laundry, car washes, valet service, entertainment and any non-project related items.

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- (iii) TAMU-CC shall pay a mark-up not to exceed ten percent (10%) on authorized reimbursables. A mark-up shall not be paid on lodging, meals or travel expenses. Provider shall submit receipts for all reimbursable services along with any reimbursement request.
 - (iv) TAMU-CC must authorize all Reimbursable Services prior to the performance of the reimbursable item. Charges for Reimbursable Services must not exceed the established category amounts unless authorization, in writing, is obtained from TAMU-CC.
- B. For each Project, Provider shall invoice TAMU-CC for amounts due consistent with the "Payment Schedule" as negotiated per Project. In the event that reimbursement of travel expenses are necessary and approved in advance by TAMU-CC. Provider's invoice(s) must include supporting documents. Payment will be made to Provider upon approval of such invoice by TAMU-CC. It is the policy of the state of Texas to make payment on a properly prepared and submitted invoice within thirty (30) days of the latter of any final acceptance of performance or the receipt of a properly submitted invoice, in conformance with the Texas Prompt Payment law. Generally, payment will be made on the 30th day unless a discount has been arranged for more immediate payment.
- C. For all Projects, business-related travel, lodging and/or meal expenses will be reimbursed by TAMU-CC according to the State of Texas rates, rules, and regulations. Provider is required to submit all travel receipts when requesting reimbursement. Under no circumstance will the Provider be reimbursed for alcohol purchases. State travel rates are subject to change without notice and will be adjusted accordingly. Mileage rates will be calculated from point-to-point (Provider's place of business to job site) using the State of Texas mileage. Should the contract be renewed for an additional term, travel reimbursement amounts will be renegotiated at that time.
- D. All payments shall be made by electronic direct deposit. If not already setup, Provider is required to complete and submit to TAMU-CC a Vendor Direct Deposit Authorization form prior to the first payment request. The TAMU-CC Direct Deposit form can be accessed at; <https://www.tamucc.edu/finance-and-administration/financial-services/disbursements-travel-services/vendor-care/assets/documents/substitute-w9-update-06-2019.pdf>
- E. All invoices must reference the TAMU-CC purchase order number issued for a specific Project and include the description of services provided as well as time, deliverables, and activities. Invoices will be processed for payment upon approval by appropriate TAMU-CC personnel.
- F. Invoices are to be sent according to the address specifically listed within the Statement of Work / Work Order for each specific Project.
- G. In addition, all payments under any Statement of Work/Work Order will be subject to the terms and conditions of Article 7 of Exhibit C attached hereto and made a part hereof.

4. DEFAULT AND TERMINATION

- A. For Cause: In the event of substantial failure by Provider to perform in accordance with the terms hereof, TAMU-CC may terminate this MSA upon thirty (30) days written notice of termination setting forth the nature of the failure (the termination shall not be effective if the failure is fully cured prior by the end of the thirty-day period), provided that said failure is through no fault of TAMU-CC.

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- B. TAMU-CC may, without cause, terminate this Agreement and/or a Statement of Work/Work Order at any time upon giving thirty (30) days advance notice to Provider. Upon termination pursuant to this paragraph, Provider shall be entitled to payment of such amount as shall compensate Provider for the services satisfactorily performed from the time of the last payment date to the termination date in accordance with this Agreement, provided that Provider shall deliver to TAMU-CC all completed, or partially completed, work and any and all documentation or other products and results of these services. Provider shall not make or retain any copies of the work or any and all documentation or other products and results of the services without the prior written consent of TAMU-CC. TAMU-CC shall not be required to reimburse Provider for any services performed or expenses incurred after the date of termination notice.
- C. If this Agreement is terminated for any reason, TAMU-CC shall not be liable to Provider for any damages, claims, losses, or any other amounts arising from or related to any such termination.
- D. Termination of this MSA for either of the reasons stated above shall not terminate any specific Statement of Work/Work Order. Refer to Section 8.L below for survivability of terms beyond termination of this MSA.

5. PUBLIC INFORMATION

- A. Provider acknowledges that TAMU-CC is obligated to strictly comply with the Public Information Act, Chapter 552, Texas Government Code, in responding to any request for public information pertaining to this MSA, as well as any other disclosure of information required by applicable Texas law.
- B. Upon TAMU-CC's written request, Provider will promptly provide specified contracting information exchanged or created under this MSA for or on behalf of TAMU-CC.
- C. Provider acknowledges that TAMU-CC may be required to post a copy of the fully executed MSA and Statement of Work or Work Order on its Internet website in compliance with Section 2261.253(a)(1), Texas Government Code.
- D. The requirements of Subchapter J, Chapter 552, Texas Government Code, may apply to this MSA and the Provider agrees that the Statement of Work or Work Order can be terminated if the Provider knowingly or intentionally fails to comply with a requirement of that subchapter.

6. DISPUTE RESOLUTION

To the extent that Chapter 2260, *Texas Government Code*, is applicable to this Agreement, the dispute resolution process provided in Chapter 2260, and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260, shall be used by TAMU-CC and Provider to attempt to resolve any claim for breach of contract made by Provider that cannot be resolved in the ordinary course of business. Provider shall submit written notice of a claim of breach of contract under this Chapter to TAMU-CC Contracts Administration, who shall examine Provider's claim and any counterclaim and negotiate with Provider in an effort to resolve the claim. This provision and nothing in this Agreement waives TAMU-CC's sovereign immunity to suit or liability and TAMU-CC has not waived its right to seek redress in the courts.

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7. INSURANCE

Insurance requirements as stated within Exhibit B attached hereto.

8. MISCELLANEOUS

- A. **Indemnification.** To the extent permitted by the Constitution and laws of the State of Texas, TAMU-CC Provider shall defend, indemnify and hold harmless TAMU-CC, all of its officers, agents and employees from and against all claims, actions, suits, demands, proceedings, costs, damages, and liabilities, arising out of, connected with or resulting from any acts or omissions of Provider or any agent, employee or representative of Provider in the execution or performance of services rendered by Provider pursuant to, and governed by, the terms and conditions of this MSA and any Statement of Work / Work Order .
- B. **Independent Contractor.** Provider is an independent contractor, and neither Provider nor any employee of Provider shall be deemed to be an agent or employee of TAMU-CC. TAMU-CC will have no responsibility to provide transportation, insurance or other fringe benefits normally associated with employee status. Provider shall observe and abide by all applicable laws and regulations, policies and procedures, including but not limited to those of TAMU-CC relative to its performance under this Agreement and Statement of Work / Work Order and its conduct on its TAMU-CC's premises.
- C. **Delinquent Child Support Obligations.** A child support obligor who is more than 30 days delinquent in paying child support and a business entity in which the obligor is a sole proprietor, partner, shareholder, or owner with an ownership interest of at least 25 percent is not eligible to receive payments from state funds under an agreement to provide property, materials, or services until all arrearages have been paid or the obligor is in compliance with a written repayment agreement or court order as to any existing delinquency. The *Texas Family Code* requires the following statement: "Under Section 231.006, *Texas Family Code*, the Provider or applicant certifies that the individual or business entity named in this Agreement, bid, or application is not ineligible to receive the specified grant, loan, or payment and acknowledges that this Agreement may be terminated and payment may be withheld if this certification is inaccurate."
- D. **Payment of Debt or Delinquency to the State.** Pursuant to Section 2252.903, *Texas Government Code*, Provider agrees that any payments owing to Provider under this MSA may be applied directly toward certain debts or delinquencies that Provider owes the State of Texas or any agency of the State of Texas regardless of when they arise, until such debts or delinquencies are paid in full.
- E. **Previous Employment.** Provider acknowledges and understands that Section 2252.901, *Texas Government Code*, prohibits TAMU-CC from using state appropriated funds to enter into any employment contract, consulting contract, or professional services contract with any individual who has been previously employed, as an employee, by the agency within the past twelve (12) months. If Provider is an individual, by signing the Statement of Work / Work Order governed by this MSA, Provider certifies that Section 2252.901, *Texas Government Code*, does not prohibit the use of state appropriated funds for satisfying the payment obligations herein.
- F. **Not Eligible for Rehire.** Provider is responsible for ensuring that its employees involved in any work being performed for TAMU-CC governed by this Agreement have not been designated as "Not Eligible for Rehire" as defined in System policy 32.02, *Discipline and Dismissal of Employees*, Section 4 ("NEFR Employee"). In the event TAMU-CC becomes

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- aware that Provider has a NEFR Employee involved in any work being performed governed by this Agreement, TAMU-CC will have the sole right to demand removal of such NEFR Employee from work being performed governed by this Agreement. Non-conformance to this requirement may be grounds for termination of Provider's Statement of Work / Work Order by TAMU-CC.
- G. **Franchise Tax Certification.** If Provider is a taxable entity subject to the Texas Franchise Tax (Chapter 171, *Texas Tax Code*), then Provider certifies that it is not currently delinquent in the payment of any franchise taxes or that Provider is exempt from the payment of franchise) taxes.
- H. **State Auditor's Office.** Provider understands that acceptance of funds under this MSA constitutes acceptance of the authority of the Texas State Auditor's Office, or any successor agency (collectively, "Auditor"), to conduct an audit or investigation in connection with those funds pursuant to Section 51.9335(c), *Texas Education Code*. Provider agrees to cooperate with the Auditor in the conduct of the audit or investigation, including without limitation, providing all records requested. Provider will include this provision in all contracts with permitted subcontractors.
- I. **Headings.** Headings appear solely for convenience of reference. Such headings are not part of this MSA and shall not be used to construe it.
- J. **Severability.** In case any one or more of the provisions contained in this MSA shall, for any reason, be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions hereof, and this MSA shall be construed as if such invalid, illegal, and unenforceable provision has never been contained herein. The Parties agree that any alterations, additions, or deletions to the provisions of the MSA that are required by changes in federal or state law or regulations are automatically incorporated into the MSA without written amendment hereto and shall become effective on the date designated by such law or by regulation.
- K. **Non-Assignment.** Provider shall neither assign its rights nor delegate its duties under this MSA without the prior written consent of TAMU-CC.
- L. **Survivability.** The Provider's duties under this MSA, Statement of Work or Work Order and/or purchase order, which impose an obligation after expiration or termination of this MSA, will survive unless otherwise stated within the specific Statement of Work / Work Order and/or purchase order.
- M. **HUB Subcontracting Plan.** If awarded a Project as a result of this MSA, the Provider may be required by TAMU-CC to complete a HUB Subcontracting Plan ("HSP"). Provider represents and warrants that it shall comply with the Historically Underutilized Business requirements pursuant to Texas Government Code, Chapter 2161.
- N. **Force Majeure.** In case any one or more of the provisions contained in this Agreement shall, for any reason, be held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other provisions hereof, and this Agreement shall be construed as if such invalid, illegal, and unenforceable provision has never been contained herein. The Parties agree that any alterations, additions, or deletions to the provisions of the Agreement that are required by changes in federal or state law or regulations are automatically incorporated into the Agreement without written amendment hereto and shall become effective on the date designated by such law or by regulation.

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- O. **Loss of Funding.** Performance by TAMU-CC under this Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the “Legislature”). If the Legislature fails to appropriate or allot the necessary funds, then TAMU-CC will issue written notice to Provider and TAMU-CC may terminate this MSA without further duty or obligation hereunder. Provider acknowledges that appropriation of funds is beyond the control of TAMU- CC.
- P. **Governing Law.** The validity of this MSA and all matters pertaining to this MSA, including but not limited to, matters of performance, non-performance, breach, remedies, procedures, rights, duties, and interpretation or construction, shall be governed and determined by the Constitution and the laws of the State of Texas.
- Q. **Venue.** This MSA is performable in Nueces County, Texas. Pursuant to Section 85.18, *Texas Education Code*, venue for any suit filed against TAMU-CC shall be in the county in which the primary office of the chief executive officer of TAMU-CC is located. At the execution of this MSA or Statement of Work / Work Order governed by this MSA, such county is Nueces County, Texas.
- R. **Non-Waiver.** Provider expressly acknowledges that TAMU-CC is an agency of the State of Texas and nothing in this MSA will be construed as a waiver or relinquishment by TAMU-CC of its right to claim such exemptions, privileges, and immunities as may be provided by law.
- S. **Conflict of Interest.** By executing a Statement of Work / Work Order governed by this MSA, Provider and each person signing on behalf of Provider certifies, and in the case of a sole proprietorship, partnership or corporation, each party thereto certifies as to its own organization, that to the best of their knowledge and belief, no member of The Texas A&M University System or The Texas A&M University System Board of Regents, nor any employee, or person, whose salary is payable in whole or in part by The Texas A&M University System, has direct or indirect financial interest in the award of this MSA or a Statement of Work / Work Order governed by this MSA, or in the services to which this MSA relates, or in any of the profits, real or potential, thereof.
- T. **Prohibition on Contracts with Companies Boycotting Israel.** To the extent that Texas Government Code, Chapter 2271 applies to this MSA, Provider certifies that (a) it does not currently boycott Israel; and (b) it will not boycott Israel during the term of this MSA. Provider acknowledges any Statement of Work/Work Order and/or this MSA may be terminated and payment withheld if this certification is inaccurate.
- U. **Certification Regarding Business with Certain Countries and Organizations.** Pursuant to Subchapter F, Chapter 2252, Texas Government Code, Provider certifies it is not engaged in business with Iran, Sudan, or a foreign terrorist organization. Provider acknowledges any Statement of Work / Work Order and/or this MSA may be terminated if this certification is or becomes inaccurate.
- V. **Prohibition on Contracts Related to Persons Involved in Human Trafficking.** Under Section 2155.0061, Government Code, Provider certifies that the individual or business entity named in any Statement of Work / Work Order governed by this MSA is not ineligible to receive the specified work in such Statement of Work / Work Order and acknowledges that each Statement of Work / Work Order contract may be terminated and payment withheld if this certification is inaccurate.

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- W. **Verification Regarding Boycotting Energy Companies.** To the extent that Section 2274.002, Texas Government Code applies to this MSA and any Statements of Work / Work Orders, Provider certifies (1) does not boycott energy companies and (2) will not boycott energy companies during the term of this MSA.
- X. **Verification Regarding Discrimination Against Firearm Entities and Trade Associations.** To the extent that Section 2274.002, *Texas Government Code* applies to this MSA and any Statements of Work / Work Orders, Provider certifies (1) does not have a practice, policy, guidance or directive that discriminates against a firearm entity or firearm trade association, and (2) will not discriminate against a firearm entity or firearm trade association during the term of this MSA.
- Y. **Records Retention.** Provider will preserve all contracting information, as defined under Texas Government Code, Section 552.003 (7), related to the MSA and all Statements of Work / Work Orders for the duration of the MSA and all Statement of Work / Work Order and for seven years after the conclusion of the work on each Project.
- Z. **Notices.** Any notices required or permitted under this MSA and all Statements of Work / Work Orders must be in writing and will be deemed given: (a) three (3) business days after it is deposited and post-marked with the United States Postal Service, postage prepaid, certified mail, return receipt requested, (b) the next business day after it is sent by overnight carrier, (c) on the date sent by email transmission with electronic confirmation of receipt by the party being notified, or (d) on the date of delivery if delivered personally. The Parties may change their respective notice address by sending to the other Party a notice of the new address. Notices should be addressed as follows:

TAMU-CC: Texas A&M University – Corpus Christi
Attn: Scott Meares, Associate Vice President for Operations
6300 Ocean Drive, Unit 5739
Corpus Christi, Texas 78412
Telephone: (361) 825-2107
Email: scott.meares@tamucc.edu

With an electronic copy to: Texas A&M University – Corpus Christi
Attn: Contracts Administration
Email: contracts@tamucc.edu

Provider: Provider's notification information shall be specified within its Statement of Work / Work Order

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Entire Agreement. This MSA and all executed Statement of Work / Work Order constitutes the sole agreement of the Parties and supersedes any other oral or written understanding or agreement pertaining to the subject matter of this MSA and any Projects. This MSA may not be amended or otherwise altered. Any revisions to the Statement or Work / Work Order may only be modified in writing upon the written agreement of TAMU-CC and the Provider.

IN WITNESS WHEREOF, the Parties, intending to be bound, agree to the Terms and Conditions of this MSA, RFQ, and specific executed Statement of Work / Work Order.

Texas A&M University – Corpus Christi

Provider

By: _____
Jaelyn Mahlmann
Vice President for Finance & Administration

[signature, name, title, and date
of Provider as specified
Statement of Work/Work Order]

Recommended by:

By: _____
Scott Meares
Associate Vice President for Operations
Dated: _____

Approved as to Form:

By: _____
Texas A&M University System Office of General Counsel
Dated: _____

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EXHIBIT A – SCOPE

Services will include the Program evaluation, project planning, facilities space management, feasibility analysis, testing, studies/reports, conceptual design, cost estimates, schematic design, design development, bidding construction documents, bidding and contractor selection services, basic construction administration, as-constructed drawings and more extensive construction phase quality control and monitoring. Final scope of services will be identified on a project by project basis.

[End of Exhibit A]

SAMPLE

ATTACHMENT B

EXHIBIT B – INSURANCE

See Insurance requirements in Exhibit C – Architect/Engineer Terms and Conditions attached hereto, §1.1.31 and §1.1.32. All Providers entering into an executed Statement of Work / Work Order governed by this MSA, will be required to furnish TAMU-CC with an Acord Certificate in compliance with §1.1.31 and §1.1.32 prior to commencement of any Work.

[End of Exhibit B]

SAMPLE

ATTACHMENT B

EXHIBIT C – ARCHITECT/ENGINEER TERMS AND CONDITIONS, STATEMENTS OF WORK /
WORK ORDERS REQUIREMENTS AND TERMS

SAMPLE

**EXHIBIT C TO TAMU-CC MASTER SERVICES AGREEMENT FOR PROJECTS
UNDER 4 MILLION DOLLARS ONLY**

Terms and Conditions stated herein are by and between **Texas A&M University – Corpus Christi** (“TAMU-CC” and/or “Owner”) and the Provider. TAMU-CC intends to construct campus Projects in Corpus Christi Texas, for Projects **under** FOUR MILLION AND NO/100THS DOLLARS. If Provider is awarded a Project under a Statement of Work/Work Order issued pursuant to the Master Services Agreement between the Provider and TAMU-CC (with all exhibits attached thereto, as amended from time to time, the “MSA” and/or the Agreement), such Project will be subject to terms and conditions within the MSA and all Exhibits attached thereto, including, but not limited to, this Exhibit C and the applicable Statement of Work/Work Order issue for such Project. Capitalized terms used herein will have the meaning given to such term in the MSA, unless otherwise stated in this Exhibit C.

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Article 1
Architect/Engineer's Services and Responsibilities

The Architect/Engineer shall provide the usual and customary Basic Services necessary and reasonably inferable to complete the Project and each phase of the project described in Paragraphs 1.2 through 1.6 below, along with any Additional Services requested by the Owner.

1.1 Architect/Engineer's **Basic Services**

1.1.1 **Basic Services.** The Architect/Engineer's Basic Services include all disciplines identified in Article 15 and all related usual and customary design, consultant, and other services necessary and reasonably inferable to complete the Project, or any phase of the Project, in accordance with the Owner's requirements and the terms of the Agreement, this Exhibit C and any applicable Statement of Work/Work Order.

1.1.2 **Reimbursable Services.** Reimbursable Services are the services specifically identified in Paragraph 15.2 that are provided by the Architect/Engineer in conjunction with the delivery of Basic Services under the Agreement, this Exhibit C and any applicable Statement of Work/Work Order. Compensation for Reimbursable Services will be made when the services are complete.

1.1.3 The Program of Requirements (see Article 2) or alternatively, if approved for use by Owner, the Project Narrative (as defined below), describes the intended project scope and character along with the anticipated Project Schedule and the Preliminary Project Cost. The Program of Requirements or Project Narrative, as applicable, is incorporated herein by reference. It is the Architect/Engineer's responsibility to review and understand the requirements of the Program of Requirements or Project Narrative, as applicable, and to perform professional services so as to achieve those objectives. The term "Project Narrative" as used herein means a description of a project needs, conditions and requirements as defined and provided by the Owner or Owner's designated representative.

1.1.4 The Amount Available for the Construction Contract ("AACC") for this Project is specified in Article 15. The Architect/Engineer is responsible for managing the design of the Project so that the total construction cost does not exceed the Amount Available for the Construction Contract. Evaluations of the Owner's budget for the Project and Estimated Construction Costs (as defined in Section 3.1 below) prepared by the Architect/Engineer represent the Architect/Engineer's judgment as a design professional familiar with the construction industry. Bids or negotiated prices may vary from the Owner's budget for the Project, or from the Estimated Construction Costs prepared or agreed to by the Architect/Engineer.

1.1.5 The Architect/Engineer is responsible for managing the design of each package so that the total construction cost for such package does not exceed the AACC for that package. The Architect/Engineer is responsible for managing the design of the Project so that total contract costs of all packages do not exceed the Project's overall AACC.

1.1.6 The Architect/Engineer shall manage the design of the Project to achieve the Program of Requirements' or Project Narrative's, as applicable, objectives of scope and cost through completion and acceptance of the Construction Documents phase. The Architect/Engineer shall advise the Owner of any adjustments to the scope or quality of the Project necessary to comply with the Amount Available for the Construction Contract during design development as part of Basic Services.

1.1.7 The Architect/Engineer shall submit the names of all consultants, persons, or firms, that the Architect/Engineer proposes to use in the execution of its services and shall provide the Owner, upon request, with a fully executed copy of each contract or agreement that the Architect/Engineer enters into with any consultant. The Architect/Engineer is responsible for coordinating the work of all of its consultants such that their services are appropriate for and adequately incorporated into the design of the Project. The Owner reserves the right, in its sole discretion, to reject the employment by Architect/Engineer of any consultant for the Project to which Owner has a reasonable objection. Architect/Engineer, however, shall not be required to contract with any consultant to which it has a reasonable objection.

1.1.8 The Architect/Engineer shall pay for its consultants' services out of its fees. The Owner is not responsible for any consultant fees or costs unless expressly agreed to in writing.

1.1.9 The Architect/Engineer agrees on allocating work to subcontractors (consultants) as listed (or indicated) on their HUB Subcontracting Plan, in accordance with The A&M System Policy on Historically Underutilized Businesses. No changes to the HUB Subcontracting Plan may be made unless approved in writing by the Owner. While the Agreement and each individual Statement of Work/Work Order is in effect and until the expiration of one year after completion of an individual Statement of Work/Work Order, the Owner may require information from the Architect/Engineer, and may conduct audits, to assure that the HUB Subcontracting Plan is followed.

1.1.10 The Architect/Engineer shall, consistent with the AACC design the Project to incorporate current systems technology as appropriate to the stated mission of the institution and the programmed functional activities. The technology shall be compatible with any existing facility and acceptable to the Owner.

1.1.11 The Architect/Engineer shall perform its services in accordance with the Owner furnished "Facility Design Guidelines", a digital copy of which has been provided to Architect/Engineer and is incorporated herein by reference.

1.1.12 The Architect/Engineer shall design the Project in accordance with the approved Campus Master Plan, a copy of which will be made available to Architect/Engineer.

1.1.13 Basic design services shall include incorporation of the provisions of the Energy Conservation Design Standard for New State Buildings as administered by the State Energy Conservation Office (SECO), State Comptroller's Office of the State of Texas. Architect/Engineer shall provide the Owner with the SECO Compliance Certification and associated compliance documentation as required.

1.1.14 The Architect/Engineer, as part of Basic Services, shall provide an economic evaluation for the potential of renewable energy applications pursuant to SECO requirements using RETScreen International Clean Energy Project Analysis software. Analysis shall include solar energy, biomass energy, geothermal energy and wind energy.

1.1.15 Basic design services shall include analysis and incorporation of on-site water reclamation technologies, pursuant to Section 447.004 *Texas Government Code*. Architect/Engineer shall provide the Owner with the SECO Compliance Certification and associated compliance documentation as required.

1.1.16 The Architect/Engineer, as a part of Basic Services, shall employ sustainable design principles based on LEED 2009 as established by the U.S. Green Building Council. Specifically employ those principles pertaining to energy and water conservation and indoor environmental quality. Any energy modeling and/or daylighting studies, required to achieve these principles shall be included as part of Basic Services. If the Owner chooses to pursue certification, registration and documentation with the U.S. Green Building Council, any such services provided by the Architect/Engineer will be an Additional Service. The LEED Green Building Rating System and other similar environmental guidelines (collectively "LEED") utilize certain design and usability recommendations on a project in order to promote an environmentally friendly and energy efficient facility. In addressing these guidelines, the Architect/Engineer shall perform its services in accordance with that degree of skill and care ordinarily exercised by similarly situated members of the Architect/Engineer's profession involved in the design of similar projects in the same locale as the Project.

1.1.17 Architect/Engineer shall use reasonable care consistent with the foregoing standard in interpreting and designing in accordance with LEED. Architect/Engineer shall not be responsible for Contractor's failure to adhere to the Contract Documents (as defined below) and any applicable laws, codes and regulations incorporated therein, nor for any changes to the design made by the Owner without the direct participation and written approval of the Architect/Engineer. As used herein, the term "Contract Documents" means, collectively, the Contract between Owner and Contractor for a Project (as amended from time to time, the "Contract for Construction") and all exhibits and attachments listed, contained or referenced in the Contract for Construction, specifically including the Uniform General Conditions; Special Conditions and Owner's Specifications; the Drawings, Specifications, details and other documents developed by A/E or Owner's consultants, if any, and accepted by Owner which describe the Project; all Addenda issued prior to the Effective Date of the Agreement and the applicable Statement of Work/Work Order; the Guaranteed Maximum Price Proposal when accepted by Owner and executed by the parties; all Change Orders issued after the Effective Date of the Agreement and the applicable Statement of Work/Work Order; and the HUB Subcontracting Plan submitted by Contractor.

1.1.18 The Architect/Engineer, as a part of Basic Services, shall provide life cycle cost analysis of major systems and materials to optimize the operating, maintenance and initial costs as well as to support Paragraph 1.1.16.

1.1.19 The Architect/Engineer, as part of Basic Services, shall engage a recognized and experienced construction cost estimating consultant acceptable to the Owner to prepare detailed Estimated Construction Costs of the Project in a form acceptable to the Owner following the Construction Specifications Institute (CSI) MasterFormat 2012. Updated Estimates shall be included with the Plans and Specifications submitted for review at completion of the Schematic Design phase, Design Development phase and at the stages of completion of the Construction Documents required in Article 15. If the Estimated Construction Cost exceeds the Amount Available for the Construction Contract at any time, the Owner will determine whether to increase the Amount Available for the Construction Contract or require the Architect/Engineer to revise the Project scope or quality to comply with the Amount Available for the Construction Contract at no additional cost to Owner. Reductions in Project scope or quality are subject to Owner's review and approval. If the Estimated Construction Cost is below the Amount Available for the Construction Contract, the Owner and Architect/Engineer shall mutually agree on changes to the project scope or the Amount Available for the Construction Contract.

1.1.20 The Architect/Engineer shall upload documents to the Owner's project management information system (PMIS) if requested by Owner, or otherwise deliver to Owner as requested, for review at completion of the Schematic Design and Design Development phases and at the stages of completion of the Construction Documents Phase as described in Article 15. The Architect/Engineer shall incorporate into the documents such corrections and amendments as the Owner requests, unless the Architect/Engineer provides the Owner with the Architect/Engineer's reasonable objection to such corrections or amendments. The Architect/Engineer will be responsible for any damages incurred by the Owner to the extent they are found to be caused by Architect/Engineer's failure to incorporate requested corrections and amendments to the documents.

1.1.21 Owner will utilize a PMIS for tracking comments, issues, questions, resolutions, decisions, directions and other information matters that arise during the development of the model(s), Drawings and Specifications (as defined in Section 9.1 below) for the Project. The Architect/Engineer shall provide a detailed written response to each of the Owner's review comments indicating where and how they have been addressed in the design documents. At each required document submittal stage, the Architect/Engineer shall have reviewed the previous comments and provided a response prior to the current submittal. Failure to respond to the previous comments or to provide responses may result in reduction or rejection of the Architect/Engineer's then current Statement for Architectural/Engineering Services until a proper response is obtained. Owner's approval of the revised drawing shall not be deemed to be an approval of any unlisted changes, and any costs or expense for any Architect/Engineer's additional services subsequently incurred for such unlisted changes shall be borne by Architect/Engineer.

1.1.22 The Architect/Engineer, as part of Basic Services, shall become sufficiently familiar with the existing facilities, systems and conditions at the Project site so that the proposed Project will properly interface functionally with them.

1.1.23 Architect/Engineer agrees and acknowledges that Owner is entering into the Agreement and each applicable Statement of Work/Work Order in reliance on

Architect/Engineer's represented professional abilities with respect to performing Architect/Engineer's services, duties, and obligations under the Agreement and the applicable Statement of Work/Work Order. Architect/Engineer agrees to use Architect/Engineer's professional efforts, skill, judgment, and abilities in performing Architect/Engineer's services. Architect/Engineer shall perform its services diligently and shall endeavor to further the interest of the Owner in accordance with Owner's requirements and procedures. Architect/Engineer shall perform its services in accordance with the professional skill and care ordinarily provided by competent architects and engineers practicing in the same or similar locality and under the same or similar circumstances and professional license; and as expeditiously as is prudent considering the ordinary professional skill and care of a competent architect and engineer (the "Standard of Care"). Subject to this Standard of Care, Architect/Engineer shall interpret and apply applicable national, federal, state, municipal, and State of Texas building and accessibility laws, regulations, codes, ordinances, orders and with those of any other body having jurisdiction in effect at the time the services are provided. There are no obligations, commitments, or impediments of any kind known to the Architect/Engineer that will limit or prevent performance by Architect/Engineer of its services. Architect/Engineer hereby agrees to correct, at its own cost, any of its services, and the services of its consultants, that do not meet the standard of care.

1.1.24 Architect/Engineer shall take reasonable precautions to verify the accuracy and suitability of any drawings, plans, sketches, instructions, information, requirements, procedures, requests for action, and other data supplied to Architect/Engineer (by Owner or any other party) that Architect/Engineer uses for the Project. Architect/Engineer shall identify to the Owner in writing any such documents or data which, in Architect/Engineer's professional opinion, are unsuitable, improper, or inaccurate in connection with the purposes for which such documents or data are furnished. Owner does not warrant the accuracy or suitability of such documents or data as are furnished unless Architect/Engineer advises Owner in writing that in Architect/Engineer's professional opinion such documents or data are unsuitable, improper, or inaccurate and Owner confirms in writing that it wishes Architect/Engineer to proceed in accordance with the documents or data as originally given.

1.1.25 Architect/Engineer's services shall be free from any material errors or omissions in accordance with the Standard of Care. Neither acceptance nor approval of Architect/Engineer's services by the Owner shall relieve Architect/Engineer of any of its professional duties or release it from any liability, it being understood that Owner is, at all times, relying upon Architect/Engineer for its skill and knowledge in performing Architect/Engineer's services. Owner shall have the right to reject any of Architect/Engineer's services because of any fault or defect in the Project due to any material errors or omissions in the Plans, Drawings, Specifications, and other materials prepared by Architect/Engineer or its consultants. Upon notice of any such errors or omissions, Architect/Engineer shall promptly provide any and all services necessary to correct or remedy them at no additional cost to the Owner. Architect/Engineer's obligation to correct its errors and omissions is in addition to, and not in substitution for, any other remedy for defective services which Owner may have at law or in equity, or both.

1.1.26 The Architect/Engineer shall not proceed to any phase of design not expressly authorized by the Owner, except at the Architect/Engineer's own financial risk.

1.1.27 Architect/Engineer agrees to furnish efficient business administration and superintendence and to use Architect/Engineer's professional skill to design the Project in an expeditious and economical manner consistent with the interest of Owner and Architect/Engineer's professional skill and care.

1.1.28 Architect/Engineer shall allocate adequate time, personnel and resources as necessary to perform its services. Architect/Engineer's Senior Principal(s) responsible for managing the Project and while employed by Architect/Engineer shall not be changed without the prior written approval of the Owner. The day-to-day Project Team will be led by the Senior Principal(s) unless otherwise directed by Owner or prevented by factors beyond the control of Architect/Engineer. The Senior Principal(s) shall act on behalf of Architect/Engineer with respect to all phases of Architect/Engineer's Services and shall be available as reasonably required for the benefit of the Project and Owner.

1.1.29 Architect/Engineer shall review any applicable documents provided by the Owner and the visible existing conditions at the Project site to identify existing systems and construction which must be modified to accommodate the Architect/Engineer's design for the Project and the construction of the Project. The Architect/Engineer shall identify to Owner any observable discrepancies between the documents and visible conditions and shall consult with the Owner on any special measures, services or further investigations required for Architect/Engineer to perform its services in accordance with the Standard of Care. This review shall be accomplished by registered, professional architects and engineers, as appropriate.

1.1.30 When the Project is subject to Texas Commission on Environmental Quality (TCEQ) regulations, Architect/Engineer shall coordinate all related design efforts, including the civil engineer and landscape architect, so that consideration of site design and Best Management Practices (BMP) are integrated.

1.1.31 Insurance Coverage. The Architect/Engineer shall obtain and maintain, for the duration of the Agreement and any Statement of Work/Work Order or longer, the minimum insurance coverages set forth below. With the exception of Professional Liability (E&O), all coverage shall be written on an occurrence basis. All coverage shall be underwritten by companies authorized to do business in the State of Texas or eligible surplus lines insurers operating in accordance with the Texas Insurance Code and have a financial strength rating of A- or better and a financial strength rating of VII or better as measured by A.M. Best Company or otherwise acceptable to Owner. By requiring such minimum insurance, the Owner shall not be deemed or construed to have assessed the risk that may be applicable to the Architect/Engineer under the Agreement or any Statement of Work/Work Order. The Architect/Engineer shall assess its own risks and if it deems appropriate and/or prudent, maintain higher limits and/or broader coverages. The Architect/Engineer is not relieved of any liability or other obligations assumed pursuant to the Agreement and any Statement of Work/Work Order by reason of its failure to obtain or maintain insurance in sufficient amounts, duration, or types. No policy will be canceled without unconditional written notice to Owner at least ten days before the effective date of the cancellation. All insurance policies will be endorsed to provide a waiver of subrogation in favor of The Board of Regents of The Texas A&M University System, The Texas A&M University System and Texas

for at least two (2) years after the expiration of cancellation of this Agreement and any Statement of Work/Work Order. The professional liability insurance shall be in an amount based on the AACC and determined by the following chart:

AACC	Limit
\$0 - \$20,000,000	\$1,000,000 each claim / \$ 2,000,000 aggregate
\$20,000,001 - \$60,000,000	\$2,000,000 each claim / \$ 4,000,000 aggregate
\$60,000,001 - \$90,000,000	\$3,000,000 each claim / \$ 6,000,000 aggregate
\$90,000,001 - \$120,000,000	\$4,000,000 each claim / \$ 8,000,000 aggregate
\$120,000,001 – higher	\$5,000,000 each claim / \$10,000,000 aggregate

Evidence of insurance on a Texas Department of Insurance approved certificate form verifying the existence and actual limits of all insurance prior to the execution and delivery of the Agreement and prior to the performance of any services by Architect/Engineer under the Agreement and all Statement of Work/Work Order. Additional evidence of insurance will be provided on a Texas Department of Insurance approved certificate form verifying the continued existence of all required insurance no later than thirty (30) days after each annual insurance policy renewal.

Commercial General Liability and Auto Liability policies will be endorsed to name The Board of Regents for and on behalf of The Texas A&M University System, The Texas A&M University System and Texas A&M University – Corpus Christi as additional insureds up to the actual liability limits of the policies maintained by Architect/Engineer. The Commercial General Liability Additional Insured endorsements will include on-going and completed operations afforded by CG 20 10 (10 01 Edition or equivalent) and CG 20 37 (10 01 Edition or equivalent). Commercial General Liability and Business Auto Liability policies will be written on a primary and non-contributory basis. Copies of each endorsement must be submitted with the certificate of insurance. The Umbrella policy, at minimum, must follow form.

1.1.32 Architect/Engineer shall include The Texas A&M University System Board of Regents, The Texas A&M University System and Texas A&M University – Corpus Christi as additional insured on the Commercial General Liability and Automobile Liability policies, and the Workers' Compensation policy shall include a waiver of subrogation in favor of the Owner.

1.1.33 The Owner may select a Program Manager for this Project, and the Architect/Engineer shall coordinate its services with the Program Manager. The Owner may direct the Architect/Engineer to recognize the Program Manager as its representative for the performance of various duties which are otherwise defined as the responsibility of the Owner. Architect/Engineer hereby acknowledges such appointment.

1.1.34 The Architect/Engineer shall utilize Building Information Modeling (BIM) authoring software and BIM based design processes to produce model(s) for this project. The Architect/Engineer shall be knowledgeable of BIM use for all phases of the design and utilize data, graphics, and drawings derived from the model for decision making support and construction documentation as part of Basic Services. The Building Information Modeling (BIM) software shall be compliant with the current version of the Industry Foundation Class file format.

1.1.35 BIM is defined in the National Building Information Modeling Standard as a digital representation of physical and functional characteristics of a facility. As such it serves as a shared knowledge resource for information about a facility forming a reliable basis for decisions during its life-cycle from inception onward. A basic premise of BIM is collaboration by different stakeholders at different phases of the life cycle of a facility to insert, extract, update or modify information in the BIM process to support and reflect the roles of that stakeholder. The BIM is a shared digital representation founded on open standards for interoperability.

1.1.36 During the design process the model(s) shall, at a minimum be utilized for Design Authoring, Design Reviews, Space Tracking, Cost Estimation, 3D Coordination, and Record Modeling.

1.1.37 During the bidding process the design team shall be required to provide the models and derived drawings to all proposers upon request.

1.1.38 During the construction process it is intended that the Contractor utilize the model(s) for 3D Coordination, Fabrication.

1.1.39 The Architect/Engineer shall develop a project BIM Execution Plan documenting BIM uses, analysis technologies and workflows. The BIM Execution Plan shall be submitted to the Owner within 30 days of the execution of the Agreement and any Statement of Work/Work Order as applicable. A combined BIM Execution Plan from both Architect/Engineer and Contractor is also acceptable.

1.1.40 The Architect/Engineer shall track the design net and gross square footage during design from the Program of Requirements or Project Narrative, as applicable, through Construction Administration in an Excel format acceptable to Owner.

1.1.41 The Architect/Engineer shall utilize the PMIS applications e-Builder® and Autodesk Build as the primary systems for all project documentation through all phases of the Project. Architect/Engineer shall follow Owner's guidelines on the use of e-Builder® and Autodesk Build.

1.1.42 The Architect/Engineer shall at each stage of review described in Paragraph 15.7 follow the naming standards set forth in the Facility Design Guidelines and upload to Autodesk Build all Drawings, Specifications and basis of design in PDF file format and model(s) in native file format (i.e. RVT). The Architect/Engineer shall, in addition upload to e-Builder® drawings in native file format (i.e. DWG) of floor plans and site plan(s) for the 100% submission of Schematic Design, Design Development and Construction Documents. The Architect/Engineer shall incorporate into the model(s), Drawings and Specifications such changes as are necessary to satisfy the Owner's written review comments or published meeting minutes, any of which may be appealed in writing for good cause.

1.1.43 Architect/Engineer, at the Architect/Engineer's expense, at each stage of review described in Paragraph 15.7, shall furnish and deliver to the Owner the number of complete printed copies of all Drawings, Specifications and basis of design as enumerated in paragraph 15.7, which

copies shall become the property of the Owner. The Architect/Engineer shall pay for the reproduction of all Plans, Specifications and other documents for use by the Architect/Engineer and its consultants.

1.1.44 The Architect/Engineer shall cooperate and coordinate design and construction services with other services provided to Owner under separate contracts. Separate contracts may include, but are not necessarily limited to, the following:

- a) Owner supplied furnishings and equipment.
- b) Owner's document review services.
- c) Owner's quality assurance services.

1.1.45 As a part of Basic Services, the A/E shall, in accordance with Tx. Govt. Code Chapter 2252 specify iron and steel products that are produced in the United States. The A/E shall notify the Owner of any specified iron and steel product not produced in the United States. The A/E shall also advise the Owner if any of the exemptions identified in Chapter 2252 such as availability and quality might apply.

1.1.46 The A/E shall as each stage of the design identify all elements that are intended to be delegated design for Owner's review and concurrence.

1.2 Schematic Design Phase

1.2.1 Based on the mutually agreed upon Program of Requirements or Project Narrative's, as applicable, Amount Available for the Construction Contract and the Project Schedule, the Architect/Engineer shall prepare sufficient alternative approaches utilizing BIM/3D for design and construction of the Project to satisfy Owner's requirements and shall, at completion of this phase, submit Schematic Design Documents in accordance with "Facility Design Guidelines" and any additional requirements set forth in Article 15. The Architect/Engineer shall review alternative approaches to design and construction for the Project and the Schematic Design Documents as they are being prepared at intervals appropriate to the progress of the Project with the Owner at the Project site or other location specified by the Owner within the State of Texas.

1.2.2 Architect/Engineer shall provide all services necessary to perform the services of this phase (preparation of Schematic Design Documents) including, without limitation, unless otherwise approved by Owner, the preparation and prompt delivery of all items specified in "Facility Design Guidelines"

1.2.3 Architect/Engineer shall work closely with Owner in preparation of schematic drawings and shall specifically conform to Owner's requirements regarding aesthetic design issues.

1.2.4 The Architect/Engineer shall direct the preparation of a detailed Estimated Construction Cost as described in Sub-paragraph 1.1.19 to confirm compliance with the Amount Available for the Construction Contract and include it with the completed Schematic Design Documents. The Architect/Engineer shall advise the Owner of any adjustments to the project scope

necessary to align the cost estimate and the project budget with the established Amount Available for Construction Contract and revise the Schematic Design Documents as may be required.

1.2.5 Before proceeding into the Design Development Phase, the Architect/Engineer shall obtain Owner's written acceptance of the Schematic Design documents and approval of the Architect/Engineer's preliminary Estimated Construction Cost and schedule.

1.2.6 The Architect/Engineer shall participate in a final review of the Schematic Design Documents with the Owner at the Project site or other location specified by Owner in the State of Texas. Prior to the Owner's approval of the Schematic Design Documents, the Architect/Engineer shall incorporate such changes as are necessary to satisfy the Owner's review comments, any of which may be appealed for good cause.

1.3 Design Development Phase

1.3.1 Based on the approved Schematic Design Documents and any adjustments to the Program of Requirements or Project Narrative, as applicable, or Amount Available for the Construction Contract authorized by the Owner, the Architect/Engineer shall prepare utilizing BIM/3D, for approval by the Owner, Design Development Documents in accordance with Owner's written requirements to further define and finalize the size and character of the Project in accordance with "Facility Design Guidelines" and any additional requirements set forth in Article 15. The Architect/Engineer shall review the Design Development Documents as they are being prepared at intervals appropriate to the progress of the Project with the Owner at the Project site or other location specified by Owner in the State of Texas.

1.3.2 The Architect/Engineer shall direct the preparation of a detailed Estimated Construction Cost as described in Sub-paragraph 1.1.19 to confirm compliance with the Amount Available for the Construction Contract and include it with the completed Design Development Documents. The Architect/Engineer shall advise the Owner of any adjustments to the project scope necessary to align the cost estimate and the project budget with the established Amount Available for Construction Contract and revise the Design Development Documents as may be required.

1.3.3 As a part of Design Development Phase, Architect/Engineer shall accomplish model coordination, aggregation and "clash detection" to remove conflicts in design between systems, structures and components. Architect/Engineer shall utilize Owner's PMIS to accomplish model coordination and collaborate with Owner in the resolution of critical clashes identified. Architect/Engineer shall demonstrate and provide written assurance to Owner that conflicts/collisions between models have been resolved.

1.3.4 The Architect/Engineer shall prepare presentation materials as defined in "Facility Design Guidelines" at completion of Design Development and if so requested shall present same to the Board of Regents at a regular meeting where scheduled within the state.

1.3.5 The Architect/Engineer shall prepare preliminary recommended furniture layouts for all spaces where it is deemed important to substantiate the fulfillment of program space requirements, or to coordinate with specific architectural, mechanical and electrical elements.

1.3.6 Architect/Engineer shall assist the Owner, if requested, with seeking approval of the Project by the Texas Higher Education Coordinating Board (THECB). Such assistance shall include (i) the preparation of a listing of the rooms and square footages in the Project, and (ii) the preparation of project cost information, in accordance with THECB Guidelines. This information shall be provided at the completion of the Design Development Phase when requested by the Owner. The listing of rooms and square footages shall then be updated to reflect any changes occurring during construction and provided to the Owner at Substantial Completion.

1.4 Construction Document Phase

1.4.1 Based on the approved Design Development Documents and any further adjustments in the scope or quality of the Project or in the Amount Available for the Construction Contract authorized by the Owner, the Architect/Engineer shall prepare utilizing BIM/3D, for approval by the Owner, Construction Documents consisting of Drawings, Schedules and Specifications in accordance with Owner's written requirements setting forth in detail the requirements for construction of the Project, including, without limitation, "Facility Design Guidelines". The Plans, Drawings and Specifications for the entire Project shall be prepared so that the construction of the building and related facilities, together with its built-in permanent fixtures and equipment which will cost not more than the Amount Available for the Construction Contract established by Owner. The Architect/Engineer will be responsible for managing the design to stay within the Amount Available for the Construction Contract. The Architect/Engineer shall review the Construction Documents as they are being prepared at intervals appropriate to the progress of the Project with the Owner at the Project site or other location specified by Owner in the State of Texas.

1.4.2 As a part of Construction Documents Phase, Architect/Engineer shall accomplish model coordination, aggregation and "clash detection" to remove conflicts in design between systems, structures and components. Model coordination shall occur at all reviews during the Construction Documents Phase as identified in the BIM Execution Plan. Architect/Engineer shall utilize Owner's PMIS to accomplish model coordination and collaborate with Owner in the resolution of critical clashes identified. Architect/Engineer shall demonstrate and provide written assurance to Owner that conflicts/collisions between models have been resolved

1.4.3 The Architect/Engineer shall advise the Owner on matters such as construction phasing and scheduling, bid or proposal alternates, liquidated damages, the construction contract time period, and other construction issues appropriate for the Project.

1.4.4 The Architect/Engineer shall assist the Owner in connection with the Owner's responsibility and procedures for obtaining approval of all building and accessibility authorities having jurisdiction over the Project.

1.4.5 The Architect/Engineer shall provide coordination and inclusion of sequence of operations for all operable systems in the facility as defined by Owner during Design Development.

1.4.6 The Architect/Engineer shall direct the preparation of a detailed Estimated Construction Cost as described in Sub-paragraph 1.1.19 to confirm compliance with the Amount

Available for the Construction Contract and include it with the completed Construction Documents. The Architect/Engineer shall advise the Owner of any adjustments to the project scope necessary to align the cost estimate and the project budget with the established Amount Available for Construction Contract and revise the Construction Documents as may be required.

1.4.7 The Architect/Engineer shall participate in a final review of the Construction Documents with the Owner at the Project location or other location specified by Owner in the State of Texas. Prior to the Owner's approval of the Construction Documents, the Architect/Engineer shall incorporate such changes as are necessary to satisfy the Owner's review comments.

1.4.8 The Architect/Engineer shall provide a list of all manufacturer warranties and submittals that are required by their specification.

1.4.9 Before proceeding into the Bidding and Proposal Phase, the Architect/Engineer shall obtain Owner's written acceptance of the Construction Documents and approval of the Final Amount Available for the Construction Contract as approved by the Board of Regents.

1.5 Bidding and Proposal Phase

1.5.1 The Architect/Engineer shall assist the Owner in obtaining and evaluating bids or proposals, and assist in awarding contracts for construction, including preparation for and attendance at Pre-proposal Conferences and HUB meetings. Architect/Engineer shall answer inquiries from bidders and proposers at Owner's request and shall prepare and issue any necessary addenda to the bidding or proposal documents. The Architect/Engineer shall maintain a register of bid and proposal documents, distribute documents to bidders, proposers, and plan rooms, and obtain and administer deposits.

1.5.2 The Architect/Engineer shall investigate the responsibility of apparent low bidders or proposers and inform Owner in writing of its findings and recommendations. For proposers selected by qualifications and by competitive sealed proposals, the Architect/Engineer shall investigate qualifications and other pertinent proposal information and inform the Owner in writing of its findings and recommendations. The Architect/Engineer shall assist the Owner with any contract negotiations with the selected Contractor.

1.5.3 In the event the best value proposal received for the Project exceeds the Final Amount Available for Construction Contract established at the completion of the Construction Document Phase, the Architect/Engineer, without charge to the Owner, and if so directed by Owner, shall revise the drawings and specifications as necessary to bring the cost of the Project within the Final Amount Available for Construction Contract. The Owner reserves the right to accept a proposal and award a construction contract that exceeds the Final Amount Available for Construction Contract, if such award is determined by Owner to be in the Owner's best interest.

1.5.4 The Architect/Engineer shall provide the models and drawings in native file format to all bidders upon request.

1.6 Construction Phase - Administration of the Construction Contract

1.6.1 The Construction Phase shall commence with the award of the Contract for Construction to a general contractor (the “Contractor”) for the Project and issuance of a Notice to Proceed with Construction Services and terminate sixty (60) days after Final Payment to the Contractor is made, or when all of Architect/Engineer’s services have been satisfactorily performed, whichever occurs later.

1.6.2 Architect/Engineer shall provide administration of the Contract for Construction as set forth below and in the edition of the “Facility Design Guidelines” current as of the date of the Agreement and any Statement of Work/Work Order.

1.6.3 The Architect/Engineer shall allow the Contractor to utilize the information uploaded into Owner’s PMIS to assist the Contractor in fulfilling its responsibilities to the Owner.

1.6.4 The Architect/Engineer shall provide updated documents at each Contractor’s monthly meeting and when requested.

1.6.5 The Architect/Engineer shall review the Contractor’s list of proposed subcontractors for all Pre-Construction Phase and Construction Phase Services to be performed by the Contractor (the “Work”), initial administrative submittals for Project Schedule, Schedule of Values and Submittal Schedule to establish appropriate bases for construction monitoring, payment processing, and system commissioning. The Architect/Engineer shall identify necessary revisions to the documents in writing to the Contractor and recommend acceptance of the documents by the Owner when appropriate. The Architect/Engineer shall review periodic updates of all schedules with Owner and Contractor to evaluate appropriateness.

1.6.6 The Architect/Engineer shall have authority to act on behalf of the Owner to the extent provided in the Contract Documents. Duties, responsibilities and limitations of authority of the Architect/Engineer shall not be restricted, modified or extended without written acceptance of the Owner.

1.6.7 Site Visits. The Owner and Contractor will have weekly meetings during the construction period. The Architect/Engineer shall visit the site at least once each month during the entire construction period to observe the progress and quality of the Work and to determine in general if the Work is proceeding in accordance with the Contract Documents. Each of Architect/Engineer’s consultant shall visit the site at least once each month during construction activities related to the consultant’s discipline to observe the progress and quality of the Work and to determine in general if the Work is proceeding in accordance with the Contract Documents. Architect/Engineer and its consultants shall document its site visits and meetings in e-Builder®. The Architect/Engineer shall not be required to make exhaustive or continuous onsite visits to inspect the quality or quantity of the Work.

- a) On the basis of the onsite observations, the Architect/Engineer shall keep the Owner informed of the progress and quality of the Work and shall endeavor to guard the Owner against defects and deficiencies in the Work of the Contractor.

Architect/Engineer shall notify Owner and the Contractor in writing of any portions of the work which Architect/Engineer has observed as not being in conformity with the Construction Documents and make recommendations as to correction of the deficiencies or defects. Architect/Engineer shall make its site representative available and shall consult with Owner and the Contractor on the occasion of all circumstances arising during the course of construction which would make such consultation in Owner's interests.

- b) In addition to site visits for general observation, the Architect/Engineer and its consultants shall visit the site for specific purposes related to certification of progress payments, pre-installation meetings, start-up or mock-up reviews for significant work activities and for formal inspections of the Work. The Architect/Engineer and its consultants shall provide written reports of all site visits to the Owner and Contractor.

1.6.8 The Architect/Engineer shall not have control 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, for the acts or omissions of the Contractor, Subcontractors or any other persons performing any of the Work, or for the failure of any of them to carry out the Work in accordance with the Contract Documents.

1.6.9 The Architect/Engineer shall at all times have access to the Work wherever it is in preparation or progress.

1.6.10 The Architect/Engineer shall determine the amounts owing to the Contractor based on its periodic observations of Work placed at the site and on evaluations of the Contractor's Application for Payment and shall coordinate its review and evaluation with the Owner's representatives and shall certify Contractor's online Application for Payment in an appropriate amount.

1.6.11 The certification of a Contractor's Application for Payment shall constitute a representation by the Architect/Engineer to the Owner, based on the Architect/Engineer's observations at the site and on the data comprising the Contractor's Application for Payment, that the Work has progressed to the point indicated; that, to the best of the Architect/Engineer's knowledge, information and belief, the quality of the Work is in accordance with the Contract Documents (subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to the results of any subsequent tests required by or performed under the Contract Documents, to minor deviations from the Contract Documents correctable prior to completion, and to any specific qualifications stated in the Contractor's Application for Payment); and that the Contractor is entitled to payment in the amount certified. However, the approval of a Contractor's Application for Payment shall not be a representation that the Architect/Engineer has made any examination to ascertain how and for what purpose the Contractor has used the monies paid on account of the Contract Sum.

1.6.12 The Architect/Engineer shall be the interpreter of the technical requirements of the Contract Documents and the judge of the performance of the work of the Contractor. The Architect/Engineer shall render interpretations necessary for the proper execution or progress of the

Work with reasonable promptness on written request of either the Owner or the Contractor, and shall render written recommendations within a reasonable time, on all claims, disputes and other matters in question between the Owner and the Contractor relating to the execution or progress of the Work or the interpretation of the Contract Documents.

1.6.13 Interpretations and recommendations of the Architect/Engineer shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in written or graphic form.

1.6.14 Subject to approval of the Owner, the Architect/Engineer's decisions in matters relating to artistic effect shall be final if consistent with and reasonably inferable from the intent of the Contract Documents.

1.6.15 The Architect/Engineer and its consultants 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 conformance with the design concept of the Work set forth in the Contract Documents and shall respond to Contractor's inquiries and questions and provide supplemental information as appropriate. Action on submittals shall be taken with reasonable promptness to cause no delay to the Contractor's scheduled progress, but in any event no more than fourteen (14) days after receipt. The Architect/Engineer's approval of a specific item shall not indicate approval of an assembly of which the item is a component. The Architect/Engineer's review shall not constitute approval of any construction means or methods.

1.6.16 Architect/Engineer shall clarify and interpret the intent and scope of the Construction Documents and, if necessary or appropriate, issue supplemental documents and 3D views to amplify or explain portions of the Construction Documents.

1.6.17 Architect/Engineer shall provide assistance in the review of the Contractor's requests for change orders or claims for additional time or costs and make recommendations to Owner as to such requests or claims. The Architect/Engineer shall inform Owner if a request for change order involves a change in scope.

1.6.18 Architect/Engineer shall prepare revised Construction Documents, where appropriate, to illustrate and document the work required by ASIs, RFIs and approved Change Orders. All proposed changes to Drawings and Specifications, regardless of how initiated, shall be totally defined in the documents depicting them as to scope of work added, removed, or changed. The revised Construction Documents shall be derived from revised model(s). Such revisions shall be clearly indicated and a current revision date shall be included. Changes to the Specifications shall be made by consecutively numbered and dated addenda. All changes to design documents or Specifications will be identified with date of change, revision number and other customary identification references. Areas changed on Drawings will be "clouded" to show each change. Clouds designating previous changes will be removed so that only the most recent changes will be clouded.

1.6.19 Architect/Engineer and its consultants shall conduct and participate in concealed space observations (in-wall and above ceiling), systems start-up observations, systems integration/operational demonstrations, Substantial Completion and pre-Final work observations to determine the dates of Substantial Completion, and Final Completion. In association with each observation, Architect/Engineer and its consultants shall enter into Autodesk Build items observed as deficiencies in the Work, requiring remedial work or replacement. The Architect/Engineer shall review the corrected and/or replaced work and assist in verification of correction of all items.

1.6.20 Architect/Engineer shall review, for conformance with the Contract Documents, Contractor's submission of guarantees and warranties.

1.6.21 The Architect/Engineer and its consultants shall assist the Owner in checking Record Drawings maintained by the Contractor during the course of the Work in association with certifying progress payments and shall review record documents for completeness and compliance with Contract requirements at Substantial Completion and at Final Completion of the Project. The Architect/Engineer is not responsible for any errors and omissions in the information provided by others that are included in the Record Drawings.

1.6.22 Architect/Engineer shall receive and review Contractor's submission of operating and maintenance instructions, and all manuals, brochures, drawings, and other close-out documentation furnished by the Contractor, shall require necessary revisions to same, and when acceptable under the terms of the Contract between Owner and Contractor, shall forward to Owner. The Architect/Engineer shall certify final payment to the Contractor when the requirements of the Contract between Owner and Contractor have been met.

1.6.23 Architect/Engineer shall throughout construction maintain and keep current the model(s) and Construction Documents by incorporating all Addenda, RFIs, ASIs and Change Orders. Upon Final Completion of the construction, the Architect/Engineer shall deliver copies to the Owner, as follows:

- Specifications: Provide an electronic set of final specifications by section number incorporating all changes in PDF uploaded to Owner's PMIS.
- Drawings: Provide an electronic set of final drawings by individual sheet incorporating all changes in DWG (references attached) and PDF format uploaded to Owner's PMIS.
- Model(s): Provide an electronic set of all models upgraded to the latest version incorporating all changes in native and IFC file format uploaded to Owner's PMIS.
- The A/E shall verify that all model links are intact and in working condition.
- All electronic documents shall be named according to Facility Design Guidelines.

1.6.24 Architect/Engineer shall provide assistance to Owner through the commissioning consultant/agent for the purpose of advising and counseling Owner's personnel in the usage, operation and maintenance of the building mechanical, electrical, and plumbing systems.

1.6.25 Architect/Engineer shall provide a milestone schedule that is acceptable to the Owner and shall be submitted on a monthly basis prior to submission of payment application, in conformance with the project milestone schedule, so that the desired design development schedule for the Project shall be maintained.

1.6.26 The Architect/Engineer shall be available after final payment to advise the Owner regarding Warranty items and to review Warranty work during the Warranty period. Architect/Engineer shall participate in the Project's one-year warranty inspection, including preparation of punch lists and inspection of corrected punch list items.

1.7 Additional Services

1.7.1 Additional Services are those services which shall be provided if authorized or confirmed in writing by the Owner and for which compensation will be provided as described in the Agreement and the applicable Statement of Work/Work Order in addition to the Basic Services Fee. Prior to commencing any Additional Service, Architect/Engineer shall prepare for acceptance by the Owner an Additional Services Proposal, in a format as directed by Owner, which shall describe in detail the nature or scope of the Additional Services, the basis upon which Architect/Engineer has determined that such services are Additional Services, and which shall set forth the maximum amount of fees for which Architect/Engineer is prepared to perform the Additional Services, together with a proposed schedule for the performances of the Additional Service. Architect/Engineer shall proceed only after written acceptance by Owner of the Additional Services Proposal.

1.7.2 Upon acceptance by Owner, each Additional Services Proposal and the services performed by Architect/Engineer pursuant to the Additional Services Proposal shall become part of the Agreement and the applicable Statement of Work/Work Order and shall be subject to all terms and conditions of the Agreement, as fully and completely as though the same had been included in the Agreement as a Basic Service at the original execution of the Agreement.

1.7.3 Providing services to make detailed investigations of existing conditions or facilities or to make measured drawings of them is an Additional Service except as reasonably necessary to verify the accuracy and completeness of drawings or other information furnished by the Owner and to the extent necessary for the Architect/Engineer to complete its responsibilities hereunder free from any material errors and omissions in accordance with Standard of Care. Architect/Engineer shall not be required to perform any destructive testing unless agreed to as an Additional Service.

1.8 Time

1.8.1 Architect/Engineer shall perform all of Architect/Engineer's services described herein as expeditiously as is consistent with (1) Architect/Engineer's professional efforts, skill and care, (2) the orderly progress of such services, and (3) in conformance with the project milestone schedule so that the desired development and construction schedule for the Project shall be maintained. Architect/Engineer shall at all times provide sufficient personnel to accomplish Architect/Engineer's services within the time limits set forth in the schedule described in 1.8.2.

1.8.2 Included in the Program of Requirements or Project Narrative, as applicable, is a schedule for completion of each of the phases of services to be performed by Architect/Engineer pursuant to the Agreement and the applicable Statement of Work/Work Order. The project schedule contains milestone dates which have been established in the Request for Qualifications previously issued or may be modified by the Owner to reflect current conditions. The Architect/Engineer shall coordinate with the Owner in the maintenance of the schedule for performance of the professional services for the Project, including the Architect/Engineer's services. Changes in this schedule may be made only with the written approval of Owner. Architect/Engineer shall perform all of its services in accordance with the then-current schedule approved by Owner.

Article 2 Owner's Responsibilities

2.1 The Owner has provided or will provide a Program of Requirements or , if approved for use by Owner, Project Narrative, as applicable, to the Architect/Engineer, or the Owner and Architect/Engineer may agree that Architect/Engineer shall prepare a Program of Requirements or Project Narrative, as applicable. as an Additional Service as set forth in Article 14 of this Exhibit C. The Program of Requirements , if approved for use by Owner, will set forth the Owner's description of the project scope, preliminary project cost, schedule, criteria for design objectives, characteristics and constraints, space requirements and relationships, site requirements, existing facilities, and desired special components, systems and equipment. If Architect/Engineer prepares the Program of Requirements or Project Narrative, as applicable, then Owner will review the Program of Requirements/Project Narrative when completed and then determine whether to proceed with the Project and authorize commencement of Basic Services. The Owner reserves the right to terminate the applicable Statement of Work/Work Order following completion of the Program of Requirements or Project Narrative, as applicable., and shall have no further obligation to Architect/Engineer other than payment for services authorized by Owner and provided by Architect/Engineer prior to such termination in accordance with the terms and conditions of the Agreement and the applicable Statement of Work/Work Order.

2.2 The Owner will provide a preliminary project budget and schedule for the Project. The budget will include the Amount Available for the Construction Contract, contingencies for changes in the Work during construction, and other costs which are the responsibility of the Owner.

2.3 The Owner designates TAMU-CC's Associate Vice President for Operations as its representative authorized to act in the Owner's behalf with respect to the Project. The Owner's authorized representative shall examine the documents submitted by the Architect/Engineer and shall render decisions pertaining thereto promptly, to avoid unreasonable delay in the progress of the Architect/Engineer's services. The Owner shall have the right to withhold from payments due Architect/Engineer such sums as the Owner deems reasonably necessary to protect Owner against any loss or damage which may result from negligence by Architect/Engineer or failure of Architect/Engineer to perform Architect/Engineer's obligations under the Agreement and this Exhibit C pending final resolution of such claims.

2.4 The Owner, at Owner's cost, will secure the services of laboratory testing engineers, or other special consultants to develop additional information to the extent necessary for the design of the Project. The Architect/Engineer shall provide the Owner with parameters for inclusion in the Owner's instructions to such providers.

2.5 The Owner shall arrange and pay for structural, mechanical, chemical and other laboratory tests as necessary during construction except as required of the Contractor in the Contract Documents.

2.6 The Owner shall furnish all legal, accounting, auditing and insurance counseling services deemed necessary by the Owner for the Project.

2.7 The services, information and reports required by the preceding paragraphs shall be furnished at the Owner's expense.

2.8 If the Owner observes or otherwise acquires actual knowledge of any design fault or defect in the Project or conflict in the Contract Documents, written notice thereof will be given by the Owner to the Architect/Engineer; however, Owner shall have no obligation or duty to investigate whether such faults, defects, or conflicts exist.

2.9 The Owner will review the Architect/Engineer's design at the completion of the Schematic Design and Design Development phases and at completion of the stages of Construction Documents as described in Article 15. Comments concerning corrections or amendments to the Plans and Specifications will be furnished in writing to the Architect/Engineer as promptly as possible after receipt of the documents for review. Owner's approval of the documents must be in writing and no approval may be deemed given in the absence of written approval. The Owner may require the Architect/Engineer to halt production during design review.

2.10 The Owner shall furnish required information and services and shall render approvals and decisions as expeditiously as necessary for the orderly progress of the Architect/Engineer's services and of the Work.

2.11 The Owner shall furnish one or more Construction Inspectors who shall be responsible for inspection of the Work, consisting of close, on-site examination of the materials, structure and equipment; and surveillance of the workmanship and methods used to ensure that the Project is reasonably accomplished in accordance with the Contract Documents and good construction practices.

Article 3

Construction Cost—Definition

3.1 The Estimated Construction Cost shall be the total cost of all elements of the Project, including all alternate bids or proposals, designed and specified by the Architect/Engineer.

3.2 The Estimated Construction Cost shall include at current market rates a reasonable allowance for overhead, profit and general conditions, the cost of labor and materials furnished by

the Owner and any equipment which has been shown in the Plans, specified, and specially provided for by the Architect/Engineer.

3.3 The Estimated Construction Cost does not include compensation to the Architect/Engineer and the Architect/Engineer's consultants, the cost of the land, rights-of-way, or other costs which are the responsibility of the Owner as provided in Article 2.

Article 4
Personnel Titles and Hourly Rates

4.1 Prior to entering into any agreement and/or any applicable Statement of Work/Work Order between the Architect/Engineer and the Owner, and the Architect/Engineer and its consultants, the Architect/Engineer shall submit a full list of all personnel titles and the hourly wage for each. The initial list is attached hereto as Attachment "A". The hourly rates contained therein may be adjusted annually in accordance with the usual and customary salaries of the architectural profession in the area of Architect/Engineer's office, to rates mutually approved by the Owner and the Architect/Engineer.

Article 5
Reimbursable Services

5.1 Reimbursable Services are in addition to the Compensation for Basic Services and Additional Services. These include actual not-to-exceed expenditures made by the Architect/Engineer and the Architect/Engineer's consultants incurred solely and directly in connection with Architect/Engineer's performance of its services as identified in Article 15 Reimbursable Services.

5.2 Expenses not allowed for reimbursement include the cost of review documents required to be provided to the Owner under Article 14, telephone charges, cell phone and PDA charges, FAX service, alcoholic beverages, laundry, car washes, valet service, entertainment and any non-project related items.

5.3 Owner shall pay a mark-up not to exceed ten percent (10%) on those reimbursable identified in 5.1.1 through 5.1.3 above. A mark-up shall not be paid on lodging, meals or travel expenses. Architect/Engineer shall submit receipts for all reimbursable services along with any reimbursement request.

5.4 Owner must authorize all Reimbursable Services prior to the performance of the reimbursable item. Charges for Reimbursable Services must not exceed the established category amounts unless authorization, in writing, is obtained from the Owner.

Article 6
Basis of Compensation

The Owner shall compensate the Architect/Engineer for the services provided in accordance with Article 7. Payments to the Architect/Engineer shall be as follows:

6.1 Basic Services Fee

6.1.1 For Basic Services, as described in Article 1, and including all disciplines identified in Paragraph 15.1 as part of Basic Services, Architect/Engineer's fee shall be a negotiated Basic Services Fee to cover all costs and profit.

6.1.2 The Architect/Engineer's Basic Services Fee will be based on the Amount Available for the Construction Contract identified in the Project Narrative.

6.1.3 In multiple package projects, the Basic Services Fee for each package shall be determined in a manner agreed to by A/E and Owner. The Architect/Engineer's total Basic Services Fee will be the sum of the basic services fees for all packages.

6.1.4 If the description of the Architect/Engineer's Basic Services is changed materially, the applicable fee shall be adjusted equitably.

6.2 Fees for Changes in Project Scope

6.2.1 For reductions in the scope of the Work of the Project that occur after commencement of the Construction Documents Phase, the Architect/Engineer's fee for basic services related to the eliminated portion of the Work, to the extent such services are provided, shall be negotiated with the Owner.

6.2.2 For increases in the scope of Work of the Project that occur after commencement of the Construction Documents Phase, the fee for the additional Basic Services required will be negotiated with the Owner.

6.3 Fees for Change Order Services

If revised construction documents are required due to material changes ordered by the Owner and not due to errors and omissions on the part of the Architect/Engineer, or its consultants, the fee for the additional Basic Services required will be negotiated with the Owner.

6.4 Additional Services

6.4.1 For additional services of the Architect/Engineer, that are not Basic Services, due to changes in Project scope, the Architect/Engineer's fee shall be a negotiated amount agreeable to Architect/Engineer and Owner.

6.4.2 For additional services of the Architect/Engineer's consultants, that are not Basic Services, due to changes in Project scope, the Architect/Engineer's fee shall be calculated as an amount negotiated by the Owner and the Architect/Engineer not to exceed 1.10 times the amount that the consultant bills the Architect/Engineer for the additional services.

6.5 Reimbursable Services

For reimbursable services, as described in Article 5, and any other items included in Article 14 as Reimbursable Services, the Architect/Engineer's reimbursement shall be calculated as an amount not to exceed 1.10 times the amounts actually expended by the Architect/Engineer and the Architect/Engineer's consultants in the interest of the Project.

6.6 If the Owner and the A/E are unable to agree on the fee changes in scope or change order services under paragraph 6.2 and 6.3, respectively, the A/E shall not suspend performance and the amount that is acceptable to both parties shall be paid. Any additional amount claimed by the A/E shall be submitted to Owner as a claim under Article 14.13 (Dispute Resolution).

Article 7 Payments to the Architect/Engineer

7.1 Payments for Basic Services

7.1.1 Payment shall be made for the services based on fees negotiated at the time an individual project(s) (individually a "Project") is assigned and a statement of work or work order (as applicable, a "Statement of Work or Work Order") detailing the terms and conditions for an individual Project is fully executed, to include reimbursables.

7.1.2 For each Project, Provider shall invoice TAMU-CC for amounts due consistent with the "Payment Schedule" as negotiated per Project. In the event that reimbursement of travel expenses are necessary, Provider's invoice(s) must include supporting documents. Payment will be made to Provider upon approval of such invoice by TAMU-CC. It is the policy of the state of Texas to make payment on a properly prepared and submitted invoice within thirty (30) days of the latter of any final acceptance of performance or the receipt of a properly submitted invoice, in conformance with the Texas Prompt Payment law. Generally, payment will be made on the 30th day unless a discount has been arranged for more immediate payment.

7.1.3 For all Projects, business-related travel, lodging and/or meal expenses will be reimbursed by TAMU-CC according to the State of Texas rates, rules, and regulations. Provider is required to submit all travel receipts when requesting reimbursement. Under no circumstance will the Provider be reimbursed for alcohol purchases. State travel rates are subject to change without notice and will be adjusted accordingly. Mileage rates will be calculated from point-to-point (Provider's place of business to job site) using the State of Texas mileage. Should the contract be renewed for an additional term, travel reimbursement amounts will be renegotiated at that time.

7.1.4 All payments shall be made by electronic direct deposit. If not already setup, Provider is required to complete and submit to TAMU-CC a Vendor Direct Deposit Authorization form prior to the first payment request. The TAMU-CC Direct Deposit form can be accessed at: <https://www.tamucc.edu/finance-and-administration/financial-services/disbursements-travel-services/vendor-care/assets/documents/substitute-w9-update-06-2019.pdf>

7.1.5 All invoices must reference the TAMU-CC purchase order number issued for a specific Project and include the description of services provided as well as time, deliverables, and

activities. Invoices will be processed for payment upon approval by appropriate TAMU-CC personnel.

7.1.6 Invoices are to be sent according to the address specifically listed within the Statement of Work / Work Order for each specific Project.

7.1.7 The form of Statement for Architectural/Engineering Services included in e-Builder® may be utilized, otherwise Owner shall provide the form to be used. Each Statement for Architectural/Engineering Services must be accompanied by an HSP-Prime Contractor Progress Assessment Report in the form located at <https://www.tamus.edu/business/hub-procurement/hub-programs/>

7.1.8 No partial payment made shall be, or construed to be, final acceptance or approval of the services to which the partial payment relates, or a release of Architect/Engineer of any of Architect/Engineer's obligations or liabilities with respect to such services.

7.1.9 Architect/Engineer shall promptly pay all bills for labor and material performed and furnished by others in connection with the performance of the services.

7.1.10 Architect/Engineer shall submit a request for final payment to the Owner within thirty days after approval of the final payment to the Contractor.

7.1.11 The acceptance by Architect/Engineer, or Architect/Engineer's successors, of final payment under the Agreement and/or each applicable Statement of Work/Work Order shall constitute a full and complete release of Owner from any and all claims, demands, and causes of action whatsoever which Architect/Engineer, or Architect/Engineer's successors, have or may have against Owner under the provisions of the Agreement and each applicable Statement of Work/Work Order except those claims previously made in writing and identified by Architect/Engineer as unsettled at the time of the final request for payment.

7.1.12 Payment of A/E's invoice is subject to the Texas Prompt Payment Act, Chapter 2251, *Texas Government Code*.

- A. 7.1.13 All payments to A/E shall be by electronic direct deposit. A/E is required to complete and submit to Owner a Vendor Direct Deposit Authorization prior to first payment request. Form can be accessed at www.window.state.tx.us/taxinfo/taxforms/74-176.pdf. All payments shall be made by electronic direct deposit. If not already setup, A/E is required to complete and submit to TAMU-CC a Vendor Direct Deposit Authorization form prior to the first payment request. The TAMU-CC Direct Deposit form can be accessed at: <https://www.tamus.edu/business/budgets-and-accounting/accounting/general/>.

7.2 Payments for Additional Services and Reimbursable Services

Payments for the Architect/Engineer's Additional Services and for Reimbursable Services shall be made monthly upon presentation of the Architect/Engineer's valid statement of services

rendered or expenses incurred as approved by Owner. Invoices shall include complete documentation of all expenses.

7.3 Payments Withheld

7.3.1 Under no circumstances shall the Owner be obligated to make any payment (whether a progress payment or final payment) to Architect/Engineer if any one or more of the following conditions precedent exist:

- a) Architect/Engineer is in breach or default under the Agreement, this Exhibit C and/or each applicable Statement of Work/Work Order;
- b) Any portion of a payment is for services that were not performed in accordance with the Agreement, this Exhibit C and/or each applicable Statement of Work/Work Order; provided, however, payment shall be made for those services which were performed in accordance with the Agreement and this Exhibit C;
- c) Architect/Engineer has failed to make payments promptly to consultants or other third parties used in connection with services for which Owner has made payment to Architect/Engineer;
- d) If Owner, in its good faith judgment, determines that the balance of the unpaid fees are not sufficient to complete the services in accordance with the Agreement, this Exhibit C and/or each applicable Statement of Work/Work Order; or
- e) Architect/Engineer has failed to achieve a level of performance necessary to maintain the project schedule.
- f) Architect/Engineer fails to comply with conditions set forth in the HUB Subcontracting Plan, including but not limited to the submission of the HSP - Prime Contractor Progress Assessment Report with each monthly invoice.

7.3.2 No deductions shall be made from the Architect/Engineer's compensation on account of liquidated damages or other sums withheld from payments to Contractor or on account of the cost of changes in the Work other than those for which the Architect/Engineer is liable.

Article 8 Architect/Engineer Accounting Records

8.1 Records of Reimbursable Services and expenses pertaining to Additional Services and services performed on the basis of hourly rates shall be kept on the basis of Generally Accepted Accounting Principles and shall be available to the Owner or the Owner's authorized representative at mutually convenient times for a period of at least three (3) years after final completion of the Project. Owner shall have the right to verify the details set forth in Architect/Engineer's billings, certificates, and statements, either before or after payment by (1) inspecting the books and records of Architect/Engineer during normal business hours; (2) examining any reports with respect to this

Project; (3) interviewing Architect/Engineer's business employees; (4) visiting the Project site; and (5) other reasonable action.

8.2 Records of Architect/Engineer costs, reimbursable services pertaining to the Project, and payments shall be available to Owner or its authorized representative during business hours and shall be retained for three years after final payment or abandonment of the Project, unless Owner otherwise instructs Architect/Engineer in writing.

Article 9 Ownership and Use of Documents

9.1 Drawings and Specifications as instruments of service are and shall remain property of the Architect/Engineer whether the Project for which they are made is executed or not. The Owner shall be permitted to retain copies, including digital and reproducible copies, of model(s), model data, schedules and Drawings and Specifications for information and reference in connection with the Owner's use and occupancy of the Project upon payment of the amounts due under the Agreement, this Exhibit C and/or each applicable Statement of Work/Work Order. Owner shall have an irrevocable, paid-up, and perpetual non-exclusive license and right, which shall survive the termination of the Agreement and/or each applicable Statement of Work/Work Order, to use the model(s), model data, schedules and Drawings and Specifications, including the originals thereof, and the ideas and designs contained therein, for any purpose related to the construction, maintenance or use of the Project and for informational purposes for any future project by the Owner, regardless of whether Architect/Engineer remains as the Architect/Engineer, has resigned, the Agreement and/or each applicable Statement of Work/Work Order has been terminated, Architect/Engineer's scope of services has been modified, or the services herein have been completed. If the Agreement and/or each applicable Statement of Work/Work Order is terminated, Architect/Engineer hereby consents to the employment by Owner of a substitute architect/engineer to complete the services under the Agreement and/or each applicable Statement of Work/Work Order. The Architect/Engineer and its consultants shall not be liable for any use of such information that are inconsistent with the purposes for which the Architect/Engineer provided such information or changes made by the Owner to the model(s), model data, schedules and Drawings or Specifications or for claims or actions arising from the Architect/Engineer's incomplete services or from any such alternative use or changes on projects in which the Architect/Engineer is not involved.

9.2 Submission or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect/Engineer's rights.

Article 10 Termination of Agreement

10.1 A Statement of Work/Work Order may be terminated by either party upon thirty days' written notice should the other party fail substantially to perform in accordance with its terms through no fault of the party initiating the termination and such failure is not fully cured prior to the expiration of such thirty day period.

10.2 A Statement of Work/Work Order may be terminated at any time by the Owner for its convenience upon at least thirty days' written notice to the Architect/Engineer.

10.3 In the event of termination under this Article not the fault of the Architect/Engineer, the Architect/Engineer shall be compensated for all services satisfactorily performed to the termination date, together with approved Reimbursable Services then due, provided Architect/Engineer shall have delivered to Owner such statements, accounts, reports and other materials as required by Paragraph 10.5 below together with all reports, documents and other materials prepared by Architect/Engineer prior to termination.

10.4 A termination under this Article shall not relieve Architect/Engineer or any of its employees of liability for violations of the Agreement, or any willful, negligent or accidental act or omission of Architect/Engineer. The provisions of Article 9 hereof shall survive the termination of the Agreement and/or any Statement of Work/Work Order. In the event of a termination under this Article, Architect/Engineer hereby consents to employment by Owner of a substitute architect/engineer to complete the services under the Agreement and/or a terminated Statement of Work/Work Order.

10.5 As of the date of termination of a Statement of Work/Work Order and/or the Agreement, Architect/Engineer shall furnish to Owner all statements, accounts, reports and other materials as are required hereunder or as have been prepared by Architect/Engineer in connection with Architect/Engineer's responsibilities hereunder. Owner shall have the right to use the ideas and designs therein contained for the completion of the services described by the Agreement and this Exhibit C, and for completion of the Project, or otherwise.

Article 11

Successors and Assigns

The Owner and the Architect/Engineer, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to the Agreement and/or an individual Statement of Work/Work Order and to the partners, permitted successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. The Agreement and/or an applicable Statement of Work/Work Order is a personal service contract for the services of Architect/Engineer, and Architect/Engineer's interest in the Agreement and/or an individual Statement of Work/Work Order, duties hereunder and/or fees due hereunder may not be assigned or delegated to a third party. The benefits and burdens of the Agreement and/or an individual Statement of Work/Work Order are, however, assignable by Owner. The Architect/Engineer shall not, in connection with any assignment by the Owner be required to execute any documents that increase the Architect/Engineer's contractual or legal obligations or risks, or the availability or costs of its professional or general liability insurance.

Article 12
Extent of Agreement

The Agreement, this Exhibit C and an individual Statement of Work/Work Order supersedes all prior agreements, written or oral, between Architect/Engineer and Owner and shall constitute the entire Agreement and understanding between the parties with respect to the subject matter hereof. The Agreement and this Exhibit C and each of its provisions shall be binding upon the parties and may not be waived, modified, amended or altered except by a writing signed by Owner and Architect/Engineer.

Article 13
Business Ethics Expectation

13.1 During the course of pursuing contracts with Owner and while performing contract work in accordance with the Agreement, this Exhibit C and an individual Statement of Work/Work Order, Architect/Engineer agrees to maintain business ethics standards aimed at avoiding any impropriety or conflict of interest which could be construed to have an adverse impact on the Owner's best interests.

13.2 Architect/Engineer shall take reasonable actions to prevent any actions or conditions which could result in a conflict with Owner's best interests. These obligations shall apply to the activities of Architect/Engineer's employees, agents, subconsultants, subconsultants' employees and other persons under their control.

Architect/Engineer's employees, agents, subconsultants (and their representatives) shall not make or offer, or cause to be made or offered, any cash payments, commissions, employment, gifts valued at \$50 dollars or more, entertainment, free travel, loans, free work, substantially discounted work, or any other considerations to Owner's representatives, employees or their relatives.

Architect/Engineer's employees, agents and subconsultants (and their relatives) shall not receive or accept any cash payments, commissions, employment, gifts valued at \$50 dollars or more, entertainment, free travel, loans, free work, or substantially discounted work or any other considerations from representatives of contractors, subcontractors, or material suppliers or any other individuals, organizations, or businesses receiving funds in connection with the Project.

13.3 Architect/Engineer agrees to notify Jaclyn Mahlmann, Vice President for Finance & Administration within 48 hours of any instance where the Architect/Engineer becomes aware of a failure to comply with the provisions of this Article.

13.4 Upon request by Owner, Architect/Engineer agrees to provide a certified Management Representation Letter executed by an Architect/Engineer representative selected by Owner in a form agreeable to Owner stating that the representative is not aware of any situations violating the business ethics expectations outlined in the Agreement and this Exhibit C or any similar potential conflict of interest situations.

13.5 Architect/Engineer agrees to include provisions similar to this Article in all contracts with subconsultants receiving more than \$25,000 in funds in connection with the Project.

Article 14
Miscellaneous Provisions

14.1 **Captions.** The captions of articles and paragraphs in the Agreement and this Exhibit C are for convenience only and shall not be considered or referred to in resolving questions of interpretation or construction.

14.2 **Governing Law.** The validity of the Agreement and this Exhibit C and all matters pertaining to the Agreement and this Exhibit C, including but not limited to, matters of performance, non-performance, breach, remedies, procedures, rights, duties, and interpretation or construction, shall be governed and determined by the Constitution and the laws of the State of Texas, without giving effect to principles of conflicts of law.

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

14.4 **Severability.** In case any provision hereof shall, for any reason, be held invalid or unenforceable in any respect, such invalidity or unenforceability shall not affect any other provision hereof, and the Agreement and this Exhibit C shall be construed as if such invalid or unenforceable provision had not been included.

14.5 **Independent Contractor.** Architect/Engineer acknowledges that it is engaged as an independent contractor and that Owner has no responsibility to provide Architect/Engineer or its employees with transportation, insurance or other fringe benefits normally associated with employee status. Architect/Engineer is not, and will not claim to be, an officer, partner, employee or agent of Owner and shall not make any claim, demand or application to or for any right or privilege applicable to an officer, partner, employee or agent of Owner, including, but not limited to, unemployment insurance benefits, social security coverage or retirement benefits. Architect/Engineer hereby agrees to make Architect/Engineer's own arrangements for any of such benefits as Architect/Engineer may desire and agrees that Architect/Engineer is responsible for all income taxes required by applicable law.

14.6 **Child Support Certification.** A child support obligor who is more than 30 days delinquent in paying child support and a business entity in which the obligor is a sole proprietor, partner, shareholder, or owner with an ownership interest of at least 25 percent is not eligible to receive payments from state funds under an agreement to provide property, materials, or services

until all arrearages have been paid or the obligor is in compliance with a written repayment agreement or court order as to any existing delinquency. The *Texas Family Code* requires the following statement: “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.”

14.7 Eligibility Certification. A state agency may not accept a bid or award a contract that includes proposed financial participation by a person who received compensation from the agency to participate in preparing the Specifications or request for proposals on which the bid or contract is based. The *Texas Government Code* requires the following statement: “Under Section 2155.004, *Texas Government Code*, the vendor certifies that the individual or business entity named in this bid or contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.”

14.8 Franchise Tax Certification. If Architect/Engineer is a taxable entity subject to the Texas Franchise Tax (Chapter 171, *Texas Tax Code*), then Architect/Engineer certifies that it is not currently delinquent in the payment of any franchise taxes or that Architect/Engineer is exempt from the payment of franchise taxes.

14.9 Payment of Debt or Delinquency to the State. Pursuant to Section 2252.903, *Texas Government Code*, Architect/Engineer agrees that any payments owing to Architect/Engineer under the Agreement and/or any applicable Statement of Work/Work Order may be applied directly toward certain debts or delinquencies that Architect/Engineer owes the State of Texas or any agency of the State of Texas regardless of when they arise, until such debts or delinquencies are paid in full.

14.10 Loss of Funding. Performance by Owner under the Agreement and/or any applicable Statement of Work/Work Order may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the “Legislature”). If the Legislature fails to appropriate or allot the necessary funds then Owner will issue written notice to Architect/Engineer and Owner may terminate the Agreement and/or any applicable Statement of Work/Work Order without further duty or obligation hereunder. Architect/Engineer acknowledges that appropriation of funds is beyond the control of Owner.

14.11 Proprietary Interests. All information owned, possessed or used by Owner which is communicated to, learned, developed or otherwise acquired by Architect/Engineer in the performance of services for Owner, which is not generally known to the public, shall be confidential, subject, however, to the Owner’s obligations under the Texas Public Information Act. Architect/Engineer shall not, beginning on the date of first association or communication between Owner and Architect/Engineer and continuing through the term of the Agreement and/or any applicable Statement of Work/Work Order and any time thereafter, disclose, communicate or divulge, or permit disclosure, communication or divulgence, to another or use for Architect/Engineer’s own benefit or the benefit of another, any such confidential information, unless required by law. Except when defined as part of the Work, Architect/Engineer shall not make any press releases, public

statements, or advertisement referring to the Project or the engagement of Architect/Engineer as an independent contractor of Owner in connection with the Project or release any information relative to the Project for publication, advertisement or any other purpose without the prior written approval of Owner. Architect/Engineer shall obtain agreements similar to those contained in this Paragraph from persons, vendors and consultants retained by Architect/Engineer. Architect/Engineer acknowledges and agrees that a breach by Architect/Engineer of the provisions hereof will cause Owner irreparable injury and damage. Architect/Engineer, therefore, expressly agrees that Owner shall be entitled to injunctive and/or other equitable relief in any court of competent jurisdiction to prevent or otherwise restrain a breach of this agreement. This section shall not apply to information in whatever form that comes into the public domain, nor shall it restrict the Architect/Engineer from giving notices required by law or complying with an order to provide information or data when such order is issued by a court, administrative agency or other authority with proper jurisdiction, or if it is reasonably necessary for the Architect/Engineer to defend itself from any suit or claim.

14.12 Appointment. Owner hereby expressly reserves the right from time to time to designate by notice to Architect/Engineer a representative to act partially or wholly for Owner in connection with the performance of Owner's obligations hereunder. Architect/Engineer shall act only upon instructions from such representative unless otherwise specifically notified to the contrary.

14.13 Dispute Resolution.

14.13.1 The dispute resolution process provided in Chapter 2260, *Texas Government Code*, and the related rules adopted by the Texas Attorney General pursuant to Chapter 2260, shall be used by Owner and Architect/Engineer to attempt to resolve any claim for breach of contract made by Architect/Engineer that cannot be resolved in the ordinary course of business. Architect/Engineer shall submit written notice of a claim of breach of contract under this Chapter to the Chancellor of The Texas A&M University System, who shall examine Architect/Engineer's claim and any counterclaim and negotiate with Architect/Engineer in an effort to resolve the claim.

14.13.2 Neither the occurrence of an event giving rise to a breach of contract claim nor the pendency of a claim constitute grounds for the suspension of performance by Architect/Engineer, in whole or in part. Owner and Architect/Engineer agree that any periods set forth in the Agreement for notice and cure of defaults are not waived, delayed, or suspended by Chapter 2260 or this Paragraph 14.13.2.

14.13.3 It is agreed that such process is not invoked if Owner initiates the dispute by first bringing a claim against Architect/Engineer, except at Owner's sole option. If Owner makes a claim against Architect/Engineer and Architect/Engineer then makes a counterclaim against Owner as a claim under Chapter 2260 and in compliance therewith, the Owner's original claim against Architect/Engineer does not become a counterclaim and is not subject to the mandatory counterclaim provisions of Chapter 2260 of the *Texas Government Code*, except at the sole option of the Owner.

14.14 Notices. All notices, consents, approvals, demands, requests or other communications provided for or permitted to be given under any of the provisions of the

Agreement and/or this Exhibit C shall be in writing and shall be deemed to have been duly given or served when delivered by hand delivery or when deposited in the U.S. mail by registered or certified mail, return receipt requested, postage prepaid, and addressed as follows:

If to Owner: Texas A&M University – Corpus Christi
Attn: Scott Meares, Associate Vice President for Operations
6300 Ocean Drive, Unit 5739
Corpus Christi, Texas 78412
Telephone: (361) 825-2107
Email: scott.meares@tamucc.edu

With an electronic copy to: Texas A&M University – Corpus Christi
Attn: Contracts Administration
Email: contracts@tamucc.edu

If to Architect/Engineer: Notification information shall be specified within the
the Statement of Work / Work Order

or to such other person or address as may be given in writing by either party to the other in accordance with the aforesaid.

14.15 Authority to Act. Architect/Engineer warrants, represents, and agrees that (1) it is a duly organized and validly existing legal entity in good standing under the laws of the state of its incorporation or organization; (2) it is duly authorized and in good standing to conduct business in the State of Texas; (3) it has all necessary power and has received all necessary approvals to execute and deliver the Agreement and any applicable Statement of Work/Work Order; and (4) the individual executing the Agreement and/or any applicable Statement of Work/Work Order on behalf of Architect/Engineer has been duly authorized to act for and bind Architect/Engineer.

14.16 Counterparts. The Agreement and any applicable Statement of Work/Work Order may be executed in multiple counterparts, each of which shall be deemed, construed and considered to be an original, but all of which shall constitute one and the same instrument.

14.17 Venue. The Agreement and any applicable Statement of Work/Work Order is performable in the county in which the Project is located. Pursuant to Section 85.18, *Texas Education Code*, venue for any suit filed against Owner shall be in the county in which the primary office of the chief executive officer of Owner is located.

14.18 Non-Waiver Provisions. Owner expressly acknowledges that Owner is an agency of the State of Texas and nothing in the Agreement, this Exhibit C and/or any applicable Statement of Work/Work Order will be construed as a waiver or relinquishment by Owner of its right to claim such exemptions, privileges, and immunities as may be provided by law.

14.19 Previous Employment. Architect/Engineer acknowledges and understands that Section 2252.901, *Texas Government Code*, prohibits Owner from using state appropriated funds to enter into any employment contract, consulting contract, or professional services contract with any individual who has been previously employed, as an employee, by the agency within the past twelve (12) months. If Architect/Engineer is an individual, by signing this Agreement, Architect/Engineer certifies that Section 2252.901, *Texas Government Code*, does not prohibit the use of state appropriated funds for satisfying the payment obligations herein.

14.20 Public Information. Architect/Engineer acknowledges that Owner is obligated to strictly comply with the Public Information Act, Chapter 552, *Texas Government Code*, in responding to any request for public information pertaining to the Agreement and/or any applicable Statement of Work/Work Order, as well as any other disclosure of information required by applicable Texas law.

In accordance with Section 552.372 of the Texas Government Code, Architect/Engineer agrees to (1) preserve all contracting information related to this project as provided by the records retention requirements applicable to the Owner for the duration of the contract, (2) promptly provide to the Owner any contracting information related to the contract that is in the custody or possession of the Architect/Engineer on request of the Owner, and (3) on termination or expiration of the contract, either provide at no cost to the Owner all contracting information related to the contract that is in the custody or possession of the Architect/Engineer or preserve the contracting information related to the contract as provided by the records retention requirements applicable to the Owner. Except as provided by Section 552.374(c) of the Texas Government Code, the requirements of Subchapter J, Chapter 552, Government Code, may apply to this contract and the Architect/Engineer agrees that the contract can be terminated if the Architect/Engineer knowingly or intentionally fails to comply with a requirement of that subchapter. Architect/Engineer acknowledges that Owner **may be** required to post a copy of the fully executed Agreement and any applicable Statement of Work/Work Order on its Internet website in compliance with Section 2261.253(a)(1), *Texas Government Code*.

14.21 Certification regarding Boycotting Israel. Architect/Engineer acknowledges that Owner is obligated to comply with Chapter 2270, *Texas Government Code*. By executing this Agreement and any applicable Statement of Work/Work Order, Architect/Engineer certifies it does not and will not, during the performance of this Agreement and any applicable Statement of Work/Work Order, boycott Israel. Architect/Engineer acknowledges this Agreement may be terminated if this certification is inaccurate.

14.22 Certification regarding Business with Certain Countries and Organizations. Architect/Engineer acknowledges that Owner is obligated to comply with Subchapter F, Chapter 2252, *Texas Government Code*. By executing the Agreement and any applicable Statement of Work/Work Order, Architect/Engineer certifies it is not engaged in business with Iran, Sudan, or a foreign terrorist organization. Architect/Engineer acknowledges the Agreement and/or any applicable Statement of Work/Work Order may be terminated if this certification is inaccurate.

14.23 Prohibition on Contracts Related to Persons Involved in Human Trafficking. Under Section 2155.0061, Government Code, the vendor certifies that the individual or business entity named in this contract is not ineligible to receive the specified contract and acknowledges that this contract may be terminated and payment withheld if this certification is inaccurate.

14.24 Architect/Engineer is responsible to ensure that employees participating in work for any A&M System member have not been designated by the A&M System as Not Eligible for Rehire as defined in System policy [32.02, Section 4](#). Non-conformance to this requirement may be grounds for termination of the Agreement and/or any applicable Statement of Work/Work Order.

14.25 Disclosure of Interested Parties. By signature hereon, Architect/Engineer certifies that, if the value of the Agreement and/or any applicable Statement of Work/Work Order exceeds \$1 Million, it has complied with Section 2252.908 of the Texas Government Code and Part 1 Texas Administrative Code Section 46.1 through 46.3 as implemented by the Texas Ethics Commission (TEC), if applicable, and has provided the Owner with a fully executed TEC Form 1295, certified by the TEC and signed and notarized by the Architect/Engineer.

14.26 Architect/Engineer Verification Regarding Discrimination Against Firearm Entities or Trade Associations. Pursuant to Chapter 2274, Texas Government Code (enacted by SB 19, 87th Texas Legislature, Regular Session (2021)), Architect/Engineer verifies (1) it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association and (2) it will not discriminate during the term of the Agreement and any applicable Statement of Work/Work Order against a firearm entity or firearm trade association. Architect/Engineer acknowledges the Agreement and any applicable Statement of Work/Work Order may be terminated and payment withheld if this verification is inaccurate. **[Note:** This provision does not apply to: (1) contracts below \$100,000; (2) contracts with a sole-source provider; and (3) contracts with a non-profit entity, sole proprietorship, or a for-profit entity that has less than 10 full time employees.

14.27 Architect/Engineer certifies that it does not require its customers to provide any documentation certifying the customer's COVID-19 vaccination or post-transmission recovery on entry to, to gain access to, or to receive service from the Architect/Engineer's business. Architect/Engineer acknowledges that such a vaccine or recovery requirement would make Architect/Engineer ineligible for a state-funded contract.

14.28 Architect/Engineer represents and warrants that: (1) it does not and will not for the duration of the Agreement and any applicable Statement of Work/Work Order, boycott energy companies or (2) the verification required by Section 2274.002 of the Texas Government Code does not apply to the contract. If circumstances relevant to this provision change during the course of the contract, Architect/Engineer shall promptly notify Owner.

14.29 Architect/Engineer certifies that it and its principals are not suspended or debarred from doing business with the state or federal government as listed on the *State of Texas Debarred Vendor List* maintained by the Texas Comptroller of Public Accounts and the *System for Award*

Management (SAM) maintained by the General Services Administration.

14.30 Indemnification. To the extent permitted by the Constitution and laws of the State of Texas, Architect covenants and agrees to FULLY INDEMNIFY and HOLD HARMLESS, Owner and the elected and appointed officials, employees, officers, directors, volunteers, and representatives of Owner, individually or collectively, from and against any and all costs, claims, liens, damages, losses, expenses, fees, fines, penalties, proceedings, actions, demands, causes of action, liability and suits of any kind and nature, including but not limited to, personal or bodily injury, death or property damage, made upon Owner directly or indirectly arising out of, resulting from or related to Architect’s services under the Agreement, this Exhibit C and any applicable Statement of Work/Work Order, including any acts or omissions of Architect, or any agent, officer, director, representative, employee, or consultant of Architect, and their respective officers, agents, employees, directors and representatives while in the exercise of performance of the rights or duties under the Agreement this Exhibit C and any applicable Statement of Work/Work Order. The indemnity provided for in this paragraph does not apply to any liability resulting from the negligence of Owner, its officers or employees, separate contractors or assigned contractors, in instances where such negligence causes personal injury, death or property damage. IN THE EVENT ARCHITECT AND OWNER ARE FOUND JOINTLY LIABLE BY A COURT OF COMPETENT JURISDICTION, LIABILITY WILL BE APPORTIONED COMPARATIVELY IN ACCORDANCE WITH THE LAWS OF THE STATE OF TEXAS WITHOUT WAIVING ANY GOVERNMENTAL IMMUNITY AVAILABLE TO THE STATE UNDER TEXAS LAW AND WITHOUT WAIVING ANY DEFENSES OF THE PARTIES UNDER TEXAS LAW.

Article 15
Other Conditions or Services

The Owner and Architect/Engineer hereby agree to the full performance of the covenants contained herein.

15.1 Basic Services. The Architect/Engineer’s Basic Services are those services described in paragraphs 1.2 through 1.6 for which compensation shall be the Basic Services Fee described in the Agreement and any individual Statement of Work/Work Order and shall include the following disciplines:

Check applicable service below with “X”	Applicable Basic Services:
	Architectural Services
	Landscape Architectural Services
	Civil Engineering Services
	Structural Engineering Services
	Mechanical Engineering Services
	Electrical Engineering Services
	Plumbing Engineering Services
	Audio Visual/Data & Telecommunications Engineering
	Other Consultants as required by the Project

15.2 **Reimbursable Services.** The services identified in the following list are **not** included in Basic Services.

Check applicable service below with "X"	Applicable Reimbursable Services not included in Basic Services:
	Site Survey
	Geotechnical Investigation
	3D Digital Rendering(s), animations, simulations and/or Scale Model
	Registration and documentation of Project for LEED Certification
	Commissioning Services
	Hazardous Material Abatement Services
	Use of Registered Accessibility Specialist for preliminary plan reviews
	Energy Modeling

15.3 **Basis of Compensation**

15.3.1 Basic Services.

The initial Amount Available for the Construction Contract (AACC) for the Project is _____ (\$ _____).

The negotiated Basic Services Fee for the Project is _____ (\$ _____).

[Project Manager please review and EDIT the following list to match Paragraph 15.2.]

15.3.2 Reimbursable Services.

Check applicable service below with "X"	Reimbursable Services applicable:	Not to exceed amount:
	Site Survey	\$
	Geotechnical Investigation	\$
	Registered Accessibility Specialist	\$
	Hazardous Material Abatement Services	\$
	Commissioning Services	\$
	Rendering(s) and/or Scale Model	\$

The maximum allowable cost on this Project for Reimbursable Services identified in Article 5 as approved by the Owner is:

Maximum Reimbursable Expense Amount: \$ _____

15.3.3 Maximum Contract Sum

Basic Services Fee amount (Para 15.3.1) \$ _____

plus

Maximum Reimbursable Expense Amount (Para 15.3.2) \$ _____

MAXIMUM CONTRACT SUM: \$ _____

[Project Manager edit as appropriate.]

15.4 **Progress Payments.** Payments for Basic Services shall be made as provided in Article 7 in accordance with the following schedule:

Check applicable service below with "X"	Progress Payments for Basic Services:	Enter Percentages:
	Schematic Design Phase	
	Design Development Phase	
	Construction Documents Phase	
	Construction Phase	
	Final Drawings	

15.5 **Review Stages.** The Architect/Engineer shall submit documents to the Owner for review at completion of the Schematic Design Phase, Design Development Phase and at the following stages of completion of the Construction Documents Phase as follows: [Project Manager to determine which review milestones during construction documents]

25%, 50%, 75%, 100%

15.6 **Estimated Construction Costs.** The Architect/Engineer shall submit Estimated Construction Costs as described in Subparagraph 1.1.19 at completion of the Schematic Design Phase, Design Development Phase and at the following stages of completion of the Construction Documents Phase: [Project Manager to determine which milestones during construction documents to require ECC]

25%, 50%, 75%, 100%.

15.7 **Review Documents.** The Architect/Engineer shall, at its expense, furnish and deliver to the Owner for Owner's review, the following number of sets of review documents at the required review stages: [Insert number of review sets for each milestone]

Schematic Design: _____ sets
Design Development: _____ sets
Construction Documents: _____ sets for 25%, 50% & 75% complete
Construction Documents: _____ sets for 100% complete

The following Attachments are fully incorporated into the Agreement and any applicable Statement of Work/Work Order by reference:

ATTACHMENTS TO EXHIBIT C

Attachment A Personnel Titles and Hourly Rates
Attachment B BIM Execution Plan

SAMPLE

**ATTACHMENT A TO EXHIBIT C
PERSONNEL TITLES AND HOURLY RATES**

The prime architectural or engineering firm for this project will assemble the following information from consulting team members associated with the project. The categories of personnel indicated should be edited to include only those expected to be actually working on this project. When preparing this schedule, you are expected to adhere to the position classifications and titles presented to the greatest extent possible. Additional consultant listings and/or position classifications may be added as needed or required by the project.

[Project Manager can supply A/E this Attachment in Microsoft Word format for editing]

Firm/Position Classification Hourly Billing Rate

Architecture [Name of Firm]

Principal	\$ _____
Associate Principal	_____
Project Manager	_____
Project Architect I	_____
Project Architect II	_____
Project Designer	_____
Construction Administrator	_____
Intern Architect	_____
BIM/CADD Technician	_____
Administrative Staff	_____

Design Architecture [Name of Firm]

Principal	\$ _____
Associate Principal	_____
Project Manager	_____
Project Architect I	_____
Project Architect II	_____
Project Designer	_____
Construction Administrator	_____
Intern Architect	_____
BIM/CADD Technician	_____
Administrative Staff	_____

MEP Engineering [Name of Firm]

Principal	\$ _____
Associate Principal	_____
Senior Project Manager	_____

Project Manager _____
Senior Engineer _____
Engineer _____
Graduate Engineer _____
Engineering Designer _____
Construction Administrator _____
BIM/CADD Technician _____
Administrative Staff _____

Structural Engineering [Name of Firm]

Principal \$ _____
Associate Principal _____
Senior Project Manager _____
Project Manager _____
Senior Engineer _____
Engineer _____
Graduate Engineer _____
Engineering Designer _____
Construction Administrator _____
BIM/CADD Technician _____
Administrative Staff _____

Civil Engineering [Name of Firm]

Principal \$ _____
Associate Principal _____
Senior Project Manager _____
Project Manager _____
Senior Engineer _____
Engineer _____
Graduate Engineer _____
Engineering Designer _____
Construction Administrator _____
BIM/CADD Technician _____
Administrative Staff _____

Landscape Architecture [Name of Firm]

Principal \$ _____
Landscape Architect _____
Administrative Staff _____

Cost Consultant [Name of Firm]

Principal	\$ _____
Senior Estimator	_____
Estimator	_____
Administrative Staff	_____

Data/Telecommunications Consultant [Name of Firm]

Principal	\$ _____
Associate	_____
Senior Consultant	_____
Consultant	_____
Designer	_____
Contract Administrator	_____
BIM/CADD Technician	_____
Administrative Staff	_____

Acoustical/Audio-Visual Consultant [Name of Firm]

Principal	\$ _____
Associate Principal	_____
Senior Consultant	_____
Consultant	_____
Designer	_____
Contract Administrator	_____
BIM/CADD Technician	_____
Administrative Staff	_____

Laboratory Consultant [Name of Firm]

Principal	\$ _____
Laboratory Consultant	_____
Laboratory Design Engineer	_____
Technical Coordinator	_____
Laboratory Programmer	_____
Laboratory Designer	_____
Production Coordinator	_____
BIM/CADD Technician	_____
Technical Writer	_____
Administrative Staff	_____

Security Consultant [Name of Firm]

Principal	\$ _____
Project Director	_____
Project Manager	_____

Project Consultant
Project Engineer
BIM/CADD Technician
Administrative Staff

SAMPLE

**ATTACHMENT B TO EXHIBIT C
BIM Execution Plan**

DEVELOPED BY
(Name and Company)

PROJECT INFORMATION

The intent of this BIM Execution Plan is to provide a framework that will let the owner, design team, and contractor deploy building information modeling (BIM) technology and best practices on this project faster and more cost-effectively. If the delivery method is competitive sealed proposal then the contractor will be included in this Execution Plan at a later date. This plan delineates roles and responsibilities of each party, the detail and scope of information to be shared, relevant business processes and supporting software.

To successfully implement Building Information Modeling (BIM) on a project, the project team has developed this detailed BIM Project Execution Plan. The BIM Project Execution Plan defines uses for BIM on the project (e.g. design authoring, cost estimating, and design coordination), along with a detailed design of the process for executing BIM throughout the project lifecycle.

Project Name:

Brief Project Description:

Additional Project Information:

Construction Delivery Method:

Project Schedule/Phases/Milestones:

Include BIM milestones, pre-design activities, major design reviews, stakeholder reviews, and any other major events which occur during the project lifecycle.

Project Phase/Milestone	Estimated Start Date	Estimated Completion Date	Project Stakeholders Involved
Schematic Design			
Design Development			
Construction Documents			
Facility Data Review			
Construction			

KEY PROJECT CONTACTS

List of lead BIM contacts for each organization on the project. Additional contacts can be included later in the document.

Organization	Contact Name	Role/Title	Location	Email	Phone

(Preference is for all consultants to utilize a BIM authoring tool or 3D CADD tool)

BIM PROCESSES AND COLLABORATION PROCEDURES

Describe the collaboration strategies used for developing the BIMs for the following applicable processes. Identify project team participants for each.

Existing Conditions

Design Authoring

Design Reviews (Design reviews will be conducted in Autodesk Build)

Space Tracking

Energy Analysis

Daylighting Analysis

Cost Estimation

3D Coordination (Design coordination will be conducted in Autodesk Model Coordination.

Contractor can utilize FPC Autodesk Model Coordination for construction coordination if desired. All models and 3D CADD files to be uploaded for coordination)

Model Updates during Construction (Design team to update models for all plan changes during construction per the Agreement this Exhibit C and the applicable Statement of Work/Work Order)

Final Models (Design team to provide models in start version as well as latest version in use) Other (describe)

Model Delivery Schedule, Application and File Exchange Type

Document the information exchanges and file transfers that will occur on the project.

Discipline	BIM Use	File Sender/Receiver	One-Time or Frequency	Due Date or Start Date	Model File	Model Software	Native File Type	Version	File Exchange Type

BIM AND DATA QUALITY CONTROL

Describe the strategy to control the quality of the model(s) and the checks to be performed to assure quality.

Checks	Definition	Responsible Party	Software	Frequency
Visual Check	Ensure there are no unintended model components and the design intent has been followed			
Interference Check	Detect problems in the model where two building components are clashing including soft and hard	Design team uploads models Construction Managers leads meeting to review critical clashes	Autodesk BIM Collaborate	Begins with Detailed Design Review and shall occur at each Construction Documents review meeting
Standards Check	Ensure that the BIM and CADD Standard have been followed (fonts, dimensions, line styles, levels/layers, etc.)			
Model Integrity Checks	Describe the QC validation process used to ensure that the Project Facility Data set has no undefined, incorrectly defined or duplicated elements and the reporting process on non-compliant elements and corrective action plans			
Other				

MODEL STRUCTURE

File Naming Structure (Do not include project number or project name in file name. Do include at the end the software version number)

File Name Formatting	
Architectural Model	
Structural Model	
Mechanical Model	
Plumbing Model	
Fire Sprinkler Model	
Electrical Model	

Model Structure

Describe and diagram how the model is separated (building, floor, zone, area and/or discipline).

Measurement and Coordinate System

Describe the measurement system and coordinate system used.

Model Accuracy and Tolerances

Models should include all appropriate dimensioning as needed for design intent, analysis, and construction. Level of detail and included model elements are provided in the Information Exchange Worksheet.

Phase	Discipline	Tolerance
Design Documents		ACCURATE TO +/- [#] OF ACTUAL SIZE AND LOCATION
Shop Drawings		ACCURATE TO +/- [#] OF ACTUAL SIZE AND LOCATION
		ACCURATE TO +/- [#] OF ACTUAL SIZE AND LOCATION

PROJECT DELIVERABLES

In this section, list the BIM deliverables for the project and the format in which the information will be delivered.

BIM Submittal Item	Stage	Approximate Due Date	Format	Notes

ATTACHMENTS

List any supporting information and attach.