

Agenda of Special Meeting

The Board of Trustees Westwood Independent School District

A Special Meeting of the Board of Trustees of Westwood Independent School District will be held August 27, 2020, beginning at 6:10 PM Westwood Administration Office.

The subjects to be discussed or considered or upon which any formal action may be taken are listed below. Items do not have to be taken in the same order as shown on this meeting notice. Unless removed from the consent agenda, items identified within the consent agenda will be acted on at one time.

Due to health and safety concerns related to COVID-19 coronavirus, the meeting will be conducted by video-conference. At least a quorum of the Board will be participating by videoconference or telephone call in accordance with the provisions of Sections 551.123 or 551.127 of the Texas Government Code that have not been suspended by order of the governor.

An electronic copy of the agenda packet is attached to the online notice www.westwoodisd.net. Members of the public who desire to address the Board regarding an item on this agenda must comply with the following registration procedures: send a request through Zoom Chat from 6:15 pm – 6:30 pm the day of the meeting. Including name and topic.

1. **CALL TO ORDER AND ESTABLISH QUORUM**
2. **ACTION ITEMS**
 - A. Board to consider approval of agenda
Presenter: Board
 - B. Board to consider possible budget amendment for 2019-2020 school year
Presenter: Kyle Johnson

Westwood ISD Agenda Item Information

Meeting Date: July 27, 2020

Subject: Budget Amendment

Administrator Responsible: Mr. Johnson

Summary: A final budget amendment will be presented to the board.

Administration's Recommendation: The board would "make a motion to approve the budget amendment as presented".

Board Approval Required

YES NO

2019-2020 Budget Amendments

EXPENDITURE		CURRENT BUDGET	AMENDED BUDGET	INCREASE/ (DECREASE)
1	199 R 00 5800 State Foundation Revenue	\$ 9,650,000.00	\$ 9,361,729.00	\$ (288,271.00)
	199 E 11 Instruction	\$ 7,690,120	\$ 7,614,120	\$ (76,000)
		\$ -	\$ -	\$ -
	Total reduction:			\$ (364,271)
2	199 E 12 Instructional Resources	146,468.00	\$ 166,468	\$ 20,000
	199 E 21 Instructional Leadership	0.00	\$ 15,000	\$ 15,000
	199 E 23 School Administration	1,083,335.00	\$ 1,098,335	\$ 15,000
	199 E 33 Health Services	149,131.00	\$ 159,131	\$ 10,000
	199 E 35 Child Nutrition Services	\$ -	\$ 6,000	\$ 6,000
	199 E 41 General Administration	725,208.00	\$ 735,208	\$ 10,000
	Total increase:			\$ 76,000
<p>These will ensure functions are not exceeded for the end of the 19-20 year. Most adjustments made are due to salary increases from staffing changes 20-21 which are accrued in August for 19-20. Additional revenue will be realized above budgeted amounts.</p>				

Approved by board:

- C. Board to consider resolution commitment of general funds and special revenue funds unassigned fund balances
Presenter: Kyle Johnson

Westwood ISD Agenda Item Information

Meeting Date: July 27, 2020

Subject: Consider and Adopt the Resolution Approving Commitment of General and Special Revenue Funds and Fund Balances

Administrator Responsible: Mr. Johnson

Summary: The Board must approve, through Resolution, any part of the Fund Balance that will be classified as “committed”. Policy defines “committed” fund balance to mean the portion of the fund balance that is constrained to a specific purpose by the Board.

Administration’s Recommendation: District to take action in adopting the Resolution Approving Commitment of General and Special Revenue Funds and Fund Balances as presented.

Board Approval Required

X YES

NO

Resolution Approving Commitment of General Funds and Special Revenue Funds Unassigned Fund Balances

Whereas, the Governmental Accounting Standards Board (“GASB”) has adopted Statement 54 (“GASB”), a standard for governmental fund balance reporting and governmental fund type definitions that became effective in governmental fiscal years starting after June 15, 2010, and

Whereas, the board elects to implement GASB 54 requirements, and to apply such requirements to its financial statements beginning with the current September 1, 2019 – August 31, 2020 fiscal year;

Now, THEREFORE, BE IT FURTHER RESOLVED: the District commits general revenue funds to the following:

- Outstanding Encumbrances at 8/31

- Vehicle Purchases
 - School Buses - \$170,000
 - Maintenance Vehicle - \$33,500

Now, THEREFORE, BE IT FURTHER RESOLVED: the District commits all special revenue funds unassigned fund balances that are not restricted by a grantor/donor to the purpose of the funds, including, but not limited to, the following:

- Campus Activity Funds – Funds generated at the campuses and accounted for in the campus activity special revenue funds are committed to the respective campus.

(Note: All special revenue funds must be restricted by grantor/donor or must be committed by Board of Trustees prior to year-end or the fund will be reclassified to the General Fund.)

APPROVED AND SIGNED, this the 27th day of August, 2020.

Attest:

Craig Nivens
Secretary, Board of Trustees

Dr. Don Rice
President, Board of Trustees

Resolution Approving Commitment of General Funds and Special Revenue Funds Unassigned Fund Balances

Whereas, the Governmental Accounting Standards Board (“GASB”) has adopted Statement 54 (“GASB”), a standard for governmental fund balance reporting and governmental fund type definitions that became effective in governmental fiscal years starting after June 15, 2010, and

Whereas, the board elects to implement GASB 54 requirements, and to apply such requirements to its financial statements beginning with the current September 1, 2019 – August 31, 2020 fiscal year;

Now, THEREFORE, BE IT FURTHER RESOLVED: the District commits general revenue funds to the following:

- Outstanding Encumbrances at 8/31
- Vehicle Purchases
 - School Buses - \$170,000
 - Maintenance Vehicle - \$33,500
- Pre-Bond Services - \$100,000

Now, THEREFORE, BE IT FURTHER RESOLVED: the District commits all special revenue funds unassigned fund balances that are not restricted by a grantor/donor to the purpose of the funds, including, but not limited to, the following:

- Campus Activity Funds – Funds generated at the campuses and accounted for in the campus activity special revenue funds are committed to the respective campus.

(Note: All special revenue funds must be restricted by grantor/donor or must be committed by Board of Trustees prior to year-end or the fund will be reclassified to the General Fund.)

APPROVED AND SIGNED, this the 27th day of August, 2020.

Attest:

Craig Nivens
Secretary, Board of Trustees

Dr. Don Rice
President, Board of Trustees

D. Board to consider compensation plan 2020-2021
Presenter: Kyle Johnson

Westwood

Independent School District

2020-2021 Compensation Plan



Wade Stanford, Superintendent

Board of Trustees

Dr. Don Rice, President

Dr. Carolyn Booker, Vice President

Mr. Mike Bentley

Mr. Mike Kelly

Mr. Leonard Armstrong

Mr. Ronnie Stanhope

Mr. Craig Nivens

2020-2021
Westwood ISD
Compensation Plan

Westwood ISD's compensation plan is based on the Texas Association of School Boards pay structure format. Jobs within the district are aligned on individual pay grades based on job responsibility and the district's exposure to risk and/or liability as a result of the actions of the job role.

Pay increases are based on a percentage of the 'mid-point' for each pay grade resulting in equal pay increases across jobs with common levels of responsibility. The individual pay increases are *not* based on a percentage of the employee's total salary, thus providing equity in the compensation plan.

The Superintendent may authorize adjustments within the pay ranges to individual employees based on job responsibility changes, salary surveys, and market studies, job performance, etc.

Included in this compensation plan are the following:

- Job Classifications
- Pay Grades and Ranges for each Job Category
- District Salary Supplements and Stipends
- Incentive Pay Summary

**2020-2021
TEACHERS/LIBRARIANS/R.N.'S
PAY RANGE**

ANNUAL SALARY

MINIMUM	MIDPOINT	MAXIMUM
\$36,500	\$45,970	\$55,440

**WESTWOOD INDEPENDENT SCHOOL DISTRICT
ADMINISTRATIVE/PROFESSIONAL
JOB CLASSIFICATIONS**

2020-2021

<p><u>PAY GRADE 1</u> DIRECTOR-FOOD SERVICE DIRECTOR-MAINTENANCE DIRECTOR-TRANSPORTATION PEIMS DIRECTOR</p> <p><u>PAY GRADE 2</u> ASST PRINCIPAL-ES ASST PRINCIPAL-PRI COUNSELOR-ES COUNSELOR-JH COUNSELOR-PRI INSTRUCTIONAL TECHNOLOGIST REGISTERED NURSE STUDENT ASSESSMENT SPECIALIST</p> <p><u>PAY GRADE 3</u> COORDINATOR-SPECIAL PROGRAMS COUNSELOR-HS</p>	<p><u>PAY GRADE 4</u> ASST PRINCIPAL-HS ASST PRINCIPAL-JH</p> <p><u>PAY GRADE 5</u> PRINCIPAL-ES PRINCIPAL-PRI</p> <p><u>PAY GRADE 6</u> ATHLETIC DIRECTOR DIRECTOR-FINANCE & OPERATIONS DIRECTOR-TECHNOLOGY PRINCIPAL JH</p> <p><u>PAY GRADE 7</u> PRINCIPAL-HS</p> <p><u>PAY GRADE 8</u> ASST SUP-CURR & INSTR CHIEF FINANCIAL OFFICER</p>
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**2020-2021
ADMINISTRATIVE/PROFESSIONAL
PAY RANGE**

DAILY RATES

PAY GRADE	MINIMUM	MIDPOINT	MAXIMUM
1	\$188.60	\$230.00	\$271.40
2	\$238.58	\$290.95	\$343.32
3	\$252.90	\$308.41	\$363.92
4	\$268.07	\$326.91	\$385.75
5	\$315.25	\$384.45	\$453.65
6	\$331.01	\$403.67	\$476.33
7	\$347.56	\$423.85	\$500.14
8	\$364.93	\$445.04	\$525.15

**WESTWOOD INDEPENDENT SCHOOL DISTRICT
PARAPROFESSIONAL - SECRETARIAL
JOB CLASSIFICATIONS**

2020-2021

PAY GRADE 1

CLASSROOM INSTRUCTIONAL AIDE

PAY GRADE 2

CAMPUS PEIMS CLERK-ES
OFFICE RECEPTIONIST-ES
OFFICE RECEPTIONIST-HS
OFFICE RECEPTIONIST-JH

PAY GRADE 3

CAMPUS PEIMS CLERK-HS
CAMPUS PEIMS CLERK-JH
PRINCIPAL SECRETARY-ES
PRINCIPAL SECRETARY-JH
TRANSPORTATION SECRETARY

PAY GRADE 4

BOOKKEEPING CLERK
PRINCIPAL SECRETARY-HS

PAY GRADE 5

HR/BENEFITS CLERK
PAYROLL CLERK
LVN

PAY GRADE 6

ACCOUNTS PAYABLE CLERK
SUPERINTENDENT SECRETARY

**2020-2021
PARAPROFESSIONAL - SECRETARIAL
PAY RANGE**

HOURLY RATES

PAY GRADE	MINIMUM	MIDPOINT	MAXIMUM
1	\$10.29	\$12.70	\$15.11
2	\$11.28	\$13.75	\$16.23
3	\$12.60	\$15.36	\$18.12
4	\$14.24	\$17.36	\$20.48
5	\$16.79	\$20.48	\$24.17
6	\$21.49	\$26.21	\$30.93

**WESTWOOD INDEPENDENT SCHOOL DISTRICT
AUXILIARY SERVICES
JOB CLASSIFICATIONS**

2020-2021

PAY GRADE 1

BUS MONITOR
CAFETERIA STAFF
CUSTODIAN
HELP DESK ASSISTANT

PAY GRADE 2

BUILDING MAINTENANCE WORKER
CAFETERIA MANAGER-ES
CAFETERIA MANAGER-JH
GROUNDSKEEPER

PAY GRADE 3

BUILDING MAINT WORKER 2
BUS DRIVER

PAY GRADE 4

CAFETERIA MANAGER-HS

PAY GRADE 5

TECHNOLOGY ASSISTANT
TRANSPORTATION MECHANIC

**2020-2021
AUXILIARY SERVICES
PAY RANGE**

HOURLY RATES

PAY GRADE	MINIMUM	MIDPOINT	MAXIMUM
1	\$10.29	\$12.25	\$14.21
2	\$12.04	\$14.33	\$16.62
3	\$14.20	\$16.91	\$19.62
4	\$16.34	\$19.45	\$22.56
5	\$20.09	\$23.92	\$27.75

WESTWOOD INDEPENDENT SCHOOL DISTRICT SALARY SUPPLEMENTS AND STIPENDS

2020-2021

<u>ASSIGNMENT</u>	<u>AMOUNT</u>	<u>ASSIGNMENT</u>	<u>AMOUNT</u>
BAND DIRECTOR	\$12,875	VIDEO/EQUIPMENT COORD	\$2,000
ASST BAND DIRECTOR	\$7,500/\$2,500	SUMMER S & C	\$4,000
DRILL TEAM DIRECTOR	\$3,000	ATHLETIC TRAINER	\$9,500
DRILL TEAM ASST	\$1,500	FFA/AG	\$5,000
HS CHEER SPONSOR	\$3,800	SOCIAL MEDIA	\$1,500
JH CHEER SPONSOR	\$1,500	YEARBOOK	\$1,075
HEAD VOLLEYBALL	\$8,000	DEPT CHAIR	\$1,000
FR VOLLEYBALL	\$5,875	ESL COORDINATOR	\$300
JH VOLLEYBALL	\$3,875	TRANSLATOR	\$1,000
HEAD TRACK	\$4,000	SPANISH	\$3,000
ASST TRACK	\$2,500	YOUTH AND GOVT	\$2,210
JH TRACK	\$2,275	PERKINS GRANT	\$3,000
FB OFFENSE/DEFENSE COORD	\$9,000	NATL HONOR SOCIETY	\$650
ASST FOOTBALL	\$7,275	ONE ACT PLAY	\$1,850
POWRLIFT/CROSS COUNTRY	\$4,000	HS UIL	\$3,275
HD SFTB, BBALL, BASEBALL	\$5,000	JH/ES UIL	\$800
ASST BASEBALL/SOFTBALL	\$2,500	MATH/SCIENCE	\$2,000
ASST/JV BASKETBALL	\$2,500	STUDENT COUNCIL	\$1,075
JH BASKETBALL	\$2,000	GROW YOUR OWN	\$2,500
HEAD TENNIS	\$4,000	AD SECRETARY	\$3,000
HEAD GOLF	\$3,250	CHOIR DIRECTOR	\$1,225
BOYS/GIRLS SOCCER	\$5,000	AP INTERN	\$1,000

**WESTWOOD INDEPENDENT SCHOOL DISTRICT
RECRUITING/RETENTION INCENTIVE PAY
2020-2021**

NO. EMPLOYEES	POSITIONS	INCENTIVE AMOUNT	TOTAL
277	ALL	\$1,400	\$387,800

- E. Board to consider and take action to adopt the school district's budget for the 2020-2021 fiscal year
Presenter: Kyle Johnson

Westwood ISD Agenda Item Information

Meeting Date: July 27, 2020

Subject: Budget Adoption

Administrator Responsible: Mr. Johnson

Summary: The budget proposal for 2020-21 was reviewed in the public hearing. The board needs to adopt the budget.

Administration’s Recommendation: The board would “make a motion to adopt the school districts’ budget for the 2020-2021 fiscal year”.

Board Approval Required

YES

NO

Westwood Independent School District
 Original Budget - 2020-2021
 General Fund & Food Service Fund
 PROPOSED

		General Funds	Food Service Funds	Combined Funds
Revenues				
Code	Source			
3700	Fund Balance, Roll-forward	\$0.00	\$0.00	\$0.00
5700	Local Sources	\$5,566,700.00	\$36,780.00	\$5,603,480.00
5800	State Sources	\$10,485,371.00	\$5,900.00	\$10,491,271.00
5900	Federal Sources	\$0.00	\$1,051,096.00	\$1,051,096.00
Total		\$16,052,071.00	\$1,093,776.00	\$17,145,847.00
Appropriations:				
Function	Source			
11	Instruction	\$8,030,321.00		\$8,030,321.50
12	Instructional Resources	\$175,418.00		\$175,418.01
13	Curr & Personnel	\$360,964.00		\$360,964.02
21	Instructional Administration	\$69,752.00		\$69,752.00
23	School Administration	\$1,082,018.00		\$1,082,018.07
31	Guidance and Counseling	\$327,333.00		\$327,333.02
33	Health Services	\$161,885.00		\$161,885.01
34	Pupil Transportation	\$823,023.00		\$823,023.05
35	Child Nutrition Services	\$0.00	\$1,087,422.00	\$1,087,422.00
36	Extra/Co-Curricular	\$1,162,850.00		\$1,162,850.07
41	General Administration	\$764,004.00		\$764,004.05
51	Plant Maintenance	\$1,930,818.00		\$1,930,818.12
52	Security & Monitoring	\$23,348.00		\$23,348.00
53	Data Processing	\$614,337.00		\$614,337.04
81	Construction & Acquisition	\$0.00		\$0.00
93	Special Ed. Co-op	\$416,000.00		\$416,000.03
99	Tax Appraisal & Collection	\$110,000.00		\$110,000.01
Total		\$16,052,071.00	\$1,087,422.00	\$17,139,494.00
Shortage of revenues over expenditures		\$0.00	\$6,354.00	\$6,354.00

Adopted: _____

- F. Board to consider DED (Local)
Presenter: Kyle Johnson

Nonduty Days

Full-time employees assigned to positions normally requiring 226 days of service shall have unscheduled, nonduty days. Nonduty days are not paid days. These are the days remaining in the year after holidays and scheduled duty days have been satisfied.

The business office shall determine the number of nonduty days each school year based on the official school calendar adopted by the Board. At least ten nonduty days shall be awarded to eligible personnel each school year. Use of nonduty days shall require the prior approval of the employee's immediate supervisor.

When an employee who has used more nonduty days than he or she has accumulated ceases to be employed by the District, the cost of the unearned nonduty days shall be deducted from the employee's final paycheck. The daily or hourly rate of pay shall be used when an employee's wages or salary must be adjusted.

Professional Employees

Professional employees may accrue any unused nonduty days to the following school year. Any accrued days not used by June 30th of the following year shall be forfeited.

Paraprofessional Employees

Paraprofessional employees who have not used all nonduty days within the year these days are awarded shall have all unused nonduty days converted to compensatory time. At no time shall a paraprofessional employee forfeit unused nonduty days.

Vacations

Noncontract employees in positions normally requiring 260 workdays of service per year shall earn ten workdays of paid vacation per year. Employees shall be eligible for vacation time after 90 days of continuous employment. Use of vacation days shall require advance approval by the campus principal or designee.

Holidays

Noncontract employees in positions normally requiring 260 workdays of service per year shall receive ten paid holidays per school year, according to a schedule determined by the Superintendent.

- G. Board to consider/approve ordinance to adopt the tax rate for the 2020-2021 school year
Presenter: Kyle Johnson

Westwood ISD Agenda Item Information

Meeting Date: July 27, 2020

Subject: Budget Adoption

Administrator Responsible: Mr. Johnson

Summary: The budget proposal for 2020-21 was reviewed in the public hearing. The board needs to adopt the budget.

Administration's Recommendation: The board would "make a motion to adopt the school districts' budget for the 2020-2021 fiscal year".

Board Approval Required

YES

NO

Westwood Independent School District

Ordinance

Whereas, the Westwood Independent School District Board of Trustees is required to adopt a tax rate for the 2020-2021 school year;

Now therefore be it resolved by the Board of Trustees of the Westwood Independent School District, County of Anderson, State of Texas,

That on this date, we, hereby levy or set the tax rate on \$100 valuation for the District for the tax year 2020 at a total tax rate of \$1.0527, to be assessed and collected by the duly specified assessor and collector as follows:

\$1.0527 for Maintenance and Operations

There is by this ordinance granted to Anderson County Appraisal District the right to assess and collect taxes at the rate set herein on real property contained within the Westwood Independent School District of Anderson County, State of Texas.

Resolved this the 27th day of August, 2020.

In Certification Thereof:

Don Rice, President
WISD Board of Trustees

Carolyn Booker, Vice-President
WISD Board of Trustees

The above ordinance was passed by the Board of Trustees of the Westwood Independent School District by the following motion: "I move that we adopt a Maintenance and Operations tax rate of \$1.0527 for a total tax rate of \$1.0527".

This motion was made by: _____

Seconded by: _____

With the following recorded vote:

Don Rice _____
Mike Kelly _____
Mike Bentley _____
Leonard Armstrong _____

Craig Nivens _____
Carolyn Booker _____
Ronnie Stanhope _____

Y = Voted In Favor

N = Voted Against

3. **INFORMATION ITEMS**
 - A. Discussion of local COVID-19 Days
Presenter: Wade Stanford

Westwood ISD Agenda Item Information

Meeting Date: August 27, 2020

Subject: Local COVID-19 Days

Administrator Responsible: Wade Stanford

Summary: The District provides nine (9) days at full pay to each employee to use for any absence of any sort. In addition to these days, the federal government has authorized ten (10) days at (A) full pay (maximum \$511 per day) if the employee is subject to a quarantine or isolation order related to COVID-19, advised to self-quarantine by health care provider, or experiencing symptoms of COVID-19 and are seeking a medical diagnosis. (B) partial pay (maximum \$200 per day) when leave is taken to care for an individual subject or advised to quarantine or isolate or care for a son or daughter if school or place of care is closed or childcare provider is unavailable due to COVID-19.

The District would like to add ten (10) additional local COVID-19 days for the 2020-2021 school year only. These days would be subject to the same guidance and oversight as the ten (10) days authorized by the federal government.

Days would be used in this order: 1) Ten (10) federal COVID-19 days 2) Nine (9) local days 3) Ten(10) local COVID-19 days

Administration's Recommendation: N/A This item is an Information Item and a First Read. The administration plans to bring this agenda item as an Action Item in the September Meeting.

Board Approval Required

YES

XNO

B. Discussion of contract with Fitzpatrick Architects



AMENDMENTS TO
AIA DOCUMENT B101™ – 2017
STANDARD FORM OF AGREEMENT BETWEEN OWNER AND ARCHITECT

DATE: _____, 2020

CONTRACT DATE: _____, 2020

OWNER: WESTWOOD INDEPENDENT SCHOOL DISTRICT

ARCHITECT: FITZPATRICK ARCHITECTS

PROJECT: Education Needs, Facility Condition Assessments Master Plan

PROGRAM MANAGER:

WHEREAS Westwood Independent School District (hereinafter referred to as “Owner”) and Fitzpatrick (hereinafter referred to as “Architect”) desire to enter into a contract under which Architect will perform construction services relating to the above-referenced Projects on behalf of Owner;

WHEREAS Owner and Architect have agreed to enter into AIA Document B101™-2017 Contract (“Contract”) as the basic form for that contract; and

WHEREAS certain terms and conditions of the contract must be modified to comply with applicable laws and policies affecting Owner and Architect on this project, Owner and Architect hereby agree to the following amendments to the Contract:

1. § 1.1.9 shall be amended as follows:

Delete subsection .1 reading “Geotechnical Engineer” in its entirety. Delete subsection .2 reading “Civil Engineer” in its entirety. Amend subsection .3 by deleting the number “.3” (no longer a numbered subsection); deleting “Other, if any” at the beginning; and deleting the word “other” before “consultants and contractors” in the parenthetical.

2. § 2.1 shall be amended as follows:

In the second sentence, delete “represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals” and add the following new language in the second sentence. “shall provide professional



services as set forth in this Agreement. The Architect shall also comply with Texas Administrative Code, Title 19 Section 61.1036, pertaining to services and actions required of the Architect. Architect, prior to signing this Agreement and submitting it to the Owner, shall comply with the provisions of Texas Government Code Section 2252.908, requiring a Disclosure of Interested Parties filed with the Texas Ethics Commission. Architect certifies that Architect is a registered professional architect or engineer licensed to practice in the State of Texas. Pursuant to the Texas Occupations Code, any civil, structural, mechanical, or electrical plans, specifications, or opinions of probable cost for construction must be prepared by a registered professional engineer or a registered architect, whichever is appropriate, and who is licensed to practice in the State of Texas. Architect agrees to notify Owner should Architect's registration status change. Architect certifies that Architect and Architect's employees and agents are eligible to work under federal, state and local immigration laws and regulations."

3. § 2.2 shall be amended by deleting all language after "The Architect shall" and replace it with:

"use the Architect's best efforts, skill, judgment and abilities to perform the services in compliance with all laws, regulations, codes, ordinances and orders of governmental bodies having jurisdiction, to further the interests of the Owner in accordance with the Owner's requirements and procedures, and to represent that the Project, if built in compliance with the plans and specifications, will comply with all applicable laws, codes and ordinances. The Architect shall be responsible to the Owner for all costs and damages resulting from: (1) defects in design; (2) non-workability of design details; (3) failure of the Architect to comply with the terms of this Agreement; and (4) errors and omissions of the Architect. Any designs, drawings or specifications prepared or furnished by Architect that contain errors, conflicts, or omissions will be promptly corrected by Architect at no additional cost to Owner. Owner's approval, acceptance, use of, or payment for, all or any part of Architect's services shall in no way alter Architect's obligations or Owner's rights hereunder. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project."

4. § 2.5 shall be amended by deleting the section and all subsections in its entirety and replacing it with the following:

"Prior to performing Architect's services under this Agreement, Architect shall procure, maintain and provide insurance certificates, policies and endorsements, in at least the following amounts, to protect Architect and Owner from claims arising out of the performance of the Architect's services under this Agreement and caused by any error, omission, negligent act or omission, or design defect by Architect, such insurance to be in a form approved by the Owner, with an effective date prior to the beginning date of design. Such insurance shall be written on an occurrence basis, if available, and on a



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

§ 2.5.1 Workers' Compensation

- | | | |
|----|-----------------------|--|
| .1 | State: | Statutory Benefits |
| .2 | Employer's Liability: | \$ ___ per accident
\$ ___ disease, policy limit
\$ ___ disease, each employee |

§ 2.5.2 Commercial General Liability with policy limits of not less than ___ (\$___)

- | | | |
|----|------------------|--|
| .1 | Each occurrence: | \$ ___ each occurrence
\$ ___ aggregate |
|----|------------------|--|



- .2 Medical Expense (per person) \$ ____ each occurrence
- .3 Products & Completed Operations: \$ ____ aggregate (to be maintained for a period of two years after Final Payment; Contractor shall continue to provide evidence of such coverage to Owner on an annual basis during this period and Owner shall be named by endorsement as an Additional Insured for such coverage)
- .4 Personal & Advertising Injury \$ ____ aggregate
- .5 Must include explosion, collapse, and underground (X, C, and U) coverage
- .6 Must include Completed Operations coverage
- .7 Must Include Contractual Liability Coverage
- .8 Must Include General Aggregate Per Project Endorsement.

§ 2.5.3 Contractual Liability:

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

§ 2.5.4 Business Automobile Liability (including owned, non-owned, hired, or any other vehicles): (Note: Texas statutory minimum for school district is \$100,000 per person, \$300,000 per occurrence, \$100,000 property damage). Such minimum limits shall be stated as follows, or in a combined single limit policy in the amount of at least \$_____.

- .1 Bodily Injury (per person) \$ _____
- .2 Bodily Injury (per accident) \$ _____
- .3 Property Damage \$ _____

§ 2.5.5 Professional Liability (E&O) Coverage in at least in the following amounts:

\$ _____ per occurrence
\$ _____ per aggregate



Deductibles or self-insured retention amounts shall not exceed \$25,000 for a project budgeted at \$4 million or less, or \$50,000 for a project budgeted at more than \$4 million.

§ 2.5.6 Umbrella Excess Liability coverages shall be:

- .1 \$ _____ each occurrence
- .2 \$ _____ aggregate
- .3 \$ _____ aggregate Per Project Endorsement

§ 2.5.7 Texas Workers Compensation Insurance. Because Architect will be performing services on-site, a copy of a certificate of insurance, a certificate of authority to self-insure issued by the Texas Department of Insurance (TDI), or a coverage agreement (DWC-81, DWC-82, DWC-83, or DWC-84), showing statutory workers' compensation insurance coverage for the Architect or his employees providing services on a Project is required for the duration of the Project.

- .1 Duration of the Project includes the time from the beginning of the Work on the Project until the Architect's Work on the Project has been completed and accepted by the Owner.
- .2 Persons providing services on the Project include all persons or entities performing all or part of the services the Architect has undertaken to perform on the Project, regardless of whether that person contracted directly with the Architect and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity that furnishes persons to provide services on the Project.
- .3 Services include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other services related to the Project. Services do not include activities unrelated to the Project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.
- .4 The Architect shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code § 401.011(44) for all employees of the Architect providing services on the Project for the duration of the Project.



- .5 The Architect must provide a certificate of coverage to the Owner prior to being awarded the contract.
- .6 If the coverage period shown on the Architect's current certificate of coverage ends during the duration of the Project, the Architect must, prior to the end of the coverage period, file a new certificate of coverage with the Owner showing that coverage has been extended.
- .7 The Architect shall obtain from each person providing services on a project, and provide to the Owner:
 - .1 A certificate of coverage, prior to that person beginning work on the Project, so the Owner will have on file certificates of coverage showing coverage for all persons providing services on the Project; and
 - .2 No later than seven days after receipt by the Architect, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the Project.
- .8 The Architect shall retain all required certificates of coverage for the duration of the Project and for one year thereafter.
- .9 The Architect shall notify the Owner in writing by certified mail or personal delivery, within ten days after the Architect knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the Project.
- .10 The Architect shall post on each project site a notice, in the text, form and manner prescribed by the Texas Workers' Compensation Commission, informing all persons providing services on the Project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
- .11 The Architect shall contractually require each person with whom it contracts to provide services on a project, to:
 - .1 Provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Texas Labor Code § 401.011(44) for all of its employees providing services on the Project for the duration of the Project;



- .2 Provide to the Architect, prior to that person beginning work on the Project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the Project for the duration of the Project;
- .3 Provide the Architect, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the Project;
- .4 Obtain from each other person with whom it contracts, and provide to the Architect:
 - .1 A certificate of coverage, prior to the other person beginning work on the Project; and
 - .2 A new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the Project;
- .5 Retain all required certificates of coverage on file for the duration of the Project and for one year thereafter;
- .6 Notify the Owner in writing by certified mail or personal delivery, within ten days after the person knew or should have known, of any change that materially affects the provision of coverage for any person providing services on the Project; and
- .7 Contractually require each person with whom it contracts to perform as required by items 1-7, with the certificates of coverage to be provided to the person for whom they are providing services.
- .12 By signing this contract or providing or causing to be provided a certificate of coverage, the Architect is representing to the Owner that all employees of the Architect who will provide services on the Project will be covered by workers' compensation coverage for the duration of the Project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier or, in the case of a self-insured, with the Commission's Division of Self-Insurance Regulation. Providing false or



misleading information may subject the Architect to administrative penalties, criminal penalties, civil penalties, or other civil actions.

- .13 The Architect's failure to comply with any of these provisions is a breach of contract by the Architect that entitles the Owner to declare the contract void if the Architect does not remedy the breach within ten days after receipt of notice of breach from the Owner.
- .14 The coverage requirement recited above does not apply to sole proprietors, partners, and corporate officers who are excluded from coverage in an insurance policy or certificate of authority to self-insure that is delivered, issued for delivery, or renewed on or after January 1, 1996.

28 TAC § 110.110(i)."

- 5. § 3.1 Shall be amended as follows:

Add the following sentence before the original first sentence:

"Architect, prior to signing this Agreement and submitting it to the Owner, shall comply with the provisions of Texas Government Code Section 2252.908, requiring a Disclosure of Interested Parties filed with the Texas Ethics Commission."

In the original first sentence, delete "this" before "Article 3"; add "and Article 4" after "Article 3"; delete "structural, mechanical, and electrical engineering services,"; and replace that language with:

"architectural services, structural, mechanical, plumbing, civil, and electrical engineering services; landscape design; architectural interior design; audio-visual, data, and telecommunications and technology design and distribution; kitchen and food service equipment design; acoustical engineering and design; site feasibility design; programming for new schools and/or scope of work verification for renovations of existing schools; security planning services; graphics/way-finding planning services; roofing consultant services unless otherwise approved by Owner; accessibility services; estimating by the Architect's independent estimating consultant; record drawings; professional renderings; design and construction database management; Texas Commission on Environmental Quality compliance services, if appropriate; and internal auditing and accounting services necessary for Architect to fulfill Architect's responsibilities under this Agreement and as necessary to complete the Project. Architect shall provide all plans and specifications for all site development necessary for the Project, which shall include locating any building on-site, and developing all plans and specifications for site drainage, parking, landscaping,



walkways, irrigation, playgrounds, staging areas and portable buildings and accompanying infrastructure, when appropriate.

Architect certifies that Architect is a registered professional architect or engineer licensed to practice in the State of Texas. Pursuant to the Texas Occupations Code, any civil, structural, mechanical, or electrical plans, specifications, or opinions of probable cost for construction must be prepared by a registered professional engineer or a registered architect, whichever is appropriate, and who is licensed to practice in the State of Texas. Architect agrees to notify Owner should Architect's registration status change. Architect certifies that Architect and Architect's employees and agents are eligible to work under federal, state and local immigration laws and regulations."

6. § 3.1.1 shall be amended as follows:

In the first sentence delete "manage the Architect's services" and replace it with "perform and manage the Architect's services and administer the Project, in accordance with this Agreement as amended for this Project, and with the AIA Document A201-2017, General Conditions of the Contract for Construction, as amended for this Project, consult with the Owner,"; after "report progress to the Owner," add:

"through the issuance of progress reports to Owner and Contractor, as more specifically defined hereafter. The Architect shall not be relieved of any obligation to perform in accordance with the standard of care applicable to licensed architects in the State of Texas under the same or similar circumstances, regardless of whether or not a specific responsibility or task is included or identified in this Agreement.

- .1 Upon request of the Owner's representative, the Architect shall make presentations to Owner's representatives to review the design of the Project. In addition, the Architect shall make monthly presentations to Owner's Board of Trustees.
- .2 The Architect shall submit design documents to the Owner at intervals appropriate to the design process as designated in this Agreement, as amended, for purposes of evaluation and approval by the Owner's Board of Trustees, as specified herein. The Architect shall be entitled to rely on approvals received from the Owner's Board of Trustees in the further development of the design, provided that nothing herein shall relieve Architect of responsibility or liability for design defects, errors, or omissions."

7. § 3.1.2 shall be amended in the second sentence after the word "consultants" to add "in accordance with 19 TAC Section 61.140."; and at the end of the existing paragraph add:



“Architect shall also promptly respond in writing to notices from Owner regarding Owner’s discovery of errors, omissions, or inconsistencies, and, if requested, shall promptly meet with Owner regarding same. Owner’s notice or lack of notice shall not relieve Architect of any responsibility or liability for performance of Architect’s contracted services.”

8. § 3.1.3 shall be amended as follows:

At the end of the first sentence after “services”, add “including the dates of Architect’s design services and the completion of documentation required of the Architect.” In the second sentence after “Substantial”, add “Completion and Final”. In the third sentence after “Owner’s” add “and Contractor’s”.

Delete “or Owner” at the end of the 5th sentence. At the beginning of the 6th sentence, after “Owner’s” add “prior written”, and after “approval” add “for reasonable cause,”.

9. § 3.1.4 shall be amended by adding the following language at the end of the existing sentence.

“The Architect shall not be responsible for an Owner’s directive or substitution made without the Architect’s approval. The Architect shall review, and be responsible for compliance with, laws, codes, and regulations applicable to the Architect’s services, including, without limitation, school facility standards found in 19 TAC Section 61.1036, and Texas Health and Safety Code Chapter 341. The Architect shall respond in the design of the Project to requirements imposed by governmental authorities having jurisdiction over the Project. The Architect shall comply with all policies, regulations and rules of the Owner, including, but not limited to, those related to employee conduct (such as prohibitions against alcohol, weapons, drugs, fraternization, harassment, and tobacco on school property), and fraud and financial impropriety. Architect shall certify that he has reviewed the standards contained in 19 TAC Section 61.1036, and used the best professional judgment and reasonable care consistent with the practice of architecture and/or engineering in the State of Texas in executing the Construction Documents. Architect shall also certify that the Construction Documents conform to the provisions of 19 TAC Section 61.1036, except as indicated on the certification. Architect’s signature and seal on the Construction Documents shall certify compliance. Architect shall perform a building code search under applicable regulations that may influence the Project, and shall certify that the design has been researched before it is final, as required by 19 TAC Section 61.1036. Architect shall also certify that the facilities have been designed according to the provisions of 19 TAC Section 61.1036, based on the educational program, long-range school facility plan, educational specifications, building code specifications, and all documented changes to the Construction Documents provided by the District, as required by 19 TAC Section 61.1036. Architect shall complete the Texas Education Agency’s Certification of Project Compliance, located at www.tea.state.tx.us.



In executing the certifications required under the provisions of this Section, Architect shall exercise his/her reasonable professional judgment and care consistent with the practice of architecture in the State of Texas and applicable law. Architect shall design the Project in such a manner that the Project or each part of the Project is readily accessible to and usable by individuals with disabilities, in compliance with the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, federal regulations interpreting the Americans with Disabilities Act and Section 504, Texas Government Code Chapter 469, the Texas Accessibility Standards, all applicable requirements or standards of the Texas Department of Licensing and Regulation, and all applicable requirements or standards of the American National Standards Institute. It shall be the responsibility of Architect to address revisions or amendments to applicable codes or standards which become effective prior to the date of Substantial Completion. Revisions or amendments to applicable codes or standards which become effective after the date of Substantial Completion shall be addressed by the Architect, and shall be compensated as an Additional Service pursuant to Section 3.1.”

10. § 3.1.5 shall be amended as follows:

In the second sentence, replace “respond to” with “comply with”.

11. § 3.1.6 shall be amended by adding the following language at the end of the existing paragraph:

“When the services under this Agreement include contract administration services, the General Conditions of the Contract for Construction shall be the edition of AIA Document A201-2017, as amended for this Project as of the date of this Agreement, and Architect herein agrees to abide by same. Architect agrees that the AIA Document A201-2017 may be subject to subsequent amendments based upon negotiations between Owner, Architect and Contractor. As a condition of further service, Architect shall provide to Owner a signed statement stating Architect’s agreement to adhere to any such negotiated amendments.”

12. § 3.2.1 shall be amended by deleting all the language after “The Architect shall” and replacing it with: “assist the Owner with the provision of the educational program and educational specifications, which shall be approved by Owner’s Board of Trustees, per 19 Texas Administrative Code section 61.1036. The Architect shall review the program and specifications furnished by Owner to ascertain the specific requirements of the Project and shall arrive at a mutual written understanding of such requirements with Owner. Architect shall include all components of Owner’s program in the Project, unless specific written agreement to delete a component is received from Owner.”

13. § 3.2.2 shall be amended by adding the following language at the end of the existing paragraph:



At the end of the first sentence add, “, and to ascertain that they are consistent with the requirements of the Project”. In the second sentence, after “notify the Owner”, add “, in writing,”

“The Architect shall visit the Owner’s Project site and shall provide to Owner a written report evaluating the feasibility of the Owner’s site for the Project based on site conditions, and the Owner’s program, schedule and budget for the Cost of the Work. The Architect shall include, in the written report, an identification and evaluation of the location, availability, adequacy, capacity, and sufficiency of all utilities necessary to serve the completed Project. The Architect shall address with the Owner any existing easements or rights-of-way which may interfere with Owner’s Project.”

14. § 3.2.3 shall be amended by adding the word “written” in the first sentence before “preliminary evaluation”; and deleting “an” in the second sentence and replacing it with “a written” before “understanding”.
15. § 3.2.4 shall be amended by inserting “in writing” after “upon”; and inserting “written” before “preliminary”.
16. § 3.2.5 shall be amended in the first sentence after “design” by inserting “and Owner’s schedule and budget for the Work”; in the second sentence after “Design Documents shall” inserting “establish the conceptual design of the Project and illustrate the scale and relationship of the Project components. The Schematic Design Documents shall”.
17. § 3.2.5.1 shall be amended at the end of the paragraph by deleting “a Supplemental” and replacing it with “an Additional”.
18. § 3.2.5.2 shall be amended by inserting after “shall consider”, “, and, if applicable, consult with the Construction Manager at Risk regarding,”.
19. § 3.2.6 shall be deleted in its entirety and replaced with the following:

“When the Project requirements have been sufficiently identified, including Owner’s budgetary constraints, programmatic needs, and expectations as to quality, functionality of systems, maintenance costs, and usable life of equipment and facilities, the Architect, and, if applicable, the Construction Manager at Risk, shall prepare a preliminary estimate of the Cost of the Work prepared in accordance with Section 6.3. This estimate may be based on current area, volume or similar conceptual estimating techniques.”
20. § 3.2.7 shall be amended by adding the following language at the end of the existing paragraph:



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

21. § 3.3.1 shall be amended in the second sentence after “Schematic Design Document” insert “, shall refine the Project design,”; delete “appropriate”, and insert “outlined in this Agreement” after the word “elements”.

22. § 3.3.2 shall be amended by deleting “prepared in accordance with Section 6” at the end of the existing sentence, and inserting the following language after the original sentence:

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

23. § 3.3.3 shall be amended in the first sentence after “Cost of the Work,” by inserting “redesign the Project to comply with Owner’s budget,”.

At the end of the existing paragraph, insert the following language:

“Architect shall not proceed to the Construction Documents Phase without the approval of Owner’s Board of Trustees, or Board’s designee; provided, however, this approval shall not relieve Architect of Architect’s responsibility and liability to provide documents which are sufficient for Owner to complete the construction of the Project. Architect shall bear



full responsibility for, and all resulting excess costs incurred by Architect in, proceeding without Board approval.”

24. § 3.3.4 shall be added as follows:

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

25. § 3.4.1 shall be amended by inserting the following language after the second sentence:

““Construction Documents” means: all Drawings, specifications, submittals, transmittals, deliverables, instructions to Contractor, and other documents, including those in electronic form, prepared by the Architect and the Architect’s consultants which shall set forth in detail the requirements for construction of the Project. The Construction Documents shall reflect all agreements between Owner and Architect concerning Owner’s budgetary constraints, programmatic needs and expectations as to quality, functionality of systems, maintenance costs, and usable life of equipment and facilities. Said Construction Documents shall reflect the Owner’s educational program and educational specifications, the State educational adequacy standards in 19 TAC Section 61.1036 and the standards set forth in Section 3.1.4 of this Agreement.” After “The” in the next sentence, add: “Architect shall provide Construction Documents which are sufficient for”; after “Owner” add “to complete construction of the Project.”

Add the following language at the end of the existing paragraph:

“Owner and Owner’s authorized representatives shall be given the opportunity to review all Construction Documents prior to release of the Construction Documents for bidding, proposal or negotiation purposes. Architect’s bid specifications and any subsequent contract shall not deny or diminish the right of a person to work because of the person’s membership or other relationship status with respect to any organization. Texas Government Code Section 2269.054. Architect shall also add the following language in any document issued to solicit bids or competitive sealed proposals on the Project:

By submitting a bid or proposal, each bidder or proposer agrees to waive any claims it has or may have against the Owner, the Architect, and their respective employees, agents, or representatives, arising out of or in connection with the administration, evaluation, recommendation, or selection of any bid or proposal; waiver of any requirements under the bid or proposal documents or contract documents; acceptance or rejection of any bid or proposal; and award of the contract.”

26. § 3.4.1.1 shall be added as follows:



“§ 3.4.1.1 Errors and Omissions.

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

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

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

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

27. § 3.4.2 shall be amended by adding the following language at the end of the existing sentence before the period:

“, including, without limitation, school facility standards found in 19 Texas Administrative Code, Subchapter CC, Section 61.1036, and Texas Health and Safety Code Section 341.065. Architect shall certify that he/she has reviewed the standards contained in 19 Texas Administrative Code Section 61.1036, and used the best professional judgment and reasonable care consistent with the practice of architecture and/or engineering in the State of Texas in executing the construction documents. Architect shall also certify that the construction documents conform to the provisions of 19 Texas Administrative Code Section 61.1036, except as indicated on the certification. Architect’s signature and seal on the construction documents shall certify compliance. Architect shall perform a building code search under applicable regulations that may influence the Project, and shall certify that the design has been researched before it is final, as required by 19 Texas Administrative Code Section 61.1036.

Architect shall also certify that the facilities have been designed according to the provisions of 19 Texas Administrative Code section 61.1036, based on the educational program, long-range school facility plan, educational specifications, building code specifications, and all documented changes to the Construction Documents provided by



the District, as required by 19 Texas Administrative Code, section 61.1036. Architect shall complete the Texas Education Agency's (TEA's) Certification of Project Compliance, available on the TEA website. In executing the certifications required under the provisions of this Section, Architect shall exercise his/her reasonable professional judgment and care consistent with the practice of architecture in the State of Texas and applicable law. Architect shall design the Project in such a manner that the Project or each part of the Project is readily accessible to and usable by individuals with disabilities, in compliance with the Americans with Disabilities Act and Section 504 of the Rehabilitation Act, federal regulations interpreting the Americans with Disabilities Act and Section 504, Texas Government Code Chapter 469, the Texas Accessibility Standards, all applicable requirements or standards of the Texas Department of Licensing and Regulation, and all applicable requirements or standards of the American National Standards Institute. It shall be the responsibility of Architect to address revisions or amendments to applicable codes or standards that become effective prior to the date of Substantial Completion. Revisions or amendments to applicable codes or standards which become effective after the date of Substantial Completion shall be addressed by the Architect, and shall be compensated as a Change in Service."

28. § 3.4.3 shall be amended as follows:

In the first sentence insert: "and the Owner's attorney" after "assist the Owner"; after "(1)" insert: "bidding competitive purchasing, and"; at the end of "(2)" add: ", or Construction Manager at Risk,,"; at the end of "(3)" insert: "as amended for the Project. After consultation with the Owner," and remove the period and change "The" to a lower case "t".

At the beginning of the second sentence insert: "Project" before "Specifications", and "or proposal" after "bidding".

Insert the following at the end of the existing paragraph:

"As required by law, all bid or proposal documents and contracts shall include, if applicable, all required information related to trench excavation safety. Texas Health and Safety Code Section 756.021 *et seq.* All outdoor lighting fixtures designed by Architect, if any, shall meet the statutory energy conservation and light pollution standards established by the Texas Department of Health. All ventilation and indoor air quality systems designed by Architect shall meet the indoor air quality voluntary guidelines established by the Texas Department of Health. Texas Health and Safety Code Chapter 385. All playground equipment designed by Architect, if any, shall comply with each applicable provision of ASTM Standard F1487-07ae1. "Consumer Safety Performance Specifications for Playground Equipment for Public Use", published by ASTM International, have no unshielded horizontal bare metal platforms; and be accessible to individuals with disabilities in accordance with the Americans with Disabilities Act



Accessibility Guidelines. All playground surfacing designed by Architect shall comply with each applicable provision of ASTM Standard F2223-04e1, "Standard Guide for ASTM Standards on Playground Surfacing" published by ASTM International, and paths shall be designed for accessibility by individuals with disabilities. Texas Health and Safety Code Section 756.061; Americans with Disabilities Act. All outdoor lighting fixtures designed by Architect, if any, shall meet the statutory energy conservation and light pollution standards established by the Texas Department of State Health Services. Texas Government Code Chapter 425. Architect shall also comply with 15 U.S.C. § 8003 (Drain cover standards) if applicable. If applicable, Architect shall comply with U.S. Environmental Protection Agency rules concerning renovating, repairing, and painting work in schools built before 1978 that involves lead-based paint."

29. § 3.4.3.1 shall be added as follows:

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

30. § 3.4.3.2 shall be added as follows:

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

31. § 3.4.4 shall be amended by deleting "prepared in accordance with Section 6.3" at the end of the original sentence and inserting the following language at the end of the first sentence:

"If the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, then the Architect shall redesign elements to achieve cost savings within the Scope of the Work, but in doing so, shall not delete any essential element of the Project. Architect shall present the redesign to Owner for Owner's approval as provided herein, and, in doing so, shall notify Owner in writing of the actions taken to bring the Project into Owner's budget. If Architect is unable to redesign the Project to meet Owner's budgetary, programmatic and quality needs, then the Architect shall make appropriate written recommendations to the Owner to adjust the Project's size, quality



or budget. Owner shall consider Architect's recommendations, but shall decide, in its discretion, what adjustments to make."

32. § 3.4.5 shall be amended by adding the following at the end of the existing paragraph:

"Architect shall not proceed to the Bidding or Negotiation Phase without the approval of Owner's Board of Trustees, or Board designee; provided, however, this approval shall not relieve Architect of Architect's responsibility and liability to provide documents which are sufficient for Owner to complete the construction of the Project.

33. § 3.4.6 shall be added as follows:

"§ 3.4.6 As required by Texas Education Agency rule 19 Texas Administrative Code Section 61.1036, Architect shall perform a building code search under applicable regulations that may influence the Project and shall certify that the design has been researched and satisfies the applicable building codes. The Architect's or engineer's seal and signature on the Construction Documents shall indicate certification of compliance with this section. "Certify" means that the Architect has reviewed the standards contained in Texas Education Agency rules and used the best professional judgment and reasonable care consistent with the practice of architecture or engineering in the State of Texas in executing the Construction Documents."

34. § 3.4.7 shall be added as follows:

"§ 3.4.7 Architect shall insert in the Project Specifications the requirements that: 1) all bonds comply with Texas Insurance Code Section 3503.001 *et seq.* and Texas Government Code Chapter 2253 or their Successors; and 2) all insurance companies be licensed to do business in the State of Texas and, if bond amounts exceed \$100,000, hold a certificate of authority from the U.S. Secretary of the Treasury or reinsurance for liability in excess of \$100,000 from a reinsurer authorized and admitted as a reinsurer in the State of Texas and that is a holder of a certificate of authority from the U.S. Secretary of the Treasury to qualify as a surety or reinsurer on obligations permitted or required under federal law. Owner and Architect reserve the right to rely on the Treasury list of companies holding certificates of authority to determine whether the surety or reinsurer complies with the legal requirements."

35. § 3.4.8 shall be added as follows:

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

36. § 3.4.9 shall be added as follows:



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

37. § 3.5.1 shall be amended by adding a new second and third sentence “Such assistance shall include, if necessary, testifying in any bid or proposal dispute. Architect shall disclose in writing to Owner any prior or current relationships which Architect may have had with any bidders or proposers.”

Adding the following language at the end of the existing paragraph:

“The Architect shall cooperate with the Owner’s legal counsel in the preparation of all Contract Documents and the General Conditions of the Contract for Construction, as amended or supplemented for the Project, to be used in the bidding or proposal documents. Architect shall ensure that his Supplementary or other Conditions of the Contract, if any, shall not contradict the provisions of Owner’s AIA Document A201, as amended, except with Owner’s prior written consent.”

38. § 3.5.2 Competitive Bidding shall be amended by adding “or Purchasing” at the end of the existing heading.
39. § 3.5.2.1 shall be amended by inserting “or competitive proposal” in the first section after “consist of bidding”.

Inserting the following language at the end of the existing paragraph:

“The Contract Documents are enumerated in the Agreement, as amended, between the Owner and Contractor (hereinafter the Owner/Contractor Agreement) and consist of the Owner/Contractor Agreement, Conditions of the Contract, as amended, (General, Supplementary and other Conditions), all sections of the Project Manual, including Drawings, Specifications, and Addenda issued prior to execution of the Contract.”

40. § 3.5.2.2 shall be amended at the beginning of the section by inserting “If requested by the Owner,” and change the capital “T” for the word “The” to a lower case “t”; and inserting “or competitively purchasing” after “in bidding.”

Subsections shall be amended as follows:



- .1 delete the language in “.1” and replace it with “procuring at Owner’s cost the reproduction of Bidding Documents for distribution to prospective bidders, and distributing the Bidding Documents to prospective bidders, requesting their return upon completion of the bidding process, and maintaining a log of distribution and retrieval and of the amounts of deposits, if any, received from and returned to prospective bidders;”
 - .4 insert “evaluating the bids,” after “opening of the bids”.
41. § 3.5.2.3 shall be amended at the beginning of the paragraph by inserting “In consultation with the Owner, the Architect shall consider requests for substitutions,”; replacing “If” with “if”; deleting “upon the Owner’s written authorization, the Architect shall, as an Additional Service, consider requests for substitutions”; inserting “shall” before “prepare”; and adding “and Owner.” after “bidders”.
 42. At the end of the existing paragraph add:

“The Architect shall review, in conjunction with the Owner, the Owner’s representative, if appropriate, and the Construction Manager at Risk or Contractor, alternative approaches to design and construction of the Project in order to preserve the Scope of the Work, the Scope of the Project and the quality of the construction within Owner’s overall budget for the Project.”
 43. § 3.5.3 shall be amended by deleting “Negotiated” in the title.
 44. § 3.5.3.1 shall be amended by inserting the following at the end of the existing paragraph:

“Proposal Documents shall consist of proposal requirements and proposed Contract Documents. The Contract Documents are enumerated in the Agreement, as amended, between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract, as amended, (General, Supplementary and other Conditions), all sections of the Project Manual, including Drawings, Specifications, and Addenda issued prior to execution of the Contract, other documents listed in the Agreement and Modifications issued after execution of the Contract.”
 45. § 3.5.3.2 shall be amended by deleting “The” at the beginning of the section and replacing it with “If requested by Owner,” before “Architect”.

Subsections shall be amended as follows:

- .1 Insert “procuring at Owner’s cost the reproduction of” before “Proposal Documents”; and deleting “facilitating the distribution”; inserting “and maintaining a log of distribution and retrieval and of the amounts of



deposits, if any, received from and returned to prospective proposers” at the end of subsection .1;

- .4 Insert at the beginning “evaluating proposals,” before “participating in negotiations”

- 46. § 3.5.3.3 shall be amended at the beginning of the section by inserting “In consultation with the Owner,” and deleting “If the Proposal Documents permit substitutions, upon the Owner’s written authorization”; deleting “, as an Additional Service,” in the second line; after “requests for substitutions” inserting “, if the Proposal Documents permit substitutions,”; and adding “and Owner” after “prospective contractors.”.

At the end of the existing paragraph inserting the following language:

“The Architect shall review, in conjunction with the Owner, the Owner’s representative, if appropriate, and the Construction Manager at Risk or Contractor, alternative approaches to design and construction of the Project in order to preserve the Scope of the Work, the Scope of the Project, and the quality of the construction within Owner’s overall budget for the Project.”

- 47. § 3.6.1.1 shall be amended by inserting “A201-2007 or” after “AIA Document”; and adding “, as amended for the Project, and as specified in Section 3.1.6 herein.” at the end of the first sentence. In the second sentence, insert “AIA A201-2007 or” before “A201-2017”.

At the end of the existing paragraph add the following language:

“While on Owner’s property and throughout Architect’s services under this Agreement, the Architect shall comply with all policies, regulations, and rules of the Owner, including, but not limited to, those related to employee conduct (such as prohibitions against alcohol, weapons, drugs, fraternization, harassment, and tobacco on school property), and prohibitions against fraud and financial impropriety.”

- 48.

- 49. § 3.6.2.1 shall be amended as follows:

In the first sentence: after “Architect”, insert “, or his authorized representative, as a representative of the Owner,”; after “visit the site at”, insert “least twice per week (or more per week when deemed necessary by the Owner’s Superintendent or when necessary to protect Owner’s interest), and at other”; delete “construction or as otherwise required in Section 4.2.3, to become generally familiar with”; and insert “the Contractor’s operations (1) to inspect the progress, quantity and quality of the Work completed; (2) to reject any observed nonconforming Work; (3) to become failure with



and to keep the Owner informed about”; after “portion of the Work completed,” insert “(4) to guard the Owner against defects and deficiencies in the Work, (5)”; After “(5)” delete “and” and delete “in general”. In (5), delete “observed”. After “Contract Documents” at the end of the sentence, insert “and on time, and (6) to document progress of the Work, in written and photographic form. Furthermore, a minimum of two job site meetings per month from commencement of construction through Final Completion will be initiated by the Architect. Attendees will include Owner, the Contractor’s project manager and/or superintendent, Architect’s project representative, and Architect. Architect or his authorized representative will provide on-site observations prior to and during all concrete pours that contribute to the structural integrity of the building, including all pours of concrete piers, footings, grade beams, floor slabs, and concrete superstructure components, if applicable. In addition, Architect or his authorized representative will provide on-site observations prior to covering up or closing up of portions of the construction that, if covered, would conceal problems with the structural integrity of the Project. Architect will advise Owner of the need for any third-party laboratory or testing services to assist the Architect, and will assist Owner in development of Requests for Proposals or other solicitations for any required testing services approved by Owner. On the basis of the site visits, on-site observations, or inspections by the Architect, Architect shall keep Owner and Owner’s Contractor informed of”. Delete “However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about”.

At the end of “(1)” insert “and” after “Documents”, and delete “(2) known deviations”, change “(3)” to “(2)”.

At the end of the existing paragraph add the following: “Architect shall guard Owner against defects and deficiencies in the Work, and shall promptly notify Owner and Contractor orally regarding the defect or nonconforming Work, which notice shall be followed by notice in writing of defects and nonconforming work noted and corrective actions taken or recommended. The Architect shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or safety precautions and programs in connection with the Work, since these are solely the Contractor’s rights and responsibilities under the Contract Documents. Any services by Architect made necessary due to Architect’s failure to discover a construction defect or nonconforming work shall be at no additional cost to Owner. Any services by Architect made necessary by Architect’s design errors or omissions shall be at no additional cost to Owner.”

50. § 3.6.2.2 shall be amended in the first sentence of the paragraph to delete “has the authority” after “The Architect” and replaced with “shall”.



In the second sentence delete “shall have the authority to require” after “the Architect” and replace it with “will recommend to Owner additional”.

In the third sentence, insert “Construction Manager at Risk” before “Subcontractors,”

At the end of the existing paragraph add the following:

“Architect shall promptly notify Owner and Contractor, orally and in writing, of any observed fault or defect in the Project or nonconformance with Contract Documents, upon discovery of the defect or nonconformance, and shall notify Owner of all corrective actions taken or recommended. The testing or inspections required by this Section are subject to the requirements of Chapter 2269 of the Texas Government Code.”

51. § 3.6.2.3 shall be amended in the first sentence of the paragraph by deleting “decide” and replacing it with “make recommendations to Owner regarding”.
52. § 3.6.2.4 shall be amended by deleting “decisions” throughout the paragraph and replacing it with “recommendations”. In the second sentence deleting “shall not show partiality to either,”. In the last sentence of the paragraph delete “Architect” and replace it with “Owner” and delete “if consistent with the intent expressed in the Contract Documents.”
53. § 3.6.2.5 shall be amended by deleting “Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201–2017,” at the beginning of the paragraph; changing the lower case “t” to an upper case “T” in “The Architect”, making it the beginning of the sentence, and inserting “promptly” before “render initial”. Delete “decisions” and replace it with “written recommendations or interpretations” before “on Claims”, and inserting “, disputes, or other matters in question” after “on Claims”.
54. § 3.6.3.1 shall be amended as follows:

In the first sentence after “Architect shall” insert “observe the progress of the Work, critically evaluate,”; insert “sign and” before “issue”; change the lower case “c” for the word “Certificates” to an upper case “C”, and insert “for Payment” after the word “Certificates”; insert “if such amounts are valid, correct, and deemed due and owing, in Architect’s professional opinion, within seven (7) days of receipt of Contractor’s application for payment.” after “in such amounts”.

In the second sentence insert “observations and/or” after “based on the Architect’s”; Delete “, to the best of the Architect’s knowledge, information and belief,”; Insert “and in Architect’s professional opinion,” before “the quality of Work”; insert “Construction Documents and the” before “Contract Documents”; Insert “and critically evaluated and



certified that the amounts requested in the Application for Payment are valid and correct, in the Architect's professional opinion" after "Contract Documents"

At the end of the second sentence delete "and that the Contractor is entitled to payment in the amount certified."

At the end of the existing paragraph after "expressed by the Architect" add "in writing to Owner".

55. § 3.6.4.1 shall be amended in the first sentence after "The Architect shall review" by inserting "and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, for the purpose of checking for conformance with the Contract Documents and all laws, statutes, codes and requirements applicable to Architect's design services."; and deleting "the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule."

The following language shall be added at the end of the existing paragraph:

"If it is determined that any submittal does not comply with the requirements of the Contract Documents, then Architect shall require Contractor to come into compliance. The Architect shall promptly report in writing to the Contractor and Owner any errors, inconsistencies and omissions discovered by the Architect in the Shop Drawings, Product Data and Samples. The Architect is not authorized to approve changes involving major systems such as HVAC, roof, foundation, outward appearance, color schemes, floor plans, building materials, or mechanical equipment without Owner's prior written consent."

56. § 3.6.4.2 shall be amended by inserting at the beginning of the paragraph "In accordance with the Architect-approved submittal schedule," and change the capital "T" to a lower case "t" for "the Architect". In the third sentence, after "precautions or" inserting ", unless otherwise specifically stated by the Architect, of any".

57. § 3.6.4.3 shall be amended as follows:

In the second paragraph, last sentence, add a comma after "adequacy" and delete "and" before "accuracy"; and add "; and completeness" after "accuracy".

58. § 3.6.4.5 shall be amended by changing "a" to "all", and "record" to "records".

59. § 3.6.5.1 shall be amended in the first sentence by inserting "With notice and consent of Owner,"; changing the capital "T" for "The Architect" to a lower case "t"; and deleting "order" and replacing it with "authorize".



60. § 3.6.5.3 shall be added as follows:

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

61. § 3.6.5.4 shall be added as follows:

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

62. § 3.6.6.1 shall be amended as follows:

- .2 Insert at the end of the existing subsection “and of Final Completion, using AIA forms”;
- .3 Insert at the beginning of the existing subsection “receive from the Contractor and”; delete “and received from the Contractor;” and replace it with “and assembled by the Contractor”;
- .4 After the word “indicating”, change “that” to “the”; delete “to the best of the Architect’s knowledge, information, and belief, the”;
- .5 For any Work that exceeds \$50,000, Architect shall schedule and ensure completion of inspections with the Texas Department of Licensing and Regulation as required by Texas Government Code Section 469.105.

63. § 3.6.6.5 shall be amended in the first sentence of the section by deleting “Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting



with the Owner” and replacing it with “Prior to the expiration of six months from the date of Substantial Completion, prior to the expiration of ten months from the date of Final Completion, and upon request of the Owner at any other time within one year of Final Completion, the Architect shall meet with the Owner and the Owner’s Designated representative”. After “operations and performance” adding “; to identify defects, warranty issues, and proposed corrections; and to make appropriate written recommendations to the Owner.”

64. § 4.1.1 shall be amended in the first sentence by deleting “not” before “included in Basic Services”, and adding a period following “Basic Services”. Delete the remaining portion of the first sentence, and the second sentence. Add a new sentence at the end of the original paragraph: “The Architect shall not be entitled to additional compensation for Services listed below unless otherwise indicated.”

65. The Supplemental Services table shall be amended as follows:

§ 4.1.1.1	Programming	Architect
§ 4.1.1.2	Multiple preliminary designs	Architect
§ 4.1.1.3	Measured drawings	Architect
§ 4.1.1.4	Existing facilities surveys	Architect
§ 4.1.1.5	Site evaluation and planning	Architect
§ 4.1.1.6	Building Information Model management	Architect
	Responsibilities	
§ 4.1.1.8	Civil engineering	Architect
§ 4.1.1.9	Landscape design	Architect
§ 4.1.1.10	Architectural interior design	Architect
§ 4.1.1.11	Value analysis	Architect
§ 4.1.1.12	Detailed cost estimating beyond that required in Section 6.3	Architect
§ 4.1.1.13	On-site project representation	Architect
§ 4.1.1.14	Conformed documents for construction	Architect
§ 4.1.1.15	As-designed record drawings	Architect
§ 4.1.1.16	As-constructed record drawings	Not Provided
§ 4.1.1.17	Post-occupancy evaluation	Not Provided
§ 4.1.1.18	Facility support services	Not Provided
§ 4.1.1.19	Tenant-related services	Architect
§ 4.1.1.20	Architect’s coordination of the Owner’s consultants	Architect
§ 4.1.1.21	Telecommunications/data design	Architect
§ 4.1.1.22	Security evaluation and planning	Architect
§ 4.1.1.23	Commissioning	Architect
§ 4.1.1.25	Fast-track design services	Not Provided
§ 4.1.1.27	Historic preservation	Not Provided



§ 4.1.1.28 Furniture, furnishings, and equipment design Not Provided

66. § 4.1.2.1 shall be deleted in its entirety.
67. § 4.1.2.2 shall be deleted in its entirety.
68. § 4.1.3 shall be amended by deleting “The Owner shall compensate the Architect as provided in Section 11.2.” at the end of the existing paragraph.
69. § 4.2.1 shall be amended as follows;
 - .1 insert “significant” before “change”; after “including” insert “, but not limited to,”.
 - .2 shall be deleted in its entirety.
 - .3 shall be deleted in its entirety.
 - .5 shall be deleted in its entirety.
 - .6 shall be deleted in its entirety.
 - .7 shall be deleted in its entirety.
 - .8
 - .9 shall be deleted in its entirety.
 - .11 shall be deleted in its entirety and replaced with “Services necessitated by the Owner’s request for extensive environmentally responsible design alternatives, such as unique system designs, in-depth material research, energy modeling, or LEED® certification.”
- 70.
71. § 4.2.3 shall be amended as follows:
 - .1 Insert “Five (5)”
 - .2 After “construction” add “as required by § 3.6.2.1”.
 - .3 Insert “Five (5)”; replace “any” with “each” before “portion”



.4 Insert "Five (5)"; replace "any" with "each" before "portion".

72. § 4.2.4 shall be deleted in its entirety.
73. § 4.2.5 shall be deleted in its entirety.
74. § 5.1 shall be amended by deleting "which shall set forth the Owner's objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility; expandability; special equipment; systems; and site requirements." and replacing it with "as required by 19 Texas Administrative Code Section 61.1036.". At the end of the paragraph add the following language: "The Architect shall review the program and specifications furnished by Owner to ascertain the specific requirements of the Project and shall arrive at a mutual written understanding of such requirements with Owner. Architect shall include all components of Owner's program in the Project, unless specific written agreement to delete a component is received from Owner."
75. § 5.2 shall be amended in the first sentence after "establish" by inserting "and update", and after "Project," by inserting "when required,".
76. § 5.3 shall be amended in the first and second two sentences of the paragraph by deleting "identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall".

At the end of the existing paragraph add the following language:

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

Owner's designated representative to sign contracts:

Name: Wade Stanford Title: Superintendent, or Superintendent's Designee, Dr. Dan Rice, WISD Board President.

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

Name: Wade Stanford Title: Superintendent, or Superintendent's Designee, Dr. Dan Rice, WISD Board President."



77. § 5.4 shall be amended by inserting “Upon written request of the Architect,” before the first sentence, and changing the capital “T” for “The Owner” to a lower case “t”; after “surveys” inserting “known to the Owner”; deleting “to” before “describe” and changing “describe” to “describing”.

At the end of the existing paragraph delete:

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

Replace it with:

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

78. § 5.5 shall be amended in the first line of the paragraph by replacing “shall” with “may”.
79. § 5.6 shall be deleted in its entirety.
80. § 5.9 shall be amended by deleting “required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.” and replacing it with “that are required by law or the Contracts, to be furnished by the Owner. To the extent that tests, inspections and reports are not required by law or the Contract Documents to be furnished by Owner, but are deemed necessary by the Architect or Owner, then they shall be furnished by Architect, unless Architect receives Owner’s written permission to charge Owner for the services or Owner agrees to separately contract for the services.”



81. § 5.10 shall be amended by deleting “The Owner shall furnish all legal, insurance” and replacing it with “Unless otherwise provided in this Agreement the Owner may, in its sole discretion furnish legal”.

82. § 5.11 shall be amended by adding the following at the end of the existing paragraph:

“Architect acknowledges that he is the leader of the design team and is responsible for the design of the Project. Therefore, Owner shall be entitled to rely on the Construction Documents, services, and information furnished by the Architect. This Section shall not relieve Architect of any responsibility or liability for the performance of Architect’s contracted services on the Project.”

83.

84. § 5.15 shall be deleted in its entirety.

85. § 6.1 shall be amended as follows:

In the first line of the first sentence replace “this Agreement” with “the Architect’s compensation”; and after “by the Architect” insert “and constructed by the Owner,”.

Insert a new second sentence as follows: “To the extent that the Project is not completed or constructed, the Cost of the Work shall include the estimated cost to the Owner of all elements of the Project designed by the Architect and accepted by the Owner but not constructed by the Owner. The Cost of the Work does not include elements of the Project designed by Architect but not accepted by the Owner.”

In the original second sentence after “compensation of the Architect” insert “or the Architect’s consultants”; and after “changes in the Work” insert “, alternate designs of the Architect that are not constructed or accepted by the Owner,”. If the Owner requests an alternative, but doesn’t build it, the Architect should get paid for the estimated value since Architect had to spend the time to design/draw it.

At the end of the existing paragraph add the following language:

“For purposes of the Architect’s compensation, the Cost of the Work shall not include the fee for management and supervision of construction or installation provided by a separate Owner representative. For purposes of the Architect’s compensation, the Cost of the Work shall include the Owner’s cost of labor and materials furnished by the Owner in constructing portions of the Project, if the Work is designed and construction is overseen by Architect. For purposes of the Architect’s compensation, the Cost of the Work shall only include the Owner’s cost of fixtures, furnishing and equipment designed by the Architect, at the request of the Owner.”



86. § 6.2 shall be amended in the first sentence, by deleting “required” and replacing with “allowed”.

Delete the third and fourth sentences and replace them with the following language:

“If the Architect’s design is determined to exceed Owner’s budget, then Architect agrees to redesign the Project, at Architect’s expense and as a part of Architect’s Basic Services, to meet Owner’s budget.”

87. § 6.3 shall be amended by inserting the following language at the beginning of the existing paragraph:

“The Architect, and the Construction Manager at Risk, if applicable, shall prepare a preliminary estimate of the Cost of the Work, which shall incorporate Owner’s budgetary constraints, programmatic needs, and expectations as to quality, functionality of systems, maintenance costs, and usable life of equipment and facilities. As the design process progresses through the end of the preparation of the Construction Documents, the Architect, and, if applicable, the Construction Manager at Risk, shall update and refine the preliminary estimate of the Cost of the Work. The Architect shall advise the Owner of any adjustments to previous estimates of the Cost of the Work indicated by changes in Project requirements or general market conditions. The Architect shall cooperate with Owner and, if applicable, the Construction Manager at Risk, in developing and designing the Project to satisfy Owner’s budgetary constraints, programmatic needs and expectations as to quality, functionality of systems, maintenance costs, and usable life of equipment and facilities.”

In the original first sentence after “scope of the Project” insert “with the prior consent of Owner’s Board of Trustees” before the semi-colon.

At the end of the existing paragraph, delete the last two sentences in the original paragraph.

88. § 6.4 shall be amended to replace “shall” with “may” after “Cost of the Work.”
89. § 6.5 shall be amended by deleting: “the Architect shall make appropriate recommendations to the Owner to adjust the Project’s size, quality, or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.”, and replacing it with: “then the Architect shall redesign elements to achieve cost savings within the Scope of the Work, but in doing so, shall not delete any essential element of the Project. Architect shall present the redesign to Owner for Owner’s approval and, in doing so, shall notify Owner in writing of the actions taken to bring the Project into Owner’s budget. If Architect is unable to redesign the Project to



meet Owner’s budgetary, programmatic and quality needs, then the Architect shall make appropriate written recommendations to the Owner to adjust the Project’s size, quality or budget. Owner shall consider Architect’s recommendation, but shall decide, in its discretion, what adjustments to make.”

90. § 6.6 shall be amended in the first sentence by inserting “prior to commencement of the Work”, after “negotiated proposal”.

- .2 shall be amended by adding at the end of the existing language: “, and/or authorize a different construction procurement method, consistent with State law”;
- .4 shall be amended by deleting “or” at the end of the subsection;
- .5 shall be amended by adding “; or” at the end of the subsection;
- .6 shall be added as follows: “direct the Architect to redesign the Project to meet the Owner’s budgetary, programmatic and quality needs.”

91.

92. § 6.8 shall be added as follows:

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

93. § 7.1 shall be amended to replace “Instruments of Service” with “Construction Documents”.

94. § 7.2 through 7.5 shall be deleted and replaced with the following sections:

(Note: Select either Form A or Form B for Section 7.2 – 7.5 by placing an X in the appropriate blank below. If a Form is not selected then Form B shall control.)



“FORM A for Sections 7.2 to 7.5 (____)

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

§ 7.3 Upon execution of this Agreement, the Architect grants to the Owner a nonexclusive license to use, reproduce and distribute the Architect’s Construction Documents solely and exclusively for constructing, using, maintaining, and renovating the Project. The Architect shall obtain similar nonexclusive licenses from the Architect’s consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers, as well as the Owner’s consultants and separate contractors, to reproduce applicable portions of the Construction Documents solely and exclusively for use in performing services for the Project.

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

§ 7.5 Except for the licenses granted in this Article 3, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Construction Documents shall be at the Owner’s sole risk and without liability to the Architect and the Architect’s consultants.”

“FORM B FOR SECTIONS 7.2 to 7.4 (____)



§ 7.2 Architect shall provide to Owner, as a “Work Made for Hire,” all Drawings, specifications, submittals, transmittals, deliverables, instructions to Contractor of Architect and Architect’s consultants (including the necessary number of paper copies and electronic format copies), and other documents hereinafter “Construction Documents,” that are within Architect’s scope of services and are sufficient for Owner to complete construction of the Project and are free from material defects or omissions. The Construction Documents for this Project are the property of the Owner whether or not the Project is completed and whether or not Architect’s Agreement is terminated. The Owner shall be furnished and permitted to retain reproducible copies and electronic versions of the Construction Documents. Only the signature details, standard details and form specifications of the Construction Documents relating to this Project may be used by the Architect on other projects, but they shall not be used as a whole without written authorization by the Owner. Owner-furnished forms, conditions, and other written documents shall not be used on other projects by the Architect without written authorization by the Owner. Owner hereby owns all common law, statutory, or other reserved rights, including copyrights, pertaining to the Construction Documents; provided, however, Owner hereby assigns to Architect the right to enforce Owner’s copyright in the Construction Documents and agrees to reasonably cooperate with Architect in any proceedings related to such enforcement.

§ 7.3 The Construction Documents may be used as a prototype for other facilities by the Owner. The Owner may elect to use the Architect to perform the site adaptation and other professional services involved in reuse of the prototype. If so, then the Architect agrees to perform the work for an additional compensation that will fairly compensate the Architect and its consultants only for the additional work involved. It is reasonable to expect that the fair additional compensation will be significantly less than the fee provided for under this Agreement. If the Owner elects to employ a different architect to perform the site adaptation and other professional services involved in reuse of the prototype, then that architect may use Architect’s consultants on the same basis that the Architect would have been entitled to use them for the work on the reuse of the prototype, and such architect will be entitled, to the extent allowed by law, to duplicate the design and review and refer to the Construction Documents, approved shop drawings and calculations, and “as built” in performing its work. The Architect will not be responsible for errors and omissions of a subsequent architect. The Architect shall endeavor to commit its consultants to the terms of this Section and shall notify Owner in writing if Architect is unable to do so. In the event of termination of this Agreement for any reason, the Owner shall receive all original documents prepared to the date of termination and shall have the right to use those documents and any reproductions in any way necessary to complete the Project.

§ 7.4 The Owner shall be free to use said Construction Documents for Owner’s purposes, but shall not assign, delegate, sublicense, pledge or otherwise transfer said Construction



Documents, including any underlying copyright or license granted herein, to another party for use by any party other than on behalf of Owner. The Owner may use the Construction Documents for future additions or alterations to this Project or for other projects constructed by Owner. The Owner's privilege to use said Construction Documents extends to their use with and by other architects on Owner's projects only."

95. § 8.1.1 shall be amended in the first sentence by replacing "applicable" with "this Agreement and by Texas"; changing "10" to "12" years, and changing "Substantial" to "Final" Completion. In the second sentence delete "Owner and".

96. § 8.1.1.1 shall be added as follows:

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

97. § 8.1.1.2 shall be added as follows:

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

98. § 8.1.2 shall be amended to insert the word "Only" at the beginning of the paragraph, and change the word "To" to a lower case "t". At the end of the first sentence add: ", as amended for this Project, and if applicable." after "Contract for Construction".

99. § 8.1.3 shall be amended as follows:

In the first sentence deleting "and Owner" and adding an "s" to the word "waive".



In the second sentence, deleting the word “mutual”; deleting “either party” and replacing it with “Owner’s”; and deleting “, except as specifically provided in Section 9.7.” at the end of the second sentence.

At the end of the existing paragraph adding: “In any litigation (or arbitration if mutually agreed upon in writing) arising under this Agreement, the types and amounts of damages recoverable shall be subject to Subchapter I of Texas Local Government Code Chapter 271.”

100. § 8.1.4 shall be added as follows:

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

101. § 8.2.1 shall be amended in the first sentence after “binding dispute resolution” by inserting the following language: “, unless the filing deadlines under applicable statutes of limitation and/or repose would otherwise expire. If suit is filed before mediation in order to avoid expiration of limitations and/or repose, then the parties agree to submit the matter to mediation as soon as reasonably possible. Claims for injunctive relief shall not be subject to this Section”

The second sentence shall be deleted in its entirety.

102. § 8.2.2 shall be amended as follows:

In the first sentence put a period after “mediation” and delete the rest of the first sentence.

In the second sentence insert “mutually-acceptable” before “person or entity”.

Insert a new third sentence: “In the event the parties are unable to agree on a mediator, then the mediation shall be conducted by either the Center for Public Policy Dispute Resolution at the University of Texas School of Law or by a mediator selected by a local district court judge upon the joint request of the parties.”

In the fourth sentence, replace “may” with “shall”; delete all of the sentence after the word “made” and replace the deleted language with “within 30 days after the completion of Owner’s grievance process. In no event shall the request for mediation be made after the date when institution of legal or equitable proceedings based on such claim, dispute, or other matter in controversy would be barred by applicable statutes of limitation.”

103. § 8.2.3 shall be amended in the second sentence by replacing the word “place” with “county”; deleting “the Project” and replacing it with “Owner’s main administrative



office". Delete the last sentence and replace it with "Mediation shall be subject to and in accordance with Chapter 154 of the Texas Civil Practice & Remedies Code. Agreements reached in mediation shall be reduced to writing, considered for approval by the Owner's Board of Trustees, signed by the parties if approved by the Board of Trustees, and, if signed, shall thereafter be enforceable as provided by the laws of the State of Texas."

104. The first paragraph of § 8.2.4 shall be replaced in its entirety with the following language:

"The parties agree that any claim, dispute, or other matter in controversy between them shall not be subject to mandatory arbitration. The parties may, however, mutually agree in writing to submit such claims, disputes, or matters in controversy to arbitration. Neither party may compel the other to arbitrate any claim, dispute, or matter in controversy between them."

Delete "Arbitration pursuant to Section 8.3 of this Agreement", and delete "Other: (*Specify*).". Place an "X" in the blank before "Litigation in a court of competent jurisdiction".

105. § 8.2.5 shall be added as follows:

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

106.

107. § 9.1 shall be amended in the first sentence by inserting "timely" before "payments"; inserting "for undisputed sums" after "Architect"; and putting a period after "termination"; deleting "or, at the Architect's option, cause for suspension of performance of services under this Agreement." At the beginning of the second sentence, insert "If not cured after then (10) days written notice to Owner of the delinquency."

At the end of the existing paragraph add:

"Architect shall be allowed to suspend Architect's performance of services under this Agreement for nonpayment by Owner only after the provision of ten (10) days' written notice, in accordance with Texas Government Code section 2251.051 *et seq.*"

108. § 9.2 shall be amended in the first sentence, by inserting "for more than ninety (90) consecutive days" after "Project"; and deleting the second sentence in its entirety. In the last sentence, replace "shall" with "may."



109. § 9.3 shall be amended to replace the word “cumulative” with “consecutive”.
110. § 9.4 shall be amended in the first line by replacing “seven” with “twenty-one (21)” and inserting “and opportunity to cure” after “written notice”.
111. § 9.5 shall be amended to add the following sentence at the end of the existing paragraph:
- “The Owner may also terminate this Agreement on seven days’ written notice if the budget for the Cost of the Work, prior to commencement of the Work, is exceeded by the lowest bona fide bid or negotiated proposal.”
112. § 9.6 shall be amended by inserting “together with” before “Reimbursable”; and inserting “then due” after “Expenses”, and deleting the remainder of the paragraph.
113. § 9.7 shall be amended by deleting the existing language in the section and replacing it with the following:
- “§ 9.7 The parties hereby agree that: 1) if an order for relief is entered on behalf of the Architect, pursuant to Chapter 11 of the U.S. Bankruptcy Code; 2) if any other similar order is entered under any debtor relief laws; 3) if Architect makes an assignment for the benefit of one or more of its creditors; 4) if a receiver is appointed for the benefit of its creditors; 5) if a receiver is appointed on account of its insolvency, any such event could impair or frustrate Architect’s performance. Accordingly, it is agreed that upon occurrence of any such event, Owner shall be entitled to request of Architect adequate assurance of future performance in accordance with the terms and conditions of this Agreement. Failure to comply with such request within ten (10) days of delivery of the request shall entitle Owner to terminate the Architect’s services in accordance with this Section.”
114. § 9.8 shall be amended by replacing the word “Substantial” with “Final.”
115. § 9.9 shall be amended to add a comma after “Article 7”; add an “s” to the word “Section”, and after 9.7 add “, and 11.9.”
116. § 9.10 shall be added as follows:
- “§ 9.10 This Agreement may be terminated by Owner if Architect engages in conduct that would constitute a violation of state or federal criminal law, including but not limited to, the laws prohibiting certain gifts to public servants, or engages in conduct that would constitute a violation of the Owner’s ethics or conflict of interest policies.”



117. § 10.1 shall be amended in the first sentence, by inserting “State of Texas.” after “law of the”, and deleting the remainder of the first and second sentences, and adding the following language at the end of the paragraph: “Mandatory and exclusive venue for any dispute shall be in the state district courts of Anderson County. If the blank is not filled in, mandatory and exclusive venue shall be in the county where the Owner’s administrative offices are located.”
118. § 10.2 shall be amended in the first sentence, by inserting “(or A201-2007, if used for this Project)” after “A201-2017”; and at the end of the existing paragraph adding: “as amended for the Project. As a material consideration of the making of this Agreement, the Modifications to this Agreement shall not be construed against the maker of said Modifications.”
- 119.
120. § 10.4 shall be amended as follows:
- In the first sentence delete “proposed” before “language”; and delete the second sentence in its entirety.
- In the third sentence, delete “not be required to” before “execute”; after “consents” inserting “consistent with the Architect’s standard of care pursuant to this Agreement.”; and delete the rest of the third sentence.
121. § 10.6 shall be amended by adding the following language after “Project site”:
- “, unless Architect knew, directed, or specified that, or allowed such hazardous materials be used in the Project. Architect shall promptly disclose in writing to Owner any hazardous materials specified for the Project or discovered on site, regardless of the date of discovery or the date on which Architect learns of the hazardous nature of the materials.”
122. § 10.7 shall be amended by inserting at the beginning of the section: “With prior written consent of the Owner,” and changing the capital “T”he to a lower “t”. In the first sentence, after “Architect” replace “shall have the right to” with “may”.
- At the end of the second sentence adding: “, but may not photograph students without prior written parental consent.”.
- Delete the fourth sentence in its entirety, and replace it with “Owner provides notice that confidential and proprietary information shall include, but shall not be limited to, all items listed in Section 10.8.”



123. § 10.8 shall be amended to delete “as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement.” and replacing it with the following language:

“to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information. The Architect shall maintain the confidentiality of information specifically designated as confidential by the Owner, unless withholding such information would violate the law, create the risk of significant harm to the public, or prevent the Architect from establishing a claim or defense in an adjudicatory proceeding. The Architect shall require of the Architect’s consultants similar written agreements to maintain the confidentiality of information specifically designated as confidential by the Owner. Owner herein designates the following as confidential information: security measures; security access codes; pending real estate purchases, exchange, lease or value; any information pertaining to litigation; student likenesses and student record information; employee information; and any other information deemed confidential by law. As to Owner, the parties acknowledge that, as a public entity in the State of Texas, Owner is subject to, and must comply with, the provisions of the Texas Public Information Act, Texas Government Code Chapter 552 *et seq.* and the Texas Open Meetings Act, Texas Government Code, Chapter 551 *et. seq.*”

124. § 10.8.1 shall be amended in the second line of the first sentence by deleting “arbitrator’s order,”.

125. § 10.10 shall be added as follows:

“§ 10.10 NO LIENS. The parties agree that no architect, engineer, mechanic, contractor, materialman, artisan, laborer or subcontractor, whether skilled or unskilled, shall ever, in any manner have, claim or acquire any lien upon the Project of whatever nature or kind so erected or to be erected by virtue of this Agreement, nor upon any of the land upon which said improvements are so erected, built, or situated, such property being public property belonging to a political subdivision of the State of Texas, or upon any funds of Owner.”

126. § 10.11 shall be added as follows:

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

127. § 10.12 shall be added as follows:



“§ 10.12 CONFLICT OF DOCUMENTS. To the extent of conflicts between the Contract Documents, amendments shall prevail over original forms.”

128. § 10.13 shall be added as follows:

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

129. § 10.14 shall be added as follows:

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

130. § 10.15 shall be added as follows:

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

131. 10.16 shall be added as follows:

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

132. § 10.17 shall be added as follows:



“§ 10.17 By executing this Agreement, Architect verifies that Architect does not boycott Israel or any Israeli-controlled territory, and will not boycott Israel or any Israeli-controlled territory during the term of this Agreement.”

133. § 10.18 shall be added as follows:

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

134. § 10.19 shall be added as follows:

“§ 10.19 CRIMINAL HISTORY RECORD CHECKS

§ 10.19.1 Architect shall obtain all criminal history information required by Texas Education Code Chapter 22 regarding its “covered employees”, as defined below. If Architect is required by Chapter 22 to obtain the information from the Fingerprint-based Applicant Clearinghouse of Texas, then Architect will also subscribe to that person’s criminal history record information. Before beginning any Work on the Project, Architect will provide written certification to the District that Architect has complied with the statutory requirements as of that date. Upon request by Owner, Architect will provide, in writing: updated certifications and the names and any other requested information regarding covered employees, so that the Owner may obtain criminal history recommended information on the covered employees. Architect shall assume all expenses associated with obtaining criminal history record information.

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

§ 10.19.3 For the purposes of this Section, “covered employees” means employees, agents or subcontractors of Architect or any of Architect’s consultants who has or will have continuing duties related to the services to be performed on Owner’s Project and has or will have direct contact with Owner’s students. The Owner will decide what



constitutes direct contact with Owner's students. "Disqualifying criminal history" means any conviction or other criminal history information designated by the Owner, or one of the following offenses, if at the time of the offense, the victim was under 18 years of age or enrolled in a public school: a felony offense under Texas Penal Code Title 5 Offenses Against Persons; an offense for which a defendant is required to register as a sex offender under Texas Code of Criminal Procedure Chapter 62; or an equivalent offense under federal law or the laws of another state.

§ 10.19.4 Any subcontractor entity, as defined by Texas Education Code § 22.08341(a)(3), shall be required by the terms of their contract with Architect or any other contracting entity (as defined in Texas Education Code §22.08341(a)(1)), and by Texas law, to obtain the required criminal history record information on their employees, agents, or applicants, to give required certifications to Owner and the contracting entities, and to obtain required certifications from the subcontracting entity's subcontractors.

§ 10.19.5 On request of Owner, Architect shall provide all necessary identifying information to allow Owner to obtain criminal history record information for covered employees of the Contractor and all subcontracting entities. Architect shall update this list on Owner's request."

135. § 11.1 shall be amended in the first sentence, after "Architect" by inserting "for all undisputed payments", and deleting "follows:" and replacing it with: "set forth below. To the extent Owner disputes any payment allegedly due, Owner shall notify Architect that a dispute exists, shall list the specific reason for nonpayment, and shall give Architect an opportunity to cure the noncompliance or offer compensation for noncompliance that cannot be cured, in accordance with Texas Government Code Section 2251.051 (c) and (d). Owner shall further have the right to withhold payments as specified in Sections 6.8 and 11.10.2.2 of this Agreement."

Following subsection ".2", insert the following paragraphs:

"For renovation work, compensation for all Basic Services shall be based on _____ percent (___%) of the Cost of the Work, as detailed in Section 6.1 herein; When compensation is based on a percentage of the Cost of the Work and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project accepted by the Owner shall be payable in accordance with Section 6.1 herein;

Compensation shall be paid based on the percentage of the services actually completed by Architect. Progress payments for services in each phase for services completed shall total the percentages applicable to each phase of Architect's services in 11.5."

136. § 11.2 shall be deleted in its entirety.



137. § 11.3 shall be amended by filling in the box below the section: “As agreed between the parties in writing, executed prior to the Architect beginning performance of the Additional Services.”
138. § 11.4 shall be amended by deleting “Supplemental and” before “Additional Services”; deleting “11.2 or” before “11.3”; deleting “plus __ percent (___%)” after “Architect”; and deleting “*Supplemental or*” before “*Additional Services*”.

139. § 11.5 shall be amended by filling in the chart as follows:

Schematic Design Phase	ten percent (10%)
Design Development Phase	twenty percent (20%)
Construction Documents Phase	thirty-five percent (35%)
Procurement Phase	five percent (5%)
<u>Construction Phase</u>	<u>thirty percent (30%)</u>
Total Basic Compensation	one hundred percent (100%)

140. § 11.6.1 shall be deleted in its entirety.
141. § 11.7 shall be amended by deleting the second sentence in its entirety.
142. § 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 shall be amended as follows:

Subsections .1 and .2 shall be deleted in their entirety.

Subsection .4: Insert “and,” before “reproductions”; and at the end of the subsection add: “of Construction Documents, other than those required to be provided by Architect under this Agreement”

Subsection .5: At the end of the existing subsection, insert “of Construction Documents, other than those required to be provided by Architect under this Agreement”

Subsection .6: Insert “in writing” after “advance”;

Subsection .7: Delete “or required for the” and replace it with “after Architect’s provision of one artist’s rendering and one model or mock-up of each building in the”;

Subsection .8, .9, .10 and .12 shall be deleted in their entirety.



143. § 11.8.2 shall be amended in the first sentence by inserting “only” before the first “the”, and “actual” after the first “the”; deleting the language after “consultants”; and putting a period after “consultants.”

144. § 11.9 “Architect’s Insurance” shall be amended by changing the title to “Compensation For Use Of Architect’s Instruments Of Service”; and deleting the original section in its entirety and replacing it with the following language:

“The parties agree that Architect’s compensation for Basic Services includes all licensing fees for Owner’s use of the Construction Documents, including use after termination of this Agreement.”

145. § 11.10.1.1 shall be deleted in its entirety.

146. § 11.10.2.1 shall amended as follows:

In the second sentence insert “for undisputed amounts” after “Payments”; delete “upon presentation of” and replace it with “within thirty (30) days after receipt of”; insert “to Owner’s designated representative” at the end of the second sentence.

In the third sentence, at the beginning of the sentence insert “Undisputed” and change “Amounts” to a lower case “a”; insert “more than” after “unpaid”; insert “Owner’s receipt of” before “the invoice”; delete “date” after “invoice”; delete the original language after “entered below” and replace it with “specified by Texas Government Code § 2251.025 or its successor.”

In the parentheses delete “Insert rate of monthly or annual interest agreed upon” and replace it with “NOTE: Per Texas Government Code Section 2251.025, these blanks should be filled in with “30” if the school board meets more often than once per month and with “45” if the school board meets once per month.)”, and delete the “%” in the gray box below the paragraph.

147. § 11.10.2.2 shall be amended as follows:

Replace “shall not” with “may”; after “withhold” insert “payments after appropriate notice as to the reasons for the withholding, to”; delete “amounts from”; change “Architect’s” to “Architect”; delete “compensation to impose a penalty or liquidated” and insert “for the purposes of reimbursing Owner for any” before “damages”; insert “caused by” and delete “on” before “the Architect,”. Delete all of the language after “the Architect,” and replace it with: “for changes in the Cost of the Work which result in Architect’s compensation being reduced, for Architect’s failure to comply with the provisions of any part of this Agreement. if a claim has been filed against Architect, or to



secure performance of Architect's services and obligations under any part of this Agreement."

148. § 11.10.2.3 shall be amended at the end of the paragraph by deleting ". available to the Owner at mutually convenient times." and replacing it with "provided to the Owner upon presentation of Architect's progress payment applications."

149. § 11.11 shall be added as follows:

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

150. ARTICLE 12 SPECIAL TERMS AND CONDITIONS

This section shall be amended by deleting "(Include other terms and conditions applicable to this Agreement.)"

151. § 12.3 shall be added as follows:

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



hold Owner harmless for any loss, damage, liability, or expense on account of damaged property or injuries, including death to any person, which may arise out of or may be caused by any act of negligence or breach of obligation under this Agreement by Owner or Owner's employees or agents, except Architect."

152. § 12.4 shall be added as follows:

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

153. § 12.5 shall be added as follows:

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

154. § 12.6 shall be added as follows:

"§ 12.6 It is understood and agreed that Article 12 above is subject to, and expressly limited by, the terms and conditions of Texas Civ. Prac. & Rem. Code Ann. Sec. 130.001 to 130.005, as amended."

155. § 12.7 shall be added as follows:

"§ 12.7 RECORDS RETENTION. Architect shall keep all accounting and construction records on the Project for a period of at least twelve years after Final Completion of the Project, and thereafter shall offer the records to the Owner in writing, in order for Owner to comply with its records retention requirements, per the Texas Government Code section 441.158 et seq. and the Texas Library and Archives Commission's Local Schedule GR (Government Records). In the alternative, Architect may provide such records to Owner for retention at any time if Owner agrees in writing to accept such records in lieu of Architect's retention under this Section."

156. § 12.8 shall be added as follows:

"§ 12.8 COMPLAINTS. The Texas Board of Architectural Examiner has jurisdiction over complaints regarding the professional practices of persons registered as architects in Texas under the Architects Registration Law. Texas Occupations Code Chapter 1051. The Texas Board of Architectural Examiners can be reached at P. O. Box 12337, Austin, Texas



78711-2337 or 333 Guadalupe, Suite 2-350, Austin, Texas 78701-3942, by phone at (512) 305-9000, by fax at (512) 305-8900, or on the web at <http://tbae.state.tx.us>.”

157. § 13.1 shall be amended in the first sentence after “written or oral”, by inserting “unless specifically provided for otherwise in this Agreement, as amended.” In the second sentence, after “written instrument” inserting “approved by the Owner’s Board of Trustees and”; adding an “s” to “Owner”; and inserting “designated representative” before “and Architect”.

158. § 13.2 shall be amended as follows:

- .1 at the end of the subsection, add “, as amended for this Project;”
- .2 shall be deleted in its entirety.

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

OWNER (*Signature*)

ARCHITECT (*Signature*)

Printed Name

Printed Name and Title

Dr. Don Rice
President, Board of Trustees
Westwood Independent School District

4. Future agenda items and requests
5. **ADJOURNMENT**

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

The notice for this meeting was posted in compliance with the Texas Open Meeting Act on:
3:30 pm, August 24, 2020

For the Board of Trustees