



Midwestern State University Request for Qualifications

RFQ# 735-17-6199

Request for Qualifications – Architectural Services MOFFETT LIBRARY RENOVATION PROJECT

General:

Midwestern State University (MSU) solicits responses to the Request of Qualifications (RFQ) for firms interested in providing design services and project management for the design of a major renovation of Moffett Library.

Project Background

MSU is located in Wichita Falls, Texas and occupies approximately 179 acres in the heart of the city. The main campus is 100 acres with an additional 79 acres located south of Midwestern Parkway. MSU's current student headcount is ~6,100 with an on-campus student resident population of approximately 1,700 students.

Moffett Library (94k GSF) was last renovated in 1984 and is very outdated by modern standards. A master planning study was performed in 2014 and serves as the basis for significant improvements to the building. An updated version of this plan is in process and will be provided to the selected firm upon completion by late summer 2017. The new design must include learning commons areas, innovative ideas, and cutting edge library design trends to transform the building into an information/learning commons area. Additionally, there are code upgrades for TAS/ADA and fire, as well as infrastructure improvements which need to be addressed as part of a renovation. The renovation of this building will occur while the building is occupied.

With the release of tuition revenue bonds by the state legislature in 2015, MSU is able to pursue major renovations to Moffett Library.

Project Objectives

The objectives of the Moffett Library Renovation Project are as follows:

- Review and update the 2014 master planning study for Moffett Library, including coordination with other campus master planning efforts. Based on the results of the

review, provide updated facilities, infrastructure, and space recommendations for Moffett Library.

- Generate designs for the renovation of Moffett Library.
- Assist in the construction oversight of the Moffett Library Renovation.
- The design will not include any parking facilities.
- LEED certification is not an objective of the project, although incorporation of select LEED initiatives in the overall project is desired.

Statistics

Moffett Library's total project budget is \$7,100,000 and includes ALL costs associated with design, temporary facilities and its corresponding utility requirements, construction, utility modifications, construction oversight by MSU, furniture, equipment, moving needs, and all soft costs. Expected fee for all design services is 6-8% of the cost construction limit. Moffett Library's renovations shall begin immediately upon completion of the programming review and design, although they must be phased (one floor at a time?) since the building will remain occupied throughout the construction process.

Scope of Services

MSU invites architectural firms to submit qualification statements regarding supplying the detailed design and construction oversight for Moffett Library per the following:

1. Review the 2014 Moffett Library programming study and the updated version yet to be released.
2. Develop relocation and staging plans, alternative temporary facilities, and realistic construction schedules for the renovation of Moffett Library while it is occupied.
3. Provide design services to include preliminary design, design development, and working drawings necessary for the major renovation of Moffett Library per the description identified in the Project Objectives section of this document.
4. Renovations to Moffett Library shall address infrastructure needs such as upgrades/replacement of HVAC equipment to meet modern International Energy Conservation Code and ASHRAE standards, and improvements to lighting and lighting controls, and all utilities to meet State Energy code.
5. Develop project estimates and budgets based on the project design for the Moffett Library Renovation such as at Schematic Design, 35% Design Development, 75% Design Development, 100% Design Development, 50% Construction Development, and 100% Construction Development. Estimates at each phase of design shall be reconciled with the construction manager at-risk's estimate and any estimates the Owner provides from a third party; continuation of the design is contingent on all estimates being reconciled and being less than the project's budget.
6. For Moffett Library, develop the building design, specifications, and all other construction documents for the bid process while working with the university's Purchasing Department to ensure compliance with state purchasing requirements. The university will most likely use the construction manager at-risk delivery method for construction on both of these projects. The designs must meet all applicable codes and TAS requirements.
7. The successful firm will provide project management and inspection services up through final acceptance for the Moffett Library Renovation. General contract

- administration shall include submittal review, responses to RFI's, change order issuance and frequent site inspections during construction for both projects.
8. Information Systems technology requirements and design for this project are included in the architectural firm's scope.
 9. Furniture layouts and the identification of specific furniture items shall be defined by the architect.
 10. Audio-visual requirements and design for the project are included in the architectural firm's scope.
 11. Any other design requirements necessary for the completion of the building and requiring additional subcontractor design efforts shall be included in the architectural firm's scope.
 12. Provide electronic AutoCAD drawing files for the as-built structure, not just PDF files.

Respondent Submission:

Midwestern State University will not be responsible for any expenses relating to response development, documentation, or interview/presentation that may result from this solicitation. Failure to provide the following information shall result in the disqualification of your response.

- The respondent shall submit an electronic response with the maximum length no more than 35 pages.
- Response information submitted shall correspond to the sections listed below and shall be in the following order:
 1. Company name, address, phone number, legal status (corporation, partnership, etc.)
 2. Name, phone number and email address of person Midwestern State University should contact with any questions.
 3. Name and title of person submitting solicitation.
 4. Documentation of vendor history, including capabilities in the area of services to be provided, size and scope of operation. This shall include similar experience, including scope of work that demonstrates an expertise in providing the required services, and number of years in business.
 5. Company licenses required by the Texas Board of Architectural Examiners.
- The respondent shall provide at least three references of comparable renovation projects of occupied facilities which preferably have been constructed within the last 5-7 years. Project completion dates and total project costs should be clearly identified on all referenced projects.
- The respondent shall include only profiles of the staff assigned to this project, and preferably with project experience from the three references noted in the previous bullet. Expected percent of time committed to this project shall be included for each staff member identified in the profiles.
- The respondent shall document a time frame when vendor will be ready to provide the required services at Midwestern State University. State the actual number of days that the vendor will be available to start the design services and project management. For example, "Upon award of contract our company can begin within (indicate number) days or upon issuance of contract."
- Ensure the proposal is signed by the owner, principal partner, or chief executive officer.

Selection Procedure:

Following receipt and evaluation of responses to the RFQ, a firm or firms will be selected for further consideration. Responses to the RFQ will be evaluated by an appointed committee based on technical qualifications and the firm's ability to provide the services. Firms may be requested to make presentations if deemed necessary. Negotiations will begin with the firm determined to be most qualified for the project.

Proposal Evaluation

The following criteria will be used to evaluate all submissions. Proposals must be organized and tabbed in accordance with the below evaluation criteria:

No.	Criteria	Weight
1	Successful completion of recent (<5-7 yrs.) occupied renovation projects with <u>similar complexity</u> and style. Firm should highlight particular areas of expertise.	30%
2	Profiles of the principals' and staffs' directly assigned to this project identifying their professional and technical competence and experience as it relates to projects of similar complexity and style.	30%
3	Examples of successful (a) value engineering initiatives for library and information technology projects, and (b) renovations of occupied facilities.	10%
4	Past performance in terms of quality work and compliance with performance schedules.	10%
5	Prior favorable service to higher education library and information technology projects; experience with Texas higher ed libraries a plus.	10%
6	Evidence that the firm is currently licensed/registered to provide services in the State of Texas.	Mandatory
7	Demonstrated knowledge of local building codes.	Mandatory
8	Certified statement that the firm is not debarred, suspended, or otherwise prohibited from professional practice by any Federal, State, or Local agency.	Mandatory
9	Familiarity with sustainability and efficiency best practices.	5%
10	Completeness and general response to this Request for Qualifications.	5%

Submission Deadline:

The qualification information is to be submitted by 2:00 pm CST, **Thursday, May 25, 2017**. The university may, at its sole discretion, request oral presentations by firms selected for final consideration. Qualification Statements are to be no more than 35 pages long, and E-mailed to:

Stephen Shelley
Director of Purchasing/Contract Management
Midwestern State University
3410 Taft Blvd, Daniel Building
Wichita Falls, Texas 76308-2099
Phone: (940) 397-4110
stephen.shelley@mwsu.edu

Late statements will not be accepted. Each firm is responsible for insuring responses to the RFQ have been delivered by date, time and location specified.

Questions related to the scope of services, submittal of Qualification Statements, or the solicitation process shall be directed no later than May 15, 2017 to:

Stephen Shelley
Director of Purchasing/Contract Management
Midwestern State University
3410 Taft Bldg, Daniel Building
Wichita Falls, TX 76308-2099
Phone: (940) 397-4110
stephen.shelley@mwsu.edu

A sample of the contract is attached for review. Questions concerning this document should be handled during this process.

VENDOR REFERENCES

Please list three (3) references of current customers who can verify the quality of service your company provides. The University prefers customers of similar size and scope of work to this proposal. ***THIS FORM MUST BE RETURNED WITH YOUR PROPOSAL.***

REFERENCE ONE

Government/Company Name: _____

Address: _____

Contact Person and Title: _____

Phone: _____ Fax: _____

Contract Period: _____ Scope of Work: _____

REFERENCE TWO

Government/Company Name: _____

Address: _____

Contact Person and Title: _____

Phone: _____ Fax: _____

Contract Period: _____ Scope of Work: _____

REFERENCE THREE

Government/Company Name: _____

Address: _____

Contact Person and Title: _____

Phone: _____ Fax: _____

Contract Period: _____ Scope of Work: _____

AFFIDAVIT

The undersigned certifies that the statements contained in this proposal have been carefully checked and are submitted as correct and final and if statement is accepted (within 90 days unless otherwise noted by vendor), agrees to furnish any and/or all items upon which statements are offered, at the price(s) and upon the conditions contained in the Specifications.

STATE OF _____

COUNTY OF _____

BEFORE ME, the undersigned authority, a Notary Public in and for the State of _____,

on this day personally appeared _____

who, after having first been duly sworn, upon oath did depose and say;

That the foregoing proposal submitted by _____

hereinafter called "Bidder" is the duly authorized agent of said company and that the person signing said proposal has been duly authorized to execute the same. Bidder affirms that they are duly authorized to execute this contract, that this company, corporation, firm, partnership or individual has not prepared this bid in collusion with any other Bidder, and that the contents of this bid as to prices, terms or conditions of said bid have not been communicated by the undersigned nor by any employee or agent to any other person engaged in this type of business prior to the official opening of this bid.

Name and Address of Bidder:

Telephone Number:

Signature

Name: _____

Title: _____

SWORN TO AND SUBSCRIBED BEFORE ME THIS _____ day of _____,
20 _____.

Notary Public in and for the State of _____.

**AGREEMENT
BETWEEN OWNER AND PROJECT ARCHITECT**

This Agreement is made as of _____, 20____ (the "Effective Date")

By and between

The Owner: The Board of Regents of Midwestern State University
3410 Taft Blvd.
Wichita Falls, Texas 76308

and **Project Architect:** _____

Texas Tax Account No.: _____

Project: _____

Project/Contract Number: _____

Project Delivery Method: Construction Manager at Risk

The Owner and the Project Architect agree as follows:

This form of agreement is for Architectural services on projects that use an Owner/Architect/Contractor - CM delivery method (e.g. Competitive Sealed Proposal or Construction Manager at Risk). It has been prepared for Midwestern State University for use on MSU projects and its legal terms should not be altered without the approval of the Office of General Counsel.

Use this form for all appropriate MSU projects starting May 2012.

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Article 1 Project Architect's Services and Responsibilities

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

1.1 Basic Services

1.1.1 **Basic Services.** The Project Architect's Basic Services included all disciplines identified in Article 14 and all related usual and customary design, consultant, and other services necessary and reasonably inferable to complete the Project, or any phase of the Project, in accordance with the Owner's requirements and the terms of this Agreement.

1.1.2 The Facilities Program (see Article 2) describes the intended project scope and character along with the anticipated Project Schedule and the Preliminary Project Cost. It is the Project Architect's responsibility to review and understand the requirements of the Facilities Program and to perform his professional services so as to achieve those objectives.

1.1.3 The Construction Cost Limitation for this Project is specified in Article 14. The Project Architect is responsible with the cooperation of the Owner to manage the design of the Project so that its construction does not exceed the Construction Cost Limitation.

1.1.4 ~~The Owner may require the Project Architect to provide services for the Project in multiple stages or parts identified as Construction Contract Stages (CCS). Each CCS shall have a unique Sub-Construction Cost Limitation (SCCL). The Project Architect is responsible for managing the design of each CCS so that its construction does not exceed the SCCL. The Project Architect is responsible for managing the design of the Project so that sum of the SCCLs does not exceed the Construction Cost Limitation.~~

1.1.5 The Project Architect shall manage the design of the Project to achieve the Facilities Program objectives of scope and cost through completion and acceptance of Construction Documents phase. The Project Architect shall advise the Owner of any adjustments to the scope or quality of the Project necessary to comply with the Construction Cost Limitation during design development as part of Basic Services.

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

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

1.1.8 The Project Architect agrees to allocate work to consultants that are historically underutilized businesses in accordance with the Policy on Utilization – Historically Underutilized Businesses, attached as Exhibit H. No changes to the HUB Subcontracting Plan may be made unless

approved in writing by the Owner. While this Agreement is in effect and until the expiration of one year after final completion, the Owner may require information from the Project Architect, and may conduct audits, to assure that the Plan is followed.

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

1.1.10 The Project Architect shall perform its services in accordance with the Owner's furnished construction standards and project description.

1.1.11 The Project Architect shall design the Project in accordance with the approved Campus Master Plan, or as directed by the owner's representatives.

1.1.12 Basic design services shall include incorporation of the provisions of the Energy Conservation Design Standard for New State Buildings as administered by the State Energy Conservation Office, State Comptroller's Office of the State of Texas. Project Architect shall provide the Owner with a Statement of Compliance and associated compliance documentation as required.

1.1.13 ~~The Project Architect, as part of Basic Services, shall assist with and attend with Owner representatives an open meeting to be held pursuant to Section 2166.403 of the Texas Government Code, to verify the economic feasibility of incorporating alternative energy devices for space heating, cooling, water heating, electrical loads, and interior lighting in the building's design and proposed energy system, if requested by Owner. At a minimum, Project Architect shall provide an economic evaluation for the potential of renewable energy applications pursuant to legislative requirements. Guidelines are available from the State Energy Conservation Office, State Comptroller's Office.~~

1.1.14 Basic design services shall include incorporation of the provisions of the Xeriscape Landscaping design requirements as adopted by the State of Texas Building & Procurement Division for Xeriscape landscaping on new construction projects, pursuant to Section 2166.404 *Texas Government Code*. Project Architect shall provide site analysis and design to incorporate these provisions. A summary of the project requirements meeting these guidelines shall also be provided for the Design Development submittal package.

1.1.15 The Project Architect, as part of Basic Services, shall ~~engage a recognized and specialized construction cost estimating consultant acceptable to the Owner to prepare detailed Construction Cost Estimates of the Project in a form acceptable to the Owner following the Construction Specifications Institute (CSI) format. Updated Estimates shall be included with the plans and specifications submitted for review at completion of the Design Development phase and at the stages of completion of the Construction Documents required in Article 14. If the Construction Cost Estimate exceeds the Construction Cost Limitation at any time, the Owner will determine whether to increase the Construction Cost Limitation or require the Project Architect to revise the Project scope or quality to comply with the Construction Cost Limitation at no additional cost to Owner. Reductions in Project scope or quality are subject to Owner's review and approval. If the Construction Cost Estimate is below the Construction Cost Limitation, the Owner and Project Architect shall mutually agree on changes to the project scope or the Construction Cost Limitation.~~

1.1.16 The Project Architect shall submit documents to the Owner for review at completion of the Schematic Design and Design Development phases and at the stages of completion of the Construction Documents as described in Article 14. The Project Architect shall incorporate into the documents such corrections and amendments as the Owner requests, unless the Architect objects in

writing and receives the Owner's consent not to make the changes. The Project Architect will be responsible for any damages incurred by the Owner that are caused by Project Architect's failure to incorporate requested corrections and amendments to the documents.

~~1.1.17 Project Architect shall provide a review and comment form acceptable to the Owner for Owner's use during document review. Owner will provide its document review comments to Project Architect on the form and the Project Architect shall provide a detailed written response to each of the Owner's review comments indicating where and how they have been addressed in the design documents. At each required document submittal stage, the Project Architect shall include the completed comments form from the preceding submittal along with a cover letter signed by a firm principal affirming that the previous review comments have been fully addressed in the current submittal. Failure to respond to the previous comments or to provide the written affirmation may result in reduction or rejection of the Project Architect's then current Statement for Architectural/Engineering Services. Owner's approval of the revised drawing shall not be deemed to be an approval of any unlisted changes and any costs or expense for any Project Architect's additional services subsequently incurred for such unlisted changes shall be borne or reimbursed by Project Architect.~~

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

1.1.19 Project Architect agrees and acknowledges that Owner is entering into this Agreement in reliance on Project Architect's represented professional abilities with respect to performing Project Architect's services, duties, and obligations under this Agreement. Project Architect agrees to use Project Architect's best professional efforts, skill, judgment, and abilities in performing Project Architect's services. Project Architect shall perform its Services diligently and shall endeavor to further the interest of the Owner in accordance with Owner's requirements and procedures. Project Architect agrees to use its best efforts to perform its Services in accordance with the usual and customary professional standards of care, skill and diligence consistent with good architectural practices for architectural firms in Texas that provide professional design services for projects that are similar in size, scope, and budget to the Project, and (ii) in compliance with all applicable national, federal, state, municipal, and State of Texas laws, regulations, codes, ordinances, orders and with those of any other body having jurisdiction. There are no obligations, commitments, or impediments of any kind known to the Project Architect that will limit or prevent performance by Project Architect of its services. Project Architect hereby agrees to correct, at its own cost, any of its Services, and the services of its consultants, that do not meet the standard of care.

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

1.1.21 Project Architect's services shall be reasonably accurate and free from any material errors or omissions. Neither acceptance nor approval of Project Architect's services by the Owner shall relieve Project Architect of any of its professional duties or release it from any liability, it being understood that

Owner is, at all times, relying upon Project Architect for its skill and knowledge in performing Project Architect's services. Owner shall have the right to reject any of Project Architect's services because of any fault or defect in the Project due to any material errors or omissions in the plans, drawings, specifications, and other materials prepared by Project Architect or its consultants. Upon notice of any such errors or omissions, Project Architect shall promptly provide any and all services necessary to correct or remedy them at no additional cost to the Owner. Project Architect's obligation to correct its errors and omissions is in addition to, and not in substitution for, any other remedy for defective services which Owner may have at law or in equity, or both.

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

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

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

1.1.25 Project Architect shall make reasonable efforts to investigate any documents provided by the Owner and the visible existing conditions at the Project site to identify existing systems and construction which must be modified to accommodate the Project Architect's design for the Project and the construction of the Project. Project Architect shall identify to Owner any discrepancies between the documents and visible conditions and shall consult with the Owner on any special measures, services or further investigations required for Project Architect to perform its services free from material errors and omissions and to properly coordinate with existing systems and construction. This investigation shall be accomplished by registered, professional architects and engineers, as appropriate.

1.1.26 The Project Architect, when requested by the Owner, shall coordinate the purchase of additional photographic materials for bidding or proposal purposes or when additional review sets, in excess of those required by Article 1.4, is required by the Owner. The Project Architect shall present a Tax Exemption Certificate to the vendor and coordinate the Owner's requirements for type, quantity and invoice billing. If requested, the Project Architect will account to the Owner for all additional materials ordered by the Owner through the A/E as the Owner's agent and shall distinguish between those materials ordered on behalf of the Owner without sales tax and any other copies thereof that Project Architect, or others, may order and pay for which includes sales tax, on its own or their behalf. Forward to the Owner the original vendor's invoice for materials purchased by the Owner and delivered to the A/E as the Owner's agent.

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

1.1.28 Insurance Coverage. The Project Architect shall carry such professional liability/errors and omissions insurance, covering the services provided under this Agreement and other coverage's as

further described, acceptable to and approved by the Owner. The fees for such insurance will be at the expense of the Project Architect. The insurance policy shall remain in force for a period of one (1) year beyond the final completion date. A Certificate of Insurance indicating the expiration date, and existence, of the Project Architect's insurance coverage's is required prior to commencement or continuation of performance of the services under this Agreement. Each request for payment by the Architect shall include the expiration date of the insurance. Project Architect shall deliver to Owner replacement certificates not less than thirty (30) days prior to the expiration of any such insurance. If, however, Project Architect fails to pay any of the renewal premiums for the expiring policies, Owner shall have the right (but not the obligation) to make such payments and set off the amount thereof against the next payment coming due to Project Architect under this Agreement.

- a) A Certificate of Insurance is required with a minimum limit of \$1,000,000 each claim and \$1,000,000 aggregate. The Certificate shall indicate the expiration date of the Project Architect's professional liability and errors and omissions insurance. The Certificate is to identify the specific name of the project according to the terms of this Agreement and identify the Board of Regents of Midwestern State University as the project's Owner.
- b) On Site Insurance: For services performed on Owner's premises, the Project Architect shall furnish to Owner Certificates of Insurance as set forth below prior to the commencement of any work hereunder. shall maintain such coverage during the full term of the Agreement.

Worker's Compensation	Statutory limits
Employer's Liability	\$500,000 each
Bodily Injury by Accident	\$1,000,000 each accident
Bodily Injury by Disease	\$1,000,000 policy limit
Bodily Injury by Disease	\$1,000,000 each employee
Commercial General Liability	\$1,000,000 each occurrence \$2,000,000 aggregate
Business Auto Liability Combined Single Limit	\$1,000,000 each occurrence

- c) Notice of Cancellation: Required insurance shall not be cancelable without thirty (30) days' prior written notice to Owner.

1.1.29 Project Architect shall include the Owner as an additional insured on the General Liability policy, and the Worker's Compensation policy shall include a waiver of subrogation in favor of the Owner.

1.2 Schematic Design Phase

1.2.1 Based on the mutually agreed upon Facilities Program, Construction Cost Limitation and the Project Schedule, the Project Architect shall prepare sufficient alternative approaches to design and construction of the Project to satisfy Owner's requirements and shall, at completion of this phase, submit Schematic Design Documents in accordance with Owner's Design Guidelines and any additional requirements set forth in Article 14.

1.2.2 Project Architect shall provide all services necessary to perform the services of this Phase (preparation of Schematic Design Documents) including, without limitation, unless otherwise approved by Owner, the preparation and prompt delivery of all items specified in this document.

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

1.2.4 The Project Architect shall furnish and deliver to the Owner the number of complete printed sets of Schematic Design documents as enumerated in Article 14.

1.2.5 The Project Architect shall direct the preparation of a detailed construction cost estimate as described in Sub-paragraph 1.1.15 to confirm compliance with the Construction Cost Limitation and include it with the completed Schematic Design Documents. The Project Architect shall advise the Owner of any adjustments to the project scope necessary to align the cost estimate and the project budget with the established Construction Cost Limitation and revise the Schematic Design Documents as may be required.

1.2.6 Before proceeding into the Design Development Phase, the Project Architect shall obtain Owner's written acceptance of the Schematic Design documents and approval of the Project Architect's preliminary construction cost estimate and schedule.

1.3 Design Development Phase

1.3.1 Based on the approved Schematic Design Documents and any adjustments to the Facilities Program or Construction Cost Limitation authorized by the Owner, the Project Architect shall prepare, for approval by the Owner, Design Development Documents in accordance with Owner's written requirements to further define and finalize the size and character of the Project in accordance with Owner's Design Guidelines and any additional requirements set forth in Article 14.

1.3.2 The Project Architect shall furnish and deliver to the Owner the number of complete printed sets of Design Development documents as enumerated in Article 14.

1.3.3 The Project Architect shall direct the preparation of a detailed construction cost estimate as described in Sub-paragraph 1.1.15 to confirm compliance with the Construction Cost Limitation and include it with the completed Design Development Documents. The Project Architect shall advise the Owner of any adjustments to the project scope necessary to align the cost estimate and the project budget with the established Construction Cost Limitation and revise the Design Development Documents as may be required.

1.3.4 Before proceeding into the Construction Document Phase, the Project Architect shall obtain Owner's written acceptance of the Design Development documents and approval of the mutually established Construction Cost Limitation and schedule.

1.3.5 The Project Architect shall prepare presentation materials as defined in this document at completion of Design Development and if so requested shall present same to the Board of Regents at a regular meeting when scheduled within the state.

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

1.3.7 Project Architect shall assist the Owner with seeking approval of the project by the Texas Higher Education Coordinating Board (THECB). Such assistance shall include (i) the preparation of a listing of the rooms, room type and usage codes, and square footages in the project, and (ii) the preparation of project cost information, in accordance with THECB Guidelines. This information shall be

provided at the completion of the Design Development Phase when requested by the Owner. The listing of rooms, room type and usage codes, and square footages shall then be updated to reflect any changes occurring during construction and provided to the Owner at Substantial Completion. ~~Project Architect shall provide this updated information on the "Project Scope Summary Questionnaire Form".~~

1.4 Construction Document Phase

1.4.1 Based on the approved Design Development Documents and any further adjustments in the scope or quality of the Project or in the Project Construction Cost Limitation authorized by the Owner, the Project Architect shall prepare, for approval by the Owner, Construction Documents consisting of Drawings and Specifications in accordance with Owner's written requirements setting forth in detail the requirements for construction of the Project, including, without limitation, this document and any additional requirements contained in Article 14. The plans, drawings and specifications for the entire Project shall be prepared so that the construction of the building and related facilities, including built-in permanent fixtures and equipment, will cost no more than the Construction Cost Limitation established by Owner. The Project Architect is responsible for managing the design to stay within the Construction Cost Limitation. The Project Architect shall advise the Owner on matters such as construction phasing and scheduling, bid or proposal alternates, special cash allowances, liquidated damages, the construction contract time period, and other construction issues appropriate for the project.

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

1.4.3 The Project Architect shall ensure coordination and inclusion of sequence of operations for all operable systems in the facility-

1.4.4 The Project Architect, at the Project Architect's expense, at each stage of review described in Article 14, shall furnish and deliver to the Owner the number of complete printed copies of all plans, drawings and specifications of every character made or furnished in connection with the Work, as enumerated in Article 14, which copies shall become the property of the Owner. The Project Architect shall incorporate into the plans, drawings and specifications such changes as are necessary to satisfy the Owner's written review comments or published meeting minutes, any of which may be appealed in writing for good cause.

1.4.5 The Project Architect shall pay for the reproduction of all plans, specifications and other documents for use by the Project Architect and its consultants and all documents reproduced for the various completion stage reviews (as set forth in Article 14) by the Owner prior to the reproduction of bidding or proposal documents. All other reproduction costs shall be borne by the Owner, provided that all invoices for such reproduction work are billed directly to the Owner, free of state sales taxes, and identified by the Project Architect as to the project name, number and institution. However, addenda documents issued after the bid documents are reproduced, except for changes generated by Owner, shall be supplied at the Project Architect's expense.

1.4.6 The Project Architect shall direct the preparation of a detailed construction cost estimate as described in Sub-paragraph 1.1.15 to confirm compliance with the Construction Cost Limitation and include it with the completed Construction Documents. The Project Architect shall advise the Owner of any adjustments to the project scope necessary to align the cost estimate and the project budget with the established Construction Cost Limitation and revise the Construction Documents as may be required.

1.4.7 Construction document drawings shall be produced on a CADD system (AutoCAD 2008) as part of Basic Services. The final media for the CADD data shall be .DWG files.

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

1.4.9 At the completion of the Construction Document Phase, the Project Architect shall complete the "Project Scope Summary Questionnaire Form" which is attached as an Exhibit to this Agreement. The information shall be based on the completed scope of work as defined in the documents.

1.4.10 Before proceeding into the Bidding and Proposal Phase, the Project Architect shall obtain Owner's written acceptance of the Construction Documents and approval of the mutually established Final Construction Cost Limitation.

1.5 Bidding and Proposal Phase

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

~~1.5.2 The Project Architect shall investigate the responsibility of apparent low bidders or proposers and inform Owner in writing of its findings and recommendations. For proposers selected by qualifications and by competitive sealed proposals, the Project Architect shall investigate qualifications and other pertinent proposal information and inform the Owner in writing of its findings and recommendations.~~

~~1.5.3 In the event the best value proposal received for the Project exceeds the Final Construction Cost Limitation established at the completion of the Construction Document Phase, the Project Architect, with a charge to the Owner, and if so directed by Owner, shall revise the drawings and specifications as necessary to bring the cost of the Project within the Final Construction Cost Limitation. The Owner reserves the right to accept a proposal and award a construction contract that exceeds the Final Construction Cost Limitation, if such award is determined by Owner to be in the Owner's best interest.~~

1.6 Construction Phase—Administration of the Construction Contract

1.6.1 The Construction Phase shall commence at the acceptance of the GMP from the CMAR and issuance of a Notice to Proceed with Construction Services and terminate sixty (60) days after Final Payment to the Contractor is made, or when all of Project Architect's services have been satisfactorily performed, whichever occurs later.

1.6.2 Project Architect shall provide administration of the Contract for Construction as set forth below as of the date of this Agreement.

- a) The Project Architect shall coordinate with the Contractor to establish and maintain a numbering and tracking system for all Project records, including changes, requests for information, submittals, and supplementary instructions and shall provide updated records

at each Owner's monthly meeting and when requested. The Project Architect shall manage and execute all Change Orders.

- b) The Project Architect shall chair all meetings scheduled by the Owner or Project Architect and shall promptly provide summary notes to all parties. The Project Architect shall attend Contractor's regularly scheduled planning meetings when requested.

1.6.3 The Project Architect shall review the Contractor's list of proposed subcontractors for the work, initial administrative submittals for Project Schedule, Schedule of Values, and Submittal Schedule, and Equipment Matrix to establish appropriate bases for construction monitoring, payment processing, and system commissioning. The Project Architect shall identify necessary revisions to the documents in writing to the Contractor and recommend acceptance of the documents by the Owner when appropriate. The Project Architect shall review periodic updates of all schedules with Owner and Contractor to evaluate appropriateness.

1.6.4 The Project Architect and its consultants shall prepare appropriate materials for and conduct a Pre-Construction Conference at the site prior to commencement of construction by the Contractor.

1.6.5 The Project Architect shall be a representative of the Owner during the Construction Phase, and shall advise and consult with the Owner. Instructions to the Contractor shall be forwarded through the Project Architect. The Project Architect shall have authority to act on behalf of the Owner to the extent provided in the Contract Documents. Duties, responsibilities and limitations of authority of the Project Architect shall not be restricted, modified or extended without written acceptance of the Owner.

1.6.6 Site Visits. The Project Architect shall visit the site during the entire construction period to observe the progress and quality of the Work and to determine in general if the Work is proceeding in accordance with the Contract Documents. Each of Project Architect's consultant shall visit the site during construction activities related to the consultant's discipline to observe the progress and quality of the Work and to determine in general if the Work is proceeding in accordance with the Contract Documents. Project Architect and its consultants shall submit written reports of their site visits and meetings. The Project Architect shall not be required to make exhaustive or continuous onsite visits to inspect the quality or quantity of the Work.

- a) On the basis of the onsite observations, the Project Architect shall keep the Owner informed of the progress and quality of the Work, and shall endeavor to guard the Owner against defects and deficiencies in the Work of the Contractor. Project Architect shall notify Owner and the Contractor in writing of any portions of the work which Project Architect has observed as not being in conformity with the Construction Documents and shall make recommendations as to correction of the deficiencies or defects. Project Architect shall make its site representative available and shall consult with Owner and the Contractor on the occasion of all circumstances arising during the course of construction which would make such consultation in Owner's interests.
- b) In addition to site visits for general inspection and observation, the Project Architect and its consultants shall visit the site for specific purposes related to certification of progress payments, start-up or mock-up reviews for significant work activities and for formal inspections of the Work. The Project Architect and its consultants shall provide written reports of all site visits to the Owner and Contractor.

1.6.7 The Project Architect shall prepare an agenda for, and conduct monthly job conferences for attendance by representatives of the Contractor, major subcontractors, the Project Architect and the Owner, and prepare and distribute minutes of the meetings.

1.6.8 The Project Architect shall not have control or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, for the acts or omissions of the Contractor, Subcontractors or any other persons performing any of the Work, or for the failure of any of them to carry out the Work in accordance with the Contract Documents.

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

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

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

1.6.12 The Project Architect shall be the interpreter of the technical requirements of the Contract Documents and the judge of the performance of the work of the Contractor. The Project Architect shall render interpretations necessary for the proper execution or progress of the Work with reasonable promptness on written request of either the Owner or the Contractor, and shall render written recommendations within three business days, on all claims, disputes and other matters in question between the Owner and the Contractor relating to the execution or progress of the Work or the interpretation of the Contract Documents.

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

1.6.14 Subject to the approval of the Owner, the Project Architect's decisions in matters relating to artistic effect shall be final if consistent with and reasonably inferable from the intent of the Contract Documents. The Project Architect shall review interior designs and/or furniture selections proposed by the Owner and advise the Owner on their aesthetic compatibility with the Project Architect's design.

1.6.15 The Project Architect shall have the responsibility and the authority, with appropriate notification to the parties, to reject Work which does not conform to the Contract Documents. Whenever, in the Project Architect's reasonable opinion, it is necessary or advisable for the implementation of the intent of the Contract Documents, the Project Architect will have authority to require special inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work will then be fabricated, installed or completed. The Project Architect shall review construction materials testing and any special testing required and shall provide recommendations for retesting, actions, or any appropriate corrective measures as may be necessary or appropriate based on the results of such tests.

1.6.16 The Project Architect and its consultants shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for conformance with the design concept of the Work set forth in the Contract Documents, and shall respond to Contractor's inquiries and questions and provide supplemental information as appropriate. Action on submittals shall be taken with reasonable promptness so as to cause no delay to the Contractor's scheduled progress, but in any event no more than fourteen (14) business days after receipt. The Project Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component. The Project Architect's review shall not constitute approval of any construction means or methods.

1.6.17 Project Architect shall clarify and interpret the intent and scope of the Construction Documents and, if necessary or appropriate, issue supplemental documents to amplify or explain portions of the Construction Documents.

1.6.18 Project Architect shall provide assistance in the review of the Contractor's requests for change orders or claims for additional time or costs, and make recommendations to Owner as to such requests or claims.

1.6.19 The Project Architect shall prepare Change Orders for the Owner's approval and execution in accordance with the Contract Documents, and shall have authority to order minor changes in the Work not involving an adjustment in the Contract Sum or an extension of the Contract Time which are not inconsistent with the intent of the Contract Documents. In conjunction with each Change, the Project Architect shall prepare an independent cost and time estimate for comparison with the Contractor's proposal and recommend to the Owner whether the proposal is acceptable.

1.6.20 Project Architect shall prepare Revised Contract Drawings, where appropriate, to illustrate and document the work required by approved Change Orders. All proposed changes to drawings plans and specifications, regardless of how initiated, shall be formally defined in the document depicting them as to scope of work added, removed, or changed. The original copies of the Construction Documents may be revised to show such changes, provided that all such revisions shall be separately recorded on the media acceptable to Owner, including, without limitation, CDADD. Such revisions shall be clearly indicated and a current revision date shall be included on the reproducible copy. Changes to the specifications shall be made by consecutively numbered and dated addenda. All changes to design documents or specifications will be identified with date of change, revision number and other customary identification references. Areas changed on drawings will be "clouded" to show each change. Clouds designating previous changes will be removed so that only the most recent changes will be clouded.

1.6.21 Project Architect and its consultants shall conduct and participate in concealed space observations, system start-up observations, systems integration/operational demonstrations, Substantial Completion, Pre-Final work observations to determine the Dates of Substantial Completion, and Final work observation. In association with each observation, Project Architect and its consultants shall prepare a list of items which Project Architect and its consultants have observed as deficiencies in the Work, requiring remedial work or replacement, assemble and distribute the official punch(s) to all affected parties, and thereafter review the corrected and/or replaced work and assist in verification of correction of all items.

1.6.22 Project Architect shall review, for conformance with the Contract Documents, Contractor's submission of guarantees and warranties.

1.6.23 The Project Architect and its consultants shall assist the Owner in checking as-built drawings during the course of the Work in association with certifying progress payments and shall review

as-built documents for completeness and compliance with Contract requirements at Substantial Completion and at Final Completion of the Project.

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

1.6.25 Project Architect shall monitor the Contractor's schedule for the construction phase work and assist the Owner in reviewing all relevant activities and advise the Owner of the Contractor's scheduled progress.

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

1.6.27 The Project Architect shall be available and shall advise the Owner regarding Warranty items and to inspect Warranty work during the Warranty period. Project Architect shall participate in the Project's one year warranty review.

1.7 Additional Services

1.7.1 Additional Services are those services which shall be provided if authorized or confirmed in writing by the Owner and for which compensation will be provided as described in this Agreement in addition to Basic Compensation. Prior to commencing any Additional Service, Project Architect shall prepare for acceptance by the Owner an Additional Services Proposal, in the form attached hereto as an Exhibit, or other format as directed by Owner, which shall describe in detail the nature or scope of the Additional Services, the basis upon which Project Architect has determined that such services are Additional Services, and which shall set forth the maximum amount of fees and reimbursable expenses for which Project Architect is prepared to perform such Additional Services, together with a proposed schedule for the performances of such Additional Services. Those services which the Owner contemplates to be provided as Additional Services or considered to be Additional Services are described in Article 14. Project Architect shall proceed only after written acceptance by Owner of the Additional Services Proposal.

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

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

1.8 Time

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

1.8.2 Attached hereto is an Exhibit containing a schedule for completion of each of the phases of services to be performed by Project Architect pursuant to this Agreement. The project schedule contains milestone dates which have been established in the Request for Qualifications previously issued or may be modified by the Owner to reflect current conditions. Supplemental activities shown on the schedule, and any associated dates not yet defined, shall be determined at the completion of the Program Phase or at such time when both parties mutually agree that the project is sufficiently developed and documented. Changes in this schedule may be made only with the written approval of Owner. Project Architect shall perform all of its services in accordance with the then-current schedule approved by Owner.

1.8.3 Project Architect shall provide an updated design milestone schedule that is acceptable to the Owner and shall be submitted on a monthly basis prior to submission of the Architect's design phase payment application, in conformance with the design project milestone schedule, so that the desired design schedule for the Project shall be maintained.

Article 2 Owner's Responsibilities

2.1 The Owner and Project Architect shall prepare a Facility Program as an Additional Service as set forth in Article 1 of this Agreement. The Facility Program will set forth the Owner's description of the project scope, preliminary project cost, schedule, criteria for design objectives, characteristics and constraints, space requirements and relationships, site requirements, existing facilities, and desired special components, systems and equipment. If Project Architect prepares the Facility Program, then Owner shall review the Facility Program when completed and then determine whether to proceed with the Project and authorize commencement of Basic Services. The Owner reserves the right to terminate the Agreement following completion of the Facility Program, and shall have no further obligation to Project Architect other than payment for services authorized by Owner and provided by Project Architect prior to such termination in accordance with the terms and conditions of this Agreement.

2.2 The Owner will provide a preliminary project budget and schedule for the Project. The budget will include the construction Cost Limitation, contingencies for bidding and changes in the Work during construction, and other costs which are the responsibility of the Owner. The schedule attached hereto as an Exhibit, will set forth the Owner's plan for milestone dates and completion of the Project.

2.3 The Owner designates Facility Services as its representative authorized to act in the Owner's behalf with respect to the Project. The Owner's authorized representative shall examine the documents submitted by the Project Architect and shall render decisions pertaining thereto promptly, to avoid unreasonable delay in the progress of the Project Architect's services. The Associate Vice President of Facility Services is also designated as the Owner's representative for the purpose of administering this contract, including determination of fees earned by the Project Architect and equitable back charges against the Project Architect. The Owner shall have the right to withhold from payments due Project Architect such sums as the Owner deems reasonably necessary to protect Owner against any

loss or damage which may result from negligence by Project Architect or failure of Project Architect to perform Project Architect's obligations under this Agreement pending final resolution of such claims.

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

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

2.6 The Owner shall furnish all legal, accounting, auditing and insurance consulting services as may be necessary for the Project.

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

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

2.9 The Owner will review the Project Architect's design at the completion of Schematic Design and Design Development and at completion of the stage of Construction Documents as described in Article 14. Comments concerning corrections or amendments to the plans and specifications will be furnished in writing to the Project Architect as promptly as possible after receipt of the documents for review. Owner's approval of the documents must be in writing and no approval may be deemed given in the absence of written approval. The Owner may require the Project Architect to halt production during design review.

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

2.11 At the time the Construction Documents are issued for construction bids/proposals, the Owner shall review a statement calculating the Project Architect's fees for the Project based upon the provisions of this Agreement and any adjustments to the fee calculation mutually agreed to during design. If Project Architect objects to the revised project fees, Project Architect must notify the Owner of its objections in writing within fourteen (14) days of receipt of the fee statement otherwise Project Architect's approval of the fee amounts shall be deemed given.

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

Article 3 Construction Cost—Definition

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

3.2 The Estimated Construction Cost shall include at current market rates a reasonable allowance for overhead, profit and general conditions, the cost of labor and materials furnished by the Owner and any equipment which has been shown in the plans, specified, and specially provided for by the Project Architect.

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

Article 4 Direct Salary Expense

4.1 Direct Salary Expense ("DSE") is defined as the actual salaries, expressed on an hourly wage basis, prior to deductions for employment taxes (such as FICA, Medicare, income tax withholding) and employee-paid benefits, of all personnel, including Project Architect's employees directly engaged on the Project (and performing consultations or research or preparing designs, drawings, and specifications for the Project). DSE shall exclude mandatory and customary fringe benefits and employee benefits (such as employer-paid insurance, sick leave, holidays, vacation, pensions and similar contributions, or additions such as bonuses or other surplus payments), overhead expense (which includes salaries of bookkeepers, secretaries, clerks, and the like), and profit relating to the Project. Any multiplier applied to such DSE shall be for the purpose of covering such fringe benefits, expense, and profit. All personnel shall mean anyone employed by the Project Architect and its consultants, including, but not limited to, Architects, officers, principals, associates, project architect, CADD technicians, engineers, designers, job captains, draftspersons, and specifications writers, who are performing consultation, research or design, or who are producing drawings, specifications, plans, or other documents pertaining to the Project, or who are performing services during construction at the Property that are directly attributable to, and necessary for, such construction.

4.2 Prior to entering into any agreement between the Project Architect and the Owner, and the Project Architect and its consultants, the Project Architect shall submit a full list of all personnel titles and the hourly wage for each which is attached hereto as an Exhibit. The hourly rates contained therein may be adjusted semi-annually in accordance with the usual and customary salaries of the architectural profession in the area of the Project Architect's office.

Article 5 Reimbursable Expenses

5.1 Reimbursable Expenses are in addition to the Compensation for Basic Services and Additional Services. These include actual out-of-pocket reasonable expenditures made by the Project Architect and the Project Architect's employees and consultants incurred solely and directly in connection with Project Architect's performance of its services hereunder for the following expenses:

- 5.1.1 Fees paid for securing approval of authorities having jurisdiction over the Project.
- 5.1.2 Professional models and renderings produced for presentations when requested by the Owner.
- 5.1.3 Shipping or mailing of all reports, drawings, specifications, and other items in connection with the Project except for: correspondence between the Project Architect and the Owner; Project Architect's in-house work or correspondence; or work or correspondence exchanged between the Project Architect and its consultants.

5.1.4 Expense of any additional insurance coverage or limits that exceed those required by this Agreement, when requested by the Owner.

5.1.5 Expense of transportation and living expenses in connection with out-of-state travel as follows:

a) **Travel from Texas to out of state locations:**

Maximum rates for lodging and meals shall be in accordance with the "Out of State Meals and Lodging Rates", Texas Comptroller of Public Accounts.

(Website: https://fmx.cpa.state.tx.us/fm/travel/out_of_state/index.php plus city and state taxes.)

(1) Notwithstanding the limitation on lodging rates above, if the expenses actually incurred by the Service Provider for lodging exceed the State rate, the Service Provider may be reimbursed for the additional amount incurred up to a maximum of forty percent (40%) of the State rate.

(2) The meal per diem will only be paid on trips involving overnight travel.

b) **Travel to Texas from out of state locations:**

(1) Lodging: maximum reimbursement for lodging in state shall be limited to current State of Texas per diem rate plus city and state taxes. The meal per diem will only be paid on trips involving overnight travel.

(2) Notwithstanding the limitation on lodging rates above, if the expenses actually incurred by the Service Provider for lodging exceed the State rate, the Service Provider may be reimbursed for the additional amount incurred up to a maximum of forty percent (40%) of the State rate.

(3) Meal reimbursement limited to current State of Texas per diem rate.

c) **Automobile Expenses:** auto rental for moderate size category, related auto insurance, gasoline, parking and taxi service. Costs include applicable taxes.

d) **Air Travel:** coach class air travel with rates nearest to the State contract rate. Airline travel shall be booked no less than 7 days in advance when possible. Reimbursement for air travel booked within 7 days of departure, without prior approval, may be limited. A sales receipt and a boarding pass must be provided for each flight in order to receive reimbursement.

e) **Approval:** Unless expressly directed and approved "in writing" by the Owner, amounts exceeding the above stipulated limitations will not be subject to reimbursement.

5.1.6 Expense of any reprographic services that are in addition to those required under Basic Services requested by the Owner in writing, including, but not limited to reproduction and delivery of plans, specifications, addenda, reports or other miscellaneous documents. Reprographic services may include electronic document files or paper printing and delivery. Authorized additional reprographic services that are not provided in-house by the Project Architect shall be procured in the following manner:

a) Project Architect shall develop a complete scope of services fully describing the services to be provided by the reprographic vendor. The Project Architect shall submit the scope of services to and request bids from at least three reprographic vendors, including at least one woman owned HUB firm and one minority owned

HUB firm for reproduction costs less than \$2,000. For services projected to be less than \$10,000 and greater than \$2,000, three bids procured by telephone are acceptable. For services anticipated to be greater than \$10,000, three written bids are required. For services less than \$2,000, bidding is not required. An updated HUB Subcontracting Plan (HSP) reflecting the new scope of work shall be submitted to the HUB Coordinator for approval.

- b) Reprographic services vendor shall provide, as a minimum, the following information in its bid proposal to the Project Architect:
 - (1) Its ability to handle projected volume on given schedule.
 - (2) Its ability to receive and warehouse Project Architect's electronic document files.
 - (3) Its ability to manage bid document deposit process.
 - (4) Its ability to print partial document sets as directed by Project Architect.
- c) Project Architect shall provide written confirmation attesting to the competitive nature of the procurement.
- d) A written Owner's request is required for reimbursement of these expenses.

5.2 Unless expressly directed, and approved in advance, by the Owner, transportation and living expenses incurred within the State of Texas, for persons whose principal address is within the State of Texas, will not be subject to reimbursement.

5.3 Expenses not allowed for reimbursement include the cost of review documents required to be provided to the Owner under Article 14, telephone charges, FAX service, alcoholic beverages, laundry, valet service, entertainment or any non-project related items. All tips must be included within the per diem allowances.

5.4 Owner shall pay no mark-up on those reimbursables identified in 5.1.1 through 5.1.4 above. A mark-up shall not be paid on lodging, meals or travel expenses. Architect shall submit receipts for all reimbursable expenses along with any reimbursement request.

Article 6 Basis of Compensation

The Owner shall compensate the Project Architect for the services provided in accordance with Article 7. Payments to the Project Architect, and other terms and conditions of this Agreement, as follows:

6.1 Basic Services Fee

6.1.1 For Basic Services, as described in Article 1, and including all disciplines identified in Article 14.1 as part of Basic Services, Project Architect's Basic Fee shall be calculated as follows:

The Final Construction Cost Limitation (see Paragraph 1.4.11) times the agreed fee percentage (see paragraph 14.4) equals Basic Services Fee

6.1.2 The agreed fee percentage for Basic Services cannot be changed without the approval of the owner.

6.1.3 The Project Architect's Basic Services Fee will be based on the actual contract award for construction, less special cash allowances and construction contingency.

6.1.4 In multi-stage projects, the basic services fee for each Construction Contract Stage (CCS) shall be calculated multiplying the Sub-Construction Cost Limitation for the CCS times the agreed fee percentage for the Basic Services Fee established in paragraph 14.5. The Project Architect's total Basic Services Fee will be the sum of the basic services fees for all CCSs.

6.1.5 If the description of the Project Architect's Basic Services is changed materially, the applicable fee percentage shall be adjusted equitably.

6.2 Fees for Changes in Project Scope

6.2.1 For reductions in the scope of the Work of the Project that occur after commencement of the Construction Documents Phase but before establishment of the Final Construction Cost Limitation, the Project Architect's fee for basic services related to the eliminated portion of the work, to the extent such services are provided, shall be calculated using the same percentage fee used to establish the Basic Services Fee times the lowest bona fide bid or negotiated proposal for the eliminated scope of Work or, if no bid or proposal is received, an up-to-date detailed Construction Cost Estimate for the eliminated scope of Work, but only to the extent that services for the eliminated scope of Work were performed.

6.2.2 For increases in the scope of Work of the Project that occur after establishment of the Final Construction Cost Limitation, the fee for the additional Basic Services required will be calculated using the same percentage fee used to establish the Basic Services Fee times the lowest bona fide bid or negotiated proposal for the added scope of Work or, if no bid or proposal is received, an up-to-date detailed Construction Cost Estimate for the added scope of Work, but only to the extent that services for the added scope of Work are required.

6.3 Fees for Change Order Services

If revised construction documents are required due to material changes ordered by the Owner and not due to errors and omissions on the part of the Project Architect, the fee for the additional Basic Services required will be calculated using the same percentage fee used to establish the Basic Services Fee times the lowest bona fide bid or negotiated proposal for the changes to the Work or, if no bid or proposal is received, an up-to-date detailed Construction Cost Estimate for the changes to the Work, but only to the extent that services for the changes to the Work are required.

6.4 Additional Services

6.4.1 Fees for Additional Services, including any services identified in Article 14.2 are in addition to the Basic Services Fee described above.

6.4.2 For additional services of the Project Architect that are not Basic Services or additional Basic Services due to changes in Project scope, the Project Architect's fee shall be calculated as follows.

6.4.3 The fees for Additional Services will be negotiated by the Owner and the Project Architect as the scope of the Additional Services is defined and shall be calculated in one of the following ways:

- a) A pre-established lump sum amount;
- b) An agreed percentage of the Final Construction Cost of the Work resulting from the service being provided; or;

- c) On an hourly basis for time expended at an amount not to exceed 2.0 times the direct salary expense for all personnel directly involved in providing the service.

6.4.4 In the absence of an agreement between the Owner and the Project Architect, the fees for Additional Services shall be calculated on an hourly basis.

6.4.5 For additional services of the Project Architect's consultants that are not Basic Services or additional Basic Services due to changes in Project scope, the Project Architect's fee shall be calculated as an amount not to exceed .10 times the amount that the consultant bills the Project Architect for the additional services. The consultant's fee for the additional services shall be calculated in the same manner as described above.

6.5 Reimbursable Expenses

For reimbursable expenses, as described in Article 5, and any other items included in Article 14 as Reimbursable Expenses, the Project Architect's reimbursement shall be calculated as an amount not to exceed .10 times the amounts actually expended by the Project Architect, the Project Architect's employees and consultants in the interest of the Project.

Article 7 Payments to the Project Architect

7.1 Payments for Basic Services

7.1.1 Payments for Basic Services shall be made at the end of each Phase of services or, with the Owner's approval, monthly and shall be in proportion to services performed within each Phase of services, as demonstrated by work production on a basis set forth in Article 6. The form of Statement for Architectural/Engineering Services to be utilized is attached hereto as Exhibit D and Attachments H and I to Exhibit D, which contain payments planned and payments made to Historically Underutilized Businesses.

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

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

7.1.4 Project Architect shall submit a request for final payment to the Owner within thirty days after completion of the final payment to the Contractor.

7.1.5 The acceptance by Project Architect, or Project Architect's successors, of final payment under this Agreement shall constitute a full and complete release of Owner from any and all claims, demands, and causes of action whatsoever which Project Architect, or Project Architect's successors, have or may have against Owner under the provisions of this Agreement except those claims previously made in writing and identified by Project Architect as unsettled at the time of the final request for payment. For purposes of Texas Government Code 2251.021, the date the performance of service is completed is the date when the Owner's representative approves the invoice.

7.1.6 For purposes of Texas Government Code 2251.021, the date the performance of service is completed is the date when the Owner's representative approves the invoice. Payment of invoices shall be made within 30 days of Owner's approval.

7.2 Payments for Additional Services and Reimbursable Expenses

Payments for the Project Architect's Additional Services and for Reimbursable Expenses shall be made monthly upon presentation of the Project Architect's valid statement of services rendered or expenses incurred as approved by Owner. Invoices shall include complete documentation of all expenses.

7.3 Payments Withheld

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

- a) Project Architect is in breach or default under this Agreement;
- b) Any portion of a payment is for services that were not performed in accordance with this Agreement provided, however, payment shall be made for those services which were performed in accordance with this Agreement;
- c) Project Architect has failed to make payments promptly to consultants or other third parties used in connection with services for which Owner has made payment to Project Architect;
- d) If Owner, in its good faith judgment, determines that the balance of the unpaid fees are not sufficient to complete the services in accordance with this Agreement; or
- e) Project Architect has failed to achieve a level of performance necessary to maintain the project schedule.

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

Article 8 Project Architect Accounting Records

8.1 Records of Reimbursable Expenses and expenses pertaining to Additional Services and services performed on the basis of a multiple of Direct Salary Expense shall be kept on the basis of Generally Accepted Accounting Principles and shall be available to the Owner or the Owner's authorized representative at mutually convenient times for a period of at least three (3) years after final completion of the Project. Owner shall have the right to verify the details set forth in Project Architect's billings, certificates, reports, either before or after payment by (1) inspecting the books and records of Project Architect during normal business hours; (2) examining any reports with respect to this Project; (3) interviewing Project Architect's business employees; (4) visiting the Project site; and (5) other reasonable action.

8.2 Architect shall submit a notarized statement documenting that the Direct Salaries stated on Exhibit C comply with the definition for Direct Salary Expense under Article 4 Direct Salary Expense and that any multiplier applied to DSE on Exhibit C complies with the definition for DSE under Article 4 Direct Salary Expense. Architect/Engineer shall break down the multiplier under Article 4 for the purpose of fringe benefits, expense, and profit to justify the multiplier up to a maximum of 3 allowed under Article 6.2.

8.3 Records of Project Architect costs, reimbursable expenses pertaining to the Project and payments shall be available to Owner or its authorized representative during business hours and shall be

retained for three years after final Payment or abandonment of the Project, unless Owner otherwise instructs Consultant in writing.

Article 9 Ownership and Use of Documents

9.1 Drawings and Specifications as instruments of service are and shall remain property of the Project Architect whether the Project for which they are made is executed or not. The Owner shall be permitted to retain copies, including reproducible copies, of Drawings and Specifications for information and reference in connection with the Owner's use and occupancy of the Project. Owner shall have an irrevocable, paid-up, and perpetual non-exclusive license and right, which shall survive the termination of this agreement, to use the Drawings and Specifications, including the originals hereof, and the ideas and designs contained therein, for any purpose, regardless of whether Project Architect remains as the Project Architect, has resigned, this Agreement has been terminated, Project Architect's scope of services has been modified, or the services herein have been completed. If this Agreement is terminated, Project Architect hereby consents to the employment by Owner of a substitute Project Architect to complete the services under this Agreement, with the substitute Project Architect having all of the rights and privileges of the original Architect. The Project Architect and its consultants shall not be liable for any changes made by the Owner to the Drawings or Specifications (including Drawings or Specifications provided in CADD or other electronic format) or for claims or actions arising from any such changes on projects in which the Project Architect is not involved.

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

Article 10 Termination of Agreement

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

10.2 This agreement may be terminated at any time by the Owner for its convenience upon at least seven days' written notice to the Project Architect.

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

10.4 A termination under this Article shall not relieve Project Architect or any of its employees of liability for violations of this Agreement, or any willful, or negligent or accidental act or omission of Project Architect. The provisions of Article hereof shall survive the termination of this Agreement. In the event of a termination under this Article, Project Architect hereby consents to employment by Owner of a substitute Project Architect to complete the services under this Agreement, with the substitute Project Architect having all rights and privileges of the original Project Architect of the Project.

10.5 As of the date of termination of this Agreement, Project Architect shall furnish to Owner all statements, accounts, reports and other materials as are required hereunder or as have been prepared by Project Architect in connection with Project Architect's responsibilities hereunder. Owner shall have the

right to use the ideas and designs therein contained for the completion of the services described by this Agreement, and for completion of the Project, or otherwise.

Article 11 Successors and Assigns

The Owner and the Project Architect, respectively, bind themselves, their partners, successors, assigns and legal representatives to the other party to this Agreement and to the partners, permitted successors, assigns and legal representatives of such other party with respect to all covenants of this Agreement. This Agreement is a personal service contract for the services of Project Architect, and Project Architect's interest in this Agreement, duties hereunder and/or fees due hereunder may not be assigned or delegated to a third party. The benefits and burdens of this Agreement are, however, assignable by Owner.

Article 12 Extent of Agreement

This Agreement supersedes all prior agreements, written or oral, between Project Architect and Owner and shall constitute the entire Agreement and understanding between the parties with respect to the subject matter hereof. This Agreement and each of its provisions shall be binding upon the parties and may not be waived, modified, amended or altered except by a writing signed by Owner and Project Architect.

Article 13 Miscellaneous Provisions

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

13.2 **Governing Law.** This Agreement and all of the rights and obligations of the parties hereto and all of the terms and conditions hereof shall be construed, interpreted and applied in accordance with and governed by and enforced under the laws of the State of Texas, without giving effect to principles of conflicts of laws. The venue of this Agreement shall be in Wichita County, Texas.

13.3 **Waivers.** No delay or omission by either of the parties hereto in exercising any right or power accruing upon the non-compliance or failure of performance by the other party hereto of any of the provisions of 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.

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

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

13.6 **Child Support Certification.** Pursuant to Section 231.006, *Texas Family Code*, Project Architect certifies that it is not ineligible to receive the award of or payments under this Agreement and acknowledges that this Agreement may be terminated and payment may be withheld if this certification is inaccurate.

13.7 **Eligibility Certification.** Pursuant to Section 2155.004, *Texas Government Code*, Project Architect certifies that the individual or business entity named in this Agreement is not ineligible to receive the award of or payments under this Agreement and acknowledges that this Agreement may be terminated and payment withheld if this certification is inaccurate.

13.8 **Franchise Tax Certification.** If a corporation or limited liability company, Project Architect certifies that it is not currently delinquent in the payment of any Franchise Taxes due under Chapter 171 of the *Texas Tax Code*, or that the corporation or limited liability company is exempt from the payment of such taxes, or that the corporation or limited liability company is an out-of-state corporation or limited liability company that is not subject to the Texas Franchise Tax, whichever is applicable.

13.9 **Payment of Debt or Delinquency to the State.** Pursuant to Sections 2107.008 and 2252.093, *Texas Government Code*, Project Architect agrees that any payments owing to Project Architect under this Agreement may be applied directly toward any debt or delinquency that Project Architect owes the State of Texas or any agency of the State of Texas regardless of when it arises until such debt or delinquency is paid in full.

13.10 **Loss of Funding.** Performance by Owner under this Agreement may be dependent upon the appropriation and allotment of funds by the Texas State Legislature (the "Legislature") and/or allocation of funds by the Board of Regents of Midwestern State University (the "Board"). If the Legislature fails to appropriate or allot the necessary funds, or the Board fails to allocate the necessary funds, then Owner shall issue written notice to Project Architect and Owner may terminate this Agreement in accordance with Article 10. Project Architect acknowledges that appropriation, allotment, and allocation of funds are beyond the control of Owner.

13.11 **Proprietary Interests.** All information owned, possessed or used by Owner which is communicated to, learned, developed or otherwise acquired by Project Architect in the performance of services for Owner, which is not generally known to the public, shall be confidential. Project Architect shall not, beginning on the date of first association or communication between Owner and Project Architect and continuing through the term of this Agreement and any time thereafter, disclose, communicate or divulge, or permit disclosure, communication or divulgence, to another or use for Project Architect's own benefit or the benefit of another, such confidential information, unless required by law. Except when defined as part of the Work, Project Architect shall not make any press releases, public statements, or advertisement referring to the Project or the engagement of Project Architect as an independent Contractor of Owner in connection with the Project, or release any information relative to the Project for publications, advertisement or any other purpose without the prior written approval of Owner. Project Architect shall obtain assurances similar to those contained in this Subparagraph from persons, vendors and consultants retained by Project Architect. Project Architect acknowledges and agrees that a breach by Project Architect of the provisions hereof will cause Owner irreparable injury and damage. Project Architect, therefore, expressly agrees that Owner shall be entitled to injunctive and/or other equitable relief in any court of competent jurisdiction to prevent or otherwise restrain a breach of this Agreement.

13.12 **Appointment.** Owner hereby expressly reserves the right from time to time to designate by notice to Project Architect a representative to act partially or wholly for Owner in connection with the

performance of Owner's obligations hereunder. Project Architect shall act only upon instructions from such representative unless otherwise specifically notified to the contrary.

13.13 Dispute Resolution. To the extent that Chapter 2260 of the Texas Government Code, as it may be amended from time to time ("Chapter 2260"), is applicable to this Agreement and is not preempted by other applicable law, the dispute resolution process provided for in Chapter 2260 shall be used, as further described herein, by Owner and Project Architect to attempt to resolve any claim for breach of contract made by Project Architect:

- a) Project Architect's claims for breach of this Agreement that the parties cannot resolve pursuant to other provisions of this Agreement or in the ordinary course of business shall be submitted to the negotiation process provided in subchapter B of Chapter 2260. To initiate the process, Project Architect shall submit written notice, as required by subchapter B of Chapter 2260, to Owner in accordance with the notice provisions in this Agreement. Project Architect's notice shall specifically state that the provisions of subchapter B of Chapter 2260 are being invoked, the date and nature of the event giving rise to the claim, the specific contract provision that Owner allegedly breached, the amount of damages Project Architect seeks, and the method used to calculate the damages. Compliance by Project Architect with subchapter B of Chapter 2260 is a required prerequisite to Project Architect seeking a contested case proceeding under subchapter C of Chapter 2260. The Associate Vice President for Facilities Services and Construction of Owner, or such other officer of Owner as may be designated from time to time by Owner by written notice thereof to Project Architect, shall examine Project Architect's claim and any counterclaim and negotiate with Project Architect in an effort to resolve such claims.
- b) If the parties are unable to resolve their disputes under subparagraph (a) of this section, the contested case process provided in subchapter C of Chapter 2260 is Project Architect's sole and exclusive process for seeking a remedy for any and all of Project Architect's claims for breach of this Agreement by Owner.
- c) Compliance with the contested case process provided in subchapter C of Chapter 2260 is a required prerequisite to seeking consent to sue from the Legislature under Chapter 107 of the Texas Civil Practices and Remedies Code. The parties hereto specifically agree that (i) neither the execution of this Agreement by Owner nor any other conduct, action or inaction of any representative of Owner relating to this Agreement constitutes or is intended to constitute a waiver of Owner's or the state's sovereign immunity to suit and (ii) Owner has not waived its right to seek redress in the courts.

13.13.1 The submission, processing and resolution of Project Architect's claim is governed by the published rules adopted by the Texas Attorney General pursuant to Chapter 2260, as currently effective, hereafter enacted or subsequently amended

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

13.13.3 It is agreed that such process is not invoked if Owner initiates the dispute by first bringing a claim against Project Architect, except at Owner's sole option. If Owner makes a claim against Project Architect and Project Architect then makes a counterclaim against Owner as a claim under

Chapter 2260 and in compliance therewith, the Owner's original claim against Project Architect does not become a counterclaim and is not subject to the mandatory counterclaim provisions of Chapter 2260 of the *Texas Government Code*, except at the sole option of the Owner.

13.14 **Notices.** All notices, consents, approvals, demands, requests or other communications provided for or permitted to be given under any of the provisions of this Agreement shall be in writing and shall be deemed to have been duly given or served when delivered by hand delivery or when deposited in the U.S. mail by registered or certified mail, return receipt requested, postage prepaid, and addressed as follows:

Editor's Note: Complete below as applicable.

If to Owner: Mr. Kyle Owen (project manager)
Associate Vice President of Facilities Services
Midwestern State University
3410 Taft Blvd.
Wichita Falls, Texas 76308

With Copies to: Mr. Stephen Shelley
Director of Purchasing
Purchasing Department
Midwestern State University
3410 Taft Blvd.
Wichita Falls, Texas 76308

If to Project Architect: _____
[Street Address]
Suite _____
_____, _____ [zip code]
Attention: _____

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

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

13.16 **Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be deemed, construed and considered to be an original, but all of which shall constitute one and the same instrument.

13.17 **Ethics Matters; No Financial Interest.** Project Architect and its employees, agents, representatives and subcontractors have read and understand University's Ethics Policy, located in the University's Policy and Procedure's Manual, numbers 2.25 and 3.314, and applicable state ethics laws and rules. Neither Contractor nor its employees, agents, representatives or subcontractors will assist or cause University employees to violate University's Conflicts of Interest Policy, provisions described by University's policy's, or applicable state ethics laws or rules. Contractor represents and warrants that no

member of the Board has a direct or indirect financial interest in the transaction that is the subject of this Agreement.

Article 14 Other Conditions or Services

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

14.1 **Basic Services.** The Project Architect's Basic Services are those services described in paragraphs 1.2 through 1.6 for which compensation is provided as Basic Compensation in this Agreement and shall include the following disciplines:

Editor's Note: Project Manager please select appropriate services to be added to or subtracted from this list. Also, refer to Art. 14.2.8 and 14.4 and select any appropriate services which should be added to this list as a Basic Service. (i.e. a laboratory consultant for a Lab building or acoustical engineer for a Performance Facility)

- a. Architectural Services
- b. Landscape Architectural Services
- c. Civil Engineering Services
- d. Structural Engineering Services
- e. Mechanical Engineering Services
- f. Electrical Engineering Services
- g. Plumbing Engineering Services
- h. Life Safety Code Compliance
- i. Audio Visual/Data & Telecommunications Engineering
- j. Civil Engineering and Survey Engineering Services
- k. Furniture and Equipment Purchasing Services

Editor Note: Optional for MSU Projects

- ~~l. Life Safety Engineering Services (responsible for Fire Alarm System design and third-party certification of installed system)~~
- ~~m. Storm Water Pollution Prevention Plan Design Services (TPDES Consultant)~~
- ~~n. Commissioning Coordination~~

14.2 **Additional Services.** The services identified in the following list are not included in Basic Services.

Editor's Note: Include or Delete the following services if anticipated as future scope.

14.2.1 **PROGRAMMING SERVICES.** Before proceeding into the Schematic Design Phase, the Project Architect and his entire consultant team, including Civil Engineer, Laboratory Design Consultant, Hazardous Material Abatement Consultant, Commissioning Consultant and Constructability Contractors, working with the Owner shall prepare a comprehensive Facility Program for the project. The anticipated services and deliverables under the responsibility of the Project Architect are summarized in an attached Exhibit, the Anticipated Programming Deliverables. Following selection, the Project Architect shall provide the Owner with a written itemized cost proposal to provide the designated programming services. Such compensation shall be in addition to the percentage based fee for Basic Services. The Project Architect shall plan to meet with representatives of the Owner as required during the development of the Facility Program and shall revise the Program as necessary to achieve approval of the Owner. In accordance with the Professional Services Procurement Act, the Owner will review the Project

Architect's proposal for programming services and attempt to negotiate a fair and reasonable fee for these services. If the Owner and Project Architect are unable to do so, the Owner will formally end negotiations with the Project Architect, select the next most highly qualified Project Architect, and attempt to negotiate a fair and reasonable fee for these services.

~~14.2.2 CONSTRUCTABILITY SERVICES. The Project Architect shall employ a Constructability Consultant or Contractor, which will not submit a bid for this project, to provide outside constructability consultation, cost estimating services and construction expertise through the Facility Program, Schematic Design, Design Development and Construction Document Phases. The Constructability Consultant or Contractor, working with a Mechanical/Electrical/Plumbing Subcontractor, will provide review input related Project objectives, methods and concepts of "constructability." In addition, the Constructability Consultant or Contractor will submit for review a Cost Quantity Survey to coincide with the Project Architect's Basic Services submission requirements. Following selection, the Project Architect shall provide the Owner with a written itemized cost proposal to provide the "constructability" services identified in the Constructability Implementation Program, attached to this Agreement as an Exhibit. The Owner will review the Project Architect's proposal for "constructability" services in accordance with the Professional Services Procurement Act.~~

~~14.2.3 HAZARDOUS MATERIAL ABATEMENT SERVICES. The Project Architect shall employ a Hazardous Material Abatement consultant, from the list of firms included in an attached Exhibit, to provide hazardous material abatement expertise (including, but not limited to, asbestos and lead) through the Facility Program, Schematic Design, Design Development, Construction Document and Construction Administration Phases. This shall include reviewing Owner provided surveys, making recommendations for any additional surveys required, providing design and cost alternatives regarding hazardous material abatement, preparing plans and specifications to include abatement in the general construction scope of work, providing a licensed individual to monitor hazardous material removal as required by State and EPA guidelines, and preparing a final abatement report. Compensation for these services shall be in addition to the percentage based fee for Basic Services. Therefore, the construction cost of the abatement work will not be included in the basis for the Project Architect's Basic Services fee. Following selection, the Project Architect shall provide the Owner with a written itemized cost proposal to provide the above Hazardous Material Abatement Consulting services, including coordination of the Project Architect. The Owner will review the Project Architect's proposal for these services in accordance with the Professional Services Procurement Act.~~

~~14.2.4 COMMISSIONING SERVICES. The Project Architect shall employ a Commissioning consultant to provide commissioning expertise through the Facility Program, Schematic Design, Design Development, Construction Document and Construction Administration Phases. The Commissioning Consultant will provide review input related project objectives, methods and concepts of commissioning. Following selection, the Project Architect shall provide the Owner with a written itemized cost proposal to provide the commissioning services identified in the Commissioning Implementation Program, attached to this Agreement as an Exhibit. The Owner will review the Project Architect's proposal for commissioning services in accordance with the Professional Services Procurement Act.~~

~~14.2.5 TPDES CONSULTANT. The Project Architect shall employ a qualified Consultant (the "TPDES Consultant"), experienced in the Texas Pollutant Discharge Elimination System (TPDES) requirements and in the best management practices used at construction sites to control erosion and sediment, to prevent the discharge of pollutants and to prevent or mitigate the impacts of storm water runoff on water quality (collectively "BMPs"), which TPDES Consultant shall be approved in writing in advance by Owner, to provide expertise with respect to Texas Commission on Environmental Quality regulations and BMPs through all phases of the Project. The TPDES Consultant's services shall include, without limitation, (1) recommending structural and non-structural BMPs to Project Architect or other~~

~~subcontractors under this Contract for civil and landscape site coordination, (2) preparing of Storm Water Pollution Prevention Plans (SWPPPs) including any BMP drawings and details (3) as requested in writing by Owner, assisting in the updating of SWPPPs and all other permit documentation required by the TCEQ for the Project, and (4) the drafting of technical specifications governing the Contractor/Contractor's obligations under the applicable TPDES regulations and the TCEQ General Permit for Storm Water Discharges From Construction Sites ("General Permit") No. TXR 150000 and governing the Contractor/Contractor's recommended courses of action under BMPs. The TPDES Consultant shall insure that the storm water pollution prevention plan has been prepared for the site in accordance with the General Permit and that such plan complies with approved State and/or local sediment and erosion plans or permits and/or storm water management plans or permits, including, without limitation, any TPDES permit issued to The University of Texas component on which the site is located. The TPDES Consultant, through Project Architect, shall determine whether General Permit coverage is required, and, if so, shall advise Owner of Owner's obligations under the General Permit and shall advise Owner of the Contractor/Contractor's obligations under the General Permit. If there are multiple projects proposed to be conducted concurrently in contiguous areas and general permit coverage is required, the TPDES Consultant shall advise Owner of Owner's obligations and prepare one SWPPP for the entire area encompassing all projects and shall amend such SWPPP at the request of Owner to ensure that the Contractor/Contractors of each project can comply with TPDES requirements and BMPs. PROJECT ARCHITECT HEREBY INDEMNIFIES AND HOLDS HARMLESS OWNER FROM ANY AND ALL LIABILITY, LOSS, DAMAGE, COST, AND EXPENSE ARISING OUT OF A VIOLATION OF THE APPLICABLE TCEQ TPDES REGULATIONS, PERMITS, THIS PARAGRAPH OF THIS AGREEMENT, OR THE TERMS AND CONDITIONS OF THE GENERAL PERMIT TO THE EXTENT ATTRIBUTABLE TO A WILLFUL, NEGLIGENT, OR ACCIDENTAL ACT OR OMISSION OF PROJECT ARCHITECT OR ITS CONSULTANTS.~~

14.2.6 REGISTERED ACCESSIBILITY SPECIALIST Services provided by an independent contract provider under contract with TDLR to include the Preliminary Plan Review and Final Plan Review and Field Inspection of pavement work to coincide with the pre-final inspections. Issues regarding accessibility shall be coordinated to be included in the punch list provided to the Contractor. Design consultation services and preliminary field inspections during installation of work are optional services. These services are related to the provisions of The Texas Architectural Barriers Act (Article 9102, T.C.S.).

Editor's Note: Project Manager confirm with institution on the media and quantities for record documents.

14.2.7 DRAWINGS AND SPECIFICATIONS. Project Architect shall revise the drawings and specifications upon Final Completion of the construction, to incorporate all Addenda, all Change Orders for the Work and Specifications recorded by the Contractor on the As-Built Drawings and Specifications maintained at the job site. The Project Architect shall label the revised drawings and specifications as "Record Drawings" and "Record Specifications" and shall deliver copies to the Owner for record purposes, as follows:

- Record Specifications: Provide one (1) bound hard copy set and one (1) electronic set of the fully conformed record specifications incorporating all changes and as-built conditions on CD or DVD in PDF format.
- Record Drawings: Provide one (1) complete bound print set of record drawings, and one (1) complete electronic set of the full record drawings incorporating all changes and as-built conditions on CD or DVD.
- All CADD drawing files shall be in AutoCAD DWG format compatible with the latest version of AutoCAD.

- All Drawing files must be listed before the support files and must include all required support files, such as Xrefs, Fonts, Image files and Print files. Do not put files in directories; all files must be in the root directory.

AND:

Editor's Note: *Project Manager confirm with institution if reproducible copy is required and delete this requirement if possible. If used with above paragraph include only the bullets below.*

Upon completion of the project, the Project Architect shall revise the drawings and specifications, to incorporate all Addenda, all Change Orders for the Work and any modifications recorded by the Contractor on the As-Built Drawings maintained at the job site. The Project Architect shall label the revised drawings and specifications as "Record Drawings" and "Record Specifications" and shall deliver copies to the Owner for record purposes, as follows:

- ~~Reproducible Mylar Film Prints~~
- ~~"Record Drawings" blue-line~~
- ~~"Record Specifications" diskettes~~

Editor's Note: *LIFE SAFETY ENGINEERING CONSULTANT: OPTIONAL FOR MSU PROJECTS – MAY ALSO BE INCLUDING AS A BASIC SERVICE*

14.2.8 LIFE SAFETY ENGINEERING CONSULTANT. The Project Architect shall employ a qualified Fire Protection and Life Safety Engineering consultant experienced in the design and third-party certification of building fire alarm systems in accordance with NFPA 72 and Title 28, Part 1, Chapter 34, Subchapter F. of the Texas Administrative Code (Fire Alarm Rules). The Life Safety Consultant's services shall include, without limitation, (1) preparing fire alarm system design plans and specifications, (2) performing third party certification as outlined in attached Exhibit M titled "Fire Alarm Testing and Acceptance Procedures". (3) participating in the Owner's technical review process and responding to comments made during the review.

14.2.9 LEED CERTIFICATION-SPECIFIED SERVICES. Whether provided by the Project Architect or by a specialized consultant service, the Project Architect shall provide services necessary for securing LEED Certification or better under LEED NC Version 2.2. (projects at MSU might also be certified under LEED CS v. 2.0, LEED CS v. 3.0, and possibly even LEED EB v2.0). Services shall include, but not be limited to, forming a pre-design workshop where the LEED rating system will be reviewed and LEED points targeted, registering the project with USGBC, creating a LEED Certification Plan that identifies both design phase and construction phase points to be attempted, monitoring and documenting the LEED Certification process, facilitating design review meetings required to achieve LEED Certification, creating LEED specific specification sections including a Division 1 "LEED Requirements" section, coordinating the required LEED specifications in the Contract Documents including Building Commissioning, Construction Waste Management, and Construction Indoor Air Quality Management, uploading all applicable LEED documentation and information necessary to achieve design phase points, creating a LEED Certification Report detailing the LEED rating the project achieved, participating in the Owner's technical review process and reviewing comments made during the reviews, establishing procedures and processes to maximize LEED points obtained during building construction phase, and coordinating collection and assembly of record documents and other necessary materials required for LEED Certification. The Project Architect shall submit the appropriately completed LEED application for certification, track the submitted application and coordinate answering any questions during the process until certification is awarded.

14.2.10 SECURITY CONSULTANT SERVICES. The following Exhibits are fully incorporated into this agreement by reference:

- Security Consultant Qualifications for CIP Projects
- Security Consultant Scope of Work

The Project Architect shall employ a Security Consultant to provide expertise in security design, inspection and testing through the Facility Program, Schematic Design, Design Development, Construction Document and Construction Administration Phases. The anticipated services and deliverables under the responsibility of the Project Architect are summarized in the referenced Exhibit, “*Security Consultant Scope of Work*”. Following selection, the Project Architect shall provide the Owner with a written itemized cost proposal to provide the designated Security Services. Such compensation shall be in addition to the percentage based fee for Basic Services.

14.2.11 SPECIALIZED CONSULTANTS. The specialized consultant services identified in the following list are included in Additional Services:

- Materials Handling Services
- Major Medical Equipment Purchasing Services
- Security Planning Services
- Personnel and Material Transport Planning Services
- Hazardous Materials Handling Services
- Integrated Scheduling Services
- Radiation Control Services
- Graphics/Wayfinding Planning Services
- Safety Engineering Services
- Traffic Counting Services
- Art Procurement Consulting Services (not architectural renderings or models)

14.2.12 SPECIALIZED SERVICES. The specialized consultant services identified in the following list are included in Additional Services:

- Providing financial feasibility or other special studies.
- Providing planning surveys, site evaluations, environmental studies or comparative studies of prospective sites.
- Providing services relative to future facilities, systems and equipment which are not intended to be constructed during the Construction Phase.
- Providing services to make detailed investigation of existing conditions or facilities or to make measured drawings thereof, other than to verify the accuracy of drawings or other information furnished by the Owner.
- Providing coordination of Work performed by Owner’s separate Contractors or by the Owner’s own forces.
- Providing services in connection with the Work of a Contractor or separate consultants retained by the Owner other than commissioning consultant, testing and balance consultant, material testing firms or similar firms.
- Providing services for planning tenant or rental spaces.
- Making revisions in Drawings, Specifications or other documents when such revisions are inconsistent with written approvals or instructions previously given are required by the enactment or revision of codes, laws or regulations subsequent to the preparation of

such documents or are due to other causes not solely within the control of the Project Architect.

- Making extensive investigations, surveys, valuations, inventories or detailed appraisals of existing facilities, except as otherwise required by the Agreement, and services required in connection with construction performed by the Owner.
- Providing consultation concerning replacement of any Work damaged by fire or other cause during construction, and furnishing services as may be required in connection with the replacement of such Work.
- Providing services made necessary by the default of the Contractor, or by major defects or deficiencies in the Work of the Contractor, or by failure of performance of the Contractor under the Contract for Construction.
- Providing extensive assistance in the utilization of any equipment or system such as initial start-up or testing, adjusting and balancing, preparation of operation and maintenance manuals, training personnel for operation and maintenance, and consultation during operation.
- Providing services after the expiration of sixty (60) days following final payment to the Contractor, excluding any services necessary during the warranty period inspections and provided that all of Project Architect's services as required under this Agreement have been satisfactorily completed.
- Preparing to serve or serving as an expert witness at the request of the Owner in connection with any public hearing, arbitration proceeding or legal proceeding.
- Providing any other services not otherwise customarily furnished in accordance with generally accepted architectural practice.

14.3 **Owner Provided Services.** The services identified in the following list will be provided by the Owner at Owner's expense, if deemed necessary.

Owner provided services:

- Geotechnical Services
- Code Check
- Plan Check
- Forensic Consultant
- Construction Auditing Consultant
- Existing Facility Surveys
- Integrated Scheduling
- Testing and Balancing
- Hazardous Materials Surveying and Abatement
- Laboratory Testing (Soils, Materials, Environmental, Welding, Steel Construction)
- Project Commissioning
- Exhaust Stack Testing
- Vibration Analysis
- Radio Frequency Interference Testing

14.4 **Basis of Compensation**

14.4.1 Basic Services.

The initial Construction Cost Limitation (CCL) for the Project is

_____ (\$_____).

Therefore, the Basic Services Fee for the Project shall be

$$\frac{\text{Construction Cost Limitation}}{\text{Fee \%}} = \$ \frac{\text{Basic Services Fee}}{\text{Basic Services Fee}}$$

If the Construction Cost Limitation is revised prior to acceptance of the construction contractor's competitive sealed proposal or construction manager's guaranteed maximum price, the Basic Services Fee will be adjusted based on architect to submit schedule:

- Over \$ _____ %
- Over \$ _____ %
- Up to \$ _____ %

The Owner may amend the CCL after the Project Architect completes the Facilities Program and the Owner authorizes the commencement of Basic Services. If the CCL is amended by Owner, and Project Architect has been notified in writing of such CCL, then this paragraph of this Agreement shall be deemed to be amended by including such CCL amount as the cost referenced to in the first sentence of this paragraph of this Agreement. The CCL will be confirmed or re-established at the completion of the Design Development Phase.

14.4.2 Reimbursable Expenses.

The maximum allowable cost on this Project for Reimbursable Expenses associated with Basic Services, identified in Article 7, is approved by the Owner is:

Maximum Reimbursable Expense Amount: \$_____

14.4.3 Maximum Contract Sum

Basic Services Fee amount (Art. 14.4.1) \$_____

plus

Maximum Reimbursable Expense amount (Art. 14.4.2) \$_____

MAXIMUM CONTRACT SUM: \$_____

Editor's Note: Project Manager edit as appropriate.

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

- Schematic Design Phase: 15%
- Design Development Phase: 20%

Construction Documents Phase:	40%
Bidding or Negotiation Phase:	5%
Construction Phase:	20%

14.6 **Review Stages.** The Project Architect shall submit documents to the Owner for review at completion of the Schematic Design Phase, Design Development Phase and at the following stages of completion of the Construction Documents Phase as follows:

35%, 75%, 100%

14.7 **Construction Cost Estimates.** The Project Architect shall submit construction cost estimates as described in Article 1.1.16 at completion of the Schematic Design Phase, Design Development Phase and at the following stages of completion of the Construction Documents Phase:

35%, 75%, 100%.

Editor's Note: Project Manager edit as appropriate.

14.8 **Review Documents.** The Project Architect shall, at his expense, furnish and deliver to the Owner for Owner's review, the following number of sets of review documents at the required review stages:

Schematic Design:	_4_ sets
Design Development:	_4_ "
Construction Documents:	_4_ sets for each stage of % complete

14.10 **CADD Standards.** Project Architect, as a basic service, shall utilize a CADD drawing-layering standard comparable to the current AIA standard and shall review proposed standard with the Owner prior to commencing drawing preparation.

14.11 **Space Planning Documents.** Project Architect, as a basic service, shall provide the Owner, at between one month and three months prior to Substantial Completion, with a complete current electronic set, including all current changes, of the architectural floor plan drawings with room names, room numbers, and room square footage as indicated. Project Architect shall provide 2 copies of electronic media on zip drives and/or CD readable, writable. Project Architect shall not be relieved of responsibility when files are delivered if the files do not meet established requirements or are defective. Owner shall verify all files and Project Architect will be notified of acceptance.

- Room names, Room numbers, and square footage shall be linked to data fields using appropriate attributes for text and number fields. Microsoft Access 2000 shall be used as the database. Project Architect shall provide data layering proposal for approval, per Article 14.10.
- Provide floor plans in electronic format using AutoCAD 14 or 2000. MicroStation J or SE shall also be accepted, but Microstation users shall be required to save to AutoCAD format. Verify database for correctness prior to delivering data files.

Editor's Note: The following Article 15 shall be included in contracts for construction manager at risk project delivery method type only. Delete this entire Article 15 for competitive sealed proposal delivery method.

Article 15 Amendments to the Agreement between Owner and Project Architect when using the Construction Manager at Risk Project Delivery Method

15.1 By incorporating this Article 15, the Project Architect acknowledges and accepts that the Owner intends to construct the Project using the Construction Manager at Risk delivery method. Therefore, the Owner and the Project Architect hereby agree that the terms of the preceding Agreement are supplemented and/or modified as indicated below.

15.2 The following terms of the preceding Agreement are amended by incorporating the new paragraphs and substituting the modified paragraphs for their counterparts in their entirety. For clarity purposes only, all new contract language is indicated by *italics*. Existing contract language that is unchanged by the amendments is shown in standard type face.

1.1 Basic Services

~~1.1.30 The Owner has or intends to appoint a Construction Manager for this project (the "Construction Manager" or "Contractor"), and the Project Architect shall coordinate its Services (Basic and Additional) hereunder with the Construction Manager. The Owner may direct the Project Architect to recognize the Construction Manager as its representative for the performance of various duties hereunder which are otherwise defined as the responsibility of the Owner hereunder. Project Architect hereby acknowledges such appointment. Upon request, Project Architect shall be entitled to review a redacted version of the agreement between the Owner and the Construction Manager for this project (the "CM Agreement"). Nothing in the CM Agreement shall confer direct responsibility on the Construction Manager for the Project Architect's services, nor shall anything contained therein diminish Project Architect's responsibility for its services as set forth hereunder.~~

~~1.1.31 The Project Architect shall participate in the development and review of the Construction Managers GMP Proposal. This GMP Proposal will included the qualifications, assumptions, exclusions, value engineering and all other requirements identified within Attachment 1 To Exhibit D (Guidelines for the Preparation of the GMP) of the Agreement between the Owner and the Construction Manager at Risk. Following Owner's Approval of the GMP Proposal, the Project Architect shall be responsible for developing the Construction Documents, consisting of plans and specifications, setting forth in detail, and incorporating the aforementioned requirements described within the Attachment 1 To Exhibit D and contained in the GMP Proposal. Furthermore, the Project Architect shall participate in the documentation of the Construction Manager's GMP Proposal so as to adequately understand the contents of the Proposal and ultimately confirm that the Construction Documents, when complete, reflect all qualifications, clarifications and assumptions contained within the GMP Proposal. The Project Architect and the Construction Manager shall provide a monthly status report stating the progress of the incorporation of the GMP qualifications, clarifications, assumptions, exclusions and value engineering and all other requirements identified in Attachment 1 To Exhibit D, into the Construction Documents."~~

1.2 Schematic Design Phase

1.2.1 Based on the mutually agreed upon Facilities Program, Construction Cost Limitation and the Project Schedule, the Project Architect shall prepare sufficient alternative approaches to design and construction of the Project to satisfy Owner's requirements and shall, at completion of this phase, submit Schematic Design Documents and any additional requirements set forth in Article 14. *The Project Architect shall review alternative approaches to design and construction for the Project and the Schematic Design Documents as they are being prepared at intervals appropriate to the progress of the Project with the Owner and Construction Manager at the Project location or other location specified by the Owner within the State of Texas. The Project Architect shall provide the Construction Manager with copies of the Project Architect's documents at the Construction Manager's expense to assist the Construction Manager in fulfilling its responsibilities to the Owner.*

1.2.5 The Project Architect shall direct the preparation of a detailed construction cost estimate as described in Sub-paragraph 1.1.15 to confirm compliance with the Construction Cost Limitation and include it with the completed Schematic Design Documents. *The Project Architect shall review its construction cost estimate in comparison with the construction cost estimate prepared by the Construction Manager, and shall reconcile any differences between the two construction cost estimates in coordination with the Construction Manager. If the Project Architect is unable to reconcile all differences between the two construction cost estimates with the Construction Manager, then the Project Architect shall provide a detailed explanation of the differences to the Owner.*

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

1.3 Design Development Phase

1.3.1 Based on the approved Schematic Design Documents and any adjustments to the Facilities Program or Construction Cost Limitation authorized by the Owner, the Project Architect shall prepare, for approval by the Owner *and review by the Construction Manager*, Design Development Documents in accordance with Owner's written requirements to further define and finalize the size and character of the Project and any additional requirements set forth in Article 14. *The Project Architect shall review the Design Development Documents as they are being prepared at intervals appropriate to the progress of the Project with the Owner and Construction Manager at the Project location or other location specified by Owner in the State of Texas. The Project Architect shall provide the Construction Manager with copies of the Project Architect's documents at the Construction Manager's expense to assist the Construction Manager in fulfilling its responsibilities to the Owner.*

1.3.3 The Project Architect shall direct the preparation of a detailed construction cost estimate as described in Sub-paragraph 1.1.15 to confirm compliance with the Construction Cost Limitation and include it with the completed Design Development Documents. *The Project Architect shall review its construction cost estimate in comparison with the construction cost estimate prepared by the Construction Manager, and shall reconcile any differences between the two construction cost estimates in coordination with the Construction Manager. If the Project Architect is unable to reconcile all differences between the two construction cost estimates with the Construction Manager, then the Project Architect shall provide a detailed explanation of the differences to the Owner.*

~~1.3.8 At the completion of the Design Development Phase, or such other time as Owner may specify to Project Architect, at Owner's sole option and discretion, Owner will furnish Project Architect with a Guaranteed Maximum Price proposal prepared by Construction Manager based upon the Design Development Documents prepared by the Project Architect and approved by the Owner. The Project Architect shall assist the Owner and further advocate the Owner's interests in Owner's negotiations with the Construction Manager in an effort to develop a Guaranteed Maximum Price proposal acceptable to Owner, in Owner's sole option and discretion. If the Owner does not accept the Construction Manager's Guaranteed Maximum Price proposal, the Project Architect shall participate with the Owner and Construction Manager in constructability reviews and shall revise the documents as necessary in order to reach an agreement. If Construction Manager's Guaranteed Price proposal exceeds the cost quantity survey furnished to Owner by Project Architect, and Owner directs Project Architect to revise the documents, then Project Architect shall revise the documents at its own expense so that the Guaranteed Maximum Price proposal for constructing the Project shall not exceed the Owner's Construction Cost limitation and any previously approved construction cost estimate. If it is determined to be in the Owner's best interest, instead of requiring the Project Architect to revise the drawings and specifications, the Owner reserves the right to accept a Guaranteed Maximum Price proposal that exceeds the stipulated Construction Cost Limitation. The Project Architect shall analyze the final Guaranteed Maximum Price proposal document, together with its supporting assumptions, clarifications, and contingencies, and shall submit a detailed written analysis of the document to the Owner. Such analysis shall include, without limitation, reference to and explanation of any inaccurate or improper assumptions and clarifications.~~

~~1.3.9 After the Guaranteed Maximum Price has been accepted, the Project Architect shall incorporate into the Design Development Documents any revisions which are necessary due to inaccurate assumptions and clarifications made in the development of the Guaranteed Maximum Price.~~

1.4 Construction Document Phase

1.4.1 Based on the approved Design Development Documents and any further adjustments in the scope or quality of the Project or in the Project Construction Cost Limitation authorized by the Owner, the Project Architect shall prepare, for approval by the Owner ~~and review by the Construction Manager~~, Construction Documents consisting of Drawings and Specifications in accordance with Owner's written requirements setting forth in detail the requirements for construction of the Project, including, without limitation, Owner's Design Guidelines and any additional requirements contained in Article 14 of this Agreement. ~~The plans, drawings and specifications for the entire Project shall be so prepared that same will call for the construction of the building and related facilities, together with its built-in permanent fixtures and equipment which will cost not more than the Guaranteed Maximum Price accepted by Owner, or the Construction Cost Limitation established by Owner if no Guaranteed Maximum Price proposal has been accepted by Owner. The Project Architect will be responsible for managing the design to stay within such Guaranteed Maximum Price proposal or Construction Cost Limitation. The Project Architect shall review the Construction Documents as they are being prepared at intervals appropriate to the progress of the Project with the Owner and Construction Manager at the Project location or other location specified by Owner in the State of Texas. The Project Architect shall provide the Construction Manager with copies of the Project Architect's documents at the Construction Manager's expense to assist the Construction Manager in fulfilling its responsibilities to the Owner.~~

1.4.2 The Project Architect shall advise the Owner ~~and Construction Manager~~ on matters such as construction phasing and scheduling, bid or proposal alternates, special cash allowances, liquidated damages, the construction contract time period, and other construction issues appropriate for the Project. ~~The Project Architect shall assist the Owner and Construction Manager in the preparation of the necessary bidding information, bidding forms, RFP information, and RFP forms, and the Conditions of the Contract.~~

1.4.7 The Project Architect shall direct the preparation of a detailed construction cost estimate as described in Sub-paragraph 1.1.16 to confirm compliance with the Construction Cost Limitation and include it with the completed Construction Documents. ~~The Project Architect shall review its construction cost estimate in comparison with the construction cost estimate prepared by the Construction Manager, and shall reconcile any differences between the two construction cost estimates in coordination with the Construction Manager. If the Project Architect is unable to reconcile all differences between the two construction cost estimates with the Construction Manager, then the Project Architect shall provide a detailed explanation of the differences to the Owner.~~

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

1.5 Bidding and Proposal Phase

1.5.1 ~~In conjunction with the development of the Guaranteed Maximum Price and at other times as appropriate to the Project, the Project Architect shall assist the Owner and Construction Manager by receiving and recording requests for Bid and Request for Proposal ("RFP") Documents, issuing Bid and RFP Documents, and accounting for Bid and RFP Documents issued; receiving and resolving questions about Bid and RFP Documents; preparing addenda, issuing addenda, and accounting for addenda issued; attending pre-bid and pre-proposal conferences; obtaining and evaluating bids and proposals; and assisting in preparing and awarding multiple contracts for construction.~~ Project Architect shall answer inquiries from bidders and proposers at Owner's request, and shall prepare and issue any necessary addenda to the bidding or proposal documents.

1.6 Construction Phase—Administration of the Construction Contract

1.6.1 The Construction Phase shall commence with the ~~acceptance of the Construction Manager at Risk's Guaranteed Maximum Price (or acceptance of a partial Guaranteed Maximum Price for a stage or phase)~~ and issuance of (i) a Notice to Commence On-Site Work or (ii) a Notice to Proceed with Construction Services and terminate sixty (60) days after Final Payment to the Contractor is made, or when all of Project Architect's services have been satisfactorily performed, whichever occurs later.

1.6.2. c) ~~The Project Architect shall assist the Owner in making arrangements for a Pre-Construction meeting and shall assist in preparation of an administration booklet for the Pre-Construction meeting and shall distribute electronic copies of the minutes to all parties.~~

1.6.5 The Project Architect shall be a representative of the Owner during the Construction Phase, and shall advise and consult with the Owner. Instructions to the Contractor shall be forwarded through the Project Architect ~~and all communication by and with the Project Architect's consultants shall be through the Project Architect, except that the Owner reserves the right to communicate directly with the Construction Manager at Risk and consultants as it deems necessary or appropriate at any time.~~ The Project Architect shall have authority to act on behalf of the Owner to the extent provided in the Contract Documents. Duties, responsibilities and limitations of authority of the Project Architect shall not be restricted, modified or extended without written acceptance of the Owner.

1.8 **Time**

1.8.2 Attached hereto as an Exhibit containing a schedule for completion of each of the phases of services to be performed by Project Architecture pursuant to this Agreement. The project schedule contains milestone dates which have been established in the Request for Qualifications previously issued or may be modified by the Owner to reflect current conditions. Supplemental activities shown on the schedule, and any associated dates not yet defined, shall be determined at the completion of the Program Phase or at such time when both parties mutually agree that the project is sufficiently developed and documented. ~~The Project Architect shall coordinate with the Construction Manager in the preparation and maintenance of the schedule for performance of the professional services for the Project, including the Project Architect's services.~~ Changes in this schedule may be made only with the written approval of Owner. Project Architect shall perform all of its services in accordance with the then-current schedule approved by Owner.

[SIGNATURES PROVIDED ON FOLLOWING PAGE]

SAMPLE

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the day and year first written above.

MIDWESTERN STATE UNIVERSITY

PROJECT ARCHITECT

By: _____

By: _____

Printed Name: _____

Printed Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

SAMPLE

The following Exhibits are fully incorporated into this Agreement by reference:

Editor's Note: project manager complete this list as appropriate to this agreement. Also edit the front index to align the Exhibits section with the list below after final editing:

EXHIBITS

- Exhibit A - Facility Program
- Exhibit B - Project Milestone Schedule
- Exhibit C - Personnel Titles and Hourly Rates
- Exhibit D - Statement for Architectural/Engineering Services
 - Attachment H to Exhibit D – Documentation of Subcontracted Work
- Exhibit E - Anticipated Programming Deliverables
- ~~Exhibit F - Constructability Implementation Program~~
- Exhibit H - Policy on Utilization – Historically Underutilized Businesses
 - Attachment 1 to Exhibit H – HUB Subcontracting Plan
- ~~Exhibit I - Commissioning Implementation Program~~
- Exhibit J - Additional Services Proposal Form
- Exhibit K - Adjustment to Basic Services Compensation
- Exhibit L – Project Scope Summary Questionnaire Form

SAMPLE

EXHIBIT A

FACILITIES PROGRAM

[Project Manager – If Owner provides Facilities Program, which contains a schedule, with AE Agreement, include by reference here. If no Program has been developed and the Program is to be performed as an Additional Service, then indicate “Not Used” directly below Exhibit B above.]

SAMPLE

EXHIBIT B

PROJECT MILESTONE SCHEDULE

[EDITOR'S NOTE: If the Owner or Campus does not provide a program that includes a milestone schedule attached with Exhibit A, then provide a milestone schedule here. See the minimum milestone date requirements listed below and add to that list as necessary. The milestone dates may be obtained from Section 2 of the RFQ if the dates are still applicable.]

The activities shown in bold below must have the associated dates identified and included with this agreement and represent services to be performed by the Project Architect pursuant to this Agreement. Supplemental activities shown on the schedule below, which dates are not yet defined, shall be determined at the completion of the Program Phase or at such time when both parties mutually agree that the project is sufficiently developed and documented.

Activity:

Date Completed:

Owner Approves Facility Program Phase

Selection of the Contractor (or CM)

Schematic Design Phase

Authorize A/E Start

Submit for Owner Review 95%

Joint Review for Owner Comments

Owner Approves Schematic Design

Design Development Phase

Authorize A/E Start

FPCC Meeting Project Submission Date

Submit for Owner Review, AE 95%

Joint Review for Owner Comments

FPCC Meeting Approval

Approve TPC & Design Development - BO/Chair/lor

Owner Approves Design Documents

THECB Approval Phase

Submit Construction Application - Component

Approve Construction Application - THECB

Owner Approves Guaranteed Maximum Price Phase (for CM Projects)

Construction Documents Phase

Authorize AE to Start

A/E Submit 50% CD's for Owner Review

Joint Review for Owner Comments

A/E Submit 75% CD's for Review

Joint Review for Owner Comments

A/E Submit 100% CD's for Review

Joint Review for Owner Comments

Owner Approves 100% Construction Documents

Owner advertises for Competitive Sealed Proposals (if applicable)

Construction Phase Activities

NTP for Construction

Project Substantial Completion

**EXHIBIT C
PERSONNEL TITLES AND HOURLY RATES;
NAMES OF SENIOR PRINCIPAL AND PROJECT TEAM MANAGER**

Personnel Title/Position DSE Hourly Rate Multiplier Hourly Billing Rate

Identify all staff

Architect shall complete this information and must state the DSE hourly rate

SAMPLE

EXHIBIT D

Firm Letterhead, address and contract person

Date:

Midwestern State University
Facilities Services
3410 Taft Blvd.
Wichita Falls, Texas 76308

Project Name :
Project Stage Name :
Institution :
A/E Project No. :
OFPC Project No. :
Project Manager:

STATEMENT FOR ARCHITECTURAL/ENGINEERING SERVICE

Statement No. for the period ended
for services provided in accordance with A/E Agreement dated
Professional Liability Insurance Policy expiration date:

I. BASIC SERVICES

Construction Cost Limitation/Construction Contract Award Sum \$
(less Construction Contingency)
(Cost Adjustments Identify) \$
Compensation @ % \$

Services Performed to Date:

Table with 5 columns: Base, Fee, Amount, Complete, Total Earned To Date. Rows include Schematic Design, Design Development, Construction Documents, Bidding, Construction Administration, Compensation Adjustments, and Sub-Total.

Amount Previously Billed deduct \$

Net Amount Due This Statement \$

II. ADDITIONAL SERVICES

Services Performed to Date: (Append Supplemental Material)

Authorization	Fee Basis	Amount	Complete	Total Earned To Date
(Amendment, letter of agreement, etc.)	(fee percentage as established in Art. 14.)	\$	%	\$
	for Basic Services)	\$	%	\$

Sub-Total

Amount Previously Billed deduct \$

Net Amount Due This Statement \$

III. CHANGE ORDER SERVICES

Services Performed to Date (Append Supplemental Material)

C.P./C.O. No.	Amount	Fee Basis	Amount	Complete	Total Earned To Date
	\$	(fee % established in Art. 14.)	\$	%	\$
	\$		\$	%	\$
	\$		\$	%	\$

Sub-Total

Amount Previously Billed deduct \$

Net Amount Due This Statement \$

IV. REIMBURSABLE EXPENSES

(complete Attachment 1 to Exhibit for further breakdown)

Expenses to Date (Append Supplemental Material)

Type	Amount	Multiplier	Total Earned To Date
Travel	\$	1.0	\$
Reproduction/Postage	\$	1.0	\$
Other	\$	1.0	\$

Sub-Total

Amount Previously Billed deduct \$

Net Amount Due This Statement \$

RECAPITULATION

	<u>Net Amount Due This Statement</u>	<u>Total Earned To Date</u>
I. BASIC SERVICES	\$	\$
II. ADDITIONAL SERVICES	\$	\$
III. CHANGE ORDER SERVICES	\$	\$
IV. REIMBURSABLE EXPENSES	\$	\$
V. PROMPT PAYMENT ACT INTEREST (Prior Payments)		\$
\$_____		
TOTAL AMOUNT EARNED THIS STATEMENT		
TOTAL AMOUNT PREVIOUSLY BILLED deduct	\$_____	
TOTAL AMOUNT DUE THIS STATEMENT	\$_____	\$_____

SAMPLE

I certify that the above Statement is correct and now due.

Signature Title Date

(Supplemental material shall include:

- 1.. tabulation of hourly compensation by name, hours & pay rate:
- 1.. by the firm
- 1.. by consultants
- 1.. receipts for reimbursable expenses
- 1.. other substantiating information
- 1.. Exhibits A and B on firm letterhead)

Approved by owner's Project Manager:

Signature

Accounting Review:

Initial & Date

FINAL PAYMENT CERTIFICATION AND LIEN WAIVER

The Architect certifies that all persons, consultants and firms who supplied services to it in connection with this Project have been fully paid for their services or work items, or that they will be fully paid immediately upon receipt of this payment, and that there are no other outstanding debts, obligations or claims related to this Project for which the Owner may be liable or for which the Architect will look to the Owner for additional payment. **This payment constitutes full and final payment to the Architect and its consultants for all services provided for this Project and the Owner is not obligated to make any more payments on their behalf.**

In consideration of the payment herewith made, the undersigned does fully and finally release and hold harmless Northern State University (Owner) from any and all claims, liens or right to claim or lien, arising out of this Project under any applicable bond, law or statute.

Signature Date

FINAL HUB PLAN

The HUB Plan form for final payment is included with this Final Payment Request.

Yes ___ No ___

ATTACHMENT 1 TO EXHIBIT D

IV. REIMBURSABLE EXPENSE DETAIL

TRAVEL

Date	Description (*)	Amount
Total amount billed this period		\$ -

POSTAGE/REPRODUCTION

Date	Description	Amount
Total amount billed this period		\$ -

OTHER

Date	Description	Amount
Total amount billed this period		\$ -

Total Reimbursable Expense
\$

**Description should consist of the individual travelling and the type of expense incurred.*

HUB Subcontracting Plan (HSP) Prime Contractor Progress Assessment Report

This form must be completed and submitted to the contracting agency each month to document compliance with your HSP.

Contract/Requisition Number: _____ Date of Award: _____ Object Code: _____
(mm/dd/yyyy) (Agency Use Only)

Contracting Agency/University Name: _____

Contractor (Company) Name: _____ State of Texas VID #: _____

Point of Contact: _____ Phone #: _____

Reporting Period: - Jan. - Feb. - Mar. - Apr. - May - Jun. - Jul. - Aug. - Sept. - Oct. - Nov. - Dec.
(Check only one Month)

Total Contract Amount Paid this Reporting Period to Contractor: \$ _____

Report HUB and Non-HUB subcontractor information

Subcontractor's Name	Subcontractor's VID or HUB Certificate Number	Total Contract \$ Amount from HSP Subcontractor	Total Contract \$ Amount Paid This Period to Subcontractor	Total Contract \$ Amount Paid to Date to Subcontractor	Object Code (agency use only)
		\$	\$	\$	
		\$	\$	\$	
		\$	\$	\$	
		\$	\$	\$	
		\$	\$	\$	
		\$	\$	\$	
		\$	\$	\$	
		\$	\$	\$	
TOTALS:		\$	\$	\$	

Signature: _____ Title: _____ Date: _____

Printed Name: _____ Phone No.: _____

SAMPLE

SAMPLE

EXHIBIT G

HAZARDOUS MATERIAL ABATEMENT GENERAL SCOPE OF WORK

1. Review and Assessment

Review previous survey results and conduct an inspection of the facilities in order to collect the required amount of samples of suspect material. Determine the extent, condition, and approximate quantities of lead and asbestos containing materials.

2. Technical Specifications

Develop the technical plans and specifications for the abatement phases of the project for Owner's review and approval. Meet with appropriate personnel to discuss the plans and specifications along with the abatement process.

3. Provide a final copy of approved technical plans and specifications.

4. Abatement Monitoring

Collect and analyze background air, dust and soil samples prior to the commencement of abatement work.

5. For abatement work which requires the use of enclosures:

A. Pre abatement inspection to approve enclosure and authorize abatement to begin.

B. Conduct a full time or periodic inspection as directed by Certified Industrial Hygienist (CIH).

C. Collect and analyze area samples (inside and outside) enclosure as directed by CIH.

D. Conduct a clearance inspection and collect and analyze air, dust and soil samples at conclusion of abatement work to "release" Contractor from that area.

EXHIBIT H

POLICY ON UTILIZATION – HISTORICALLY UNDERUTILIZED BUSINESSES

(Exhibit H is included herein by reference)

SAMPLE

**ATTACHMENT 1 TO EXHIBIT H
HUB SUBCONTRACTING PLAN**

SAMPLE

**EXHIBIT J
ADDITIONAL SERVICES PROPOSAL FORM**

Date: _____

Additional Services Proposal No. _____

Name of A/E firm:

Re: (project name, number campus)

Refer to the Agreement dated _____ 20__ between _____
("Owner") and the undersigned ("Project Architect") amended to the date hereof (such agreement as so
modified and amended being hereafter called the "Agreement") pursuant to which Project Architect is to
perform certain services. The terms which are defined in the Agreement shall have the same meanings
when used in this letter. The fee for these requested additional services are in lieu of any other fee
adjustment based on an increase to the CCL as related to these services.

1. Owner has requested the performance of the services described below which Project Architect
deems to be Additional Services. Refer to Attachment A" for complete breakdown.

(Detailed description of Services. Use attachment only for additional description)

2. The services are fully described in the following documents: (list sheet #'s and spec sections)

3. Project Architect agrees to perform the Additional Services described above subject to and in
accordance with the terms and provisions of the Agreement

- a.) ~~_____~~ which will be determined in accordance with the Agreement in an amount of:
_____ Dollars (\$_____)

OR (OPTION – DELETE ON OR THE OTHER)

- b.) an *hourly amount* in accordance with the Agreement, not to exceed _____
Dollars (\$_____)

4. For reimbursement of expenses in accordance with the Agreement incurred solely in connection
with the performance of these Additional Services, reimbursable expenses will not exceed
_____ Dollars (\$_____).

Edit the following are required:

These reimbursable expenses are included within the Additional Services amount referenced above.

Or

These reimbursable expenses are in addition to the Additional Services amount reference above.

5. Project Architect will perform the services in accordance with any schedule attached hereto (attach schedule if applicable), but in any event not later than _____ (_____) days after Project Architect is authorized to proceed.

Accepted by:

[PROJECT ARCHITECT]

By: _____
Name: _____
Title: _____

Current Fee Summary

ORIGINAL MAXIMUM CONTRACT SUM:	\$ _____
Previous Additional Services Proposals:	\$ _____
Previous Reimbursable :	\$ _____
NET BALANCE Fee:	\$ _____
THIS Additional Services Addition / Deduction:	\$ _____
THIS Reimbursable Addition / Deduction:	\$ _____
ADJUSTED MAXIMUM CONTRACT SUM	\$ _____
(Includes reimbursables for ASP services)	

Funding Source: _____ (PM to complete this line)

Accepted this _____ day of _____, 20 __. Project Architect is authorized to commence performance of the Additional Services on _____, 20 __

OWNER (Project Manager)
By: _____
below)
Name: _____
Title: _____

Project Manager confirms:
HUB opportunities are probable: (check one)
NO _____
YES _____
(if yes HUB coordinator signature required below)
HUB Coordinator _____
Date _____

And/Or (note; as per delegation authority)

OWNER (Program Manager or EDPM)

By: _____
Name: _____
Title: _____

Contract Manager

Reviewed as to form: _____

EXHIBIT K

ADJUSTMENT TO BASIC SERVICES COMPENSATION

Date: _____
Project Name: _____
Campus: _____
Project No: _____

Date of Agreement: _____

To: (state name and address of Architect)

Attn: _____

In accordance with the provisions of the Agreement, the Owner hereby amends the Basis of Compensation as described in Article 14.5.

The original basis for compensation shall be amended for the following reasons:

(PM described adjustments resulting from peculiarities encountered in design or other factors altering project scope – see Art. 2.11)

The Basic Services shall be amended as follows. Refer to the interpolation schedule established in Article 14.5.

ORIGINAL CCL: \$ _____
ORIGINAL FEE PERCENTAGE: _____ %
ORIGINAL BASIC SERVICES FEE: \$ _____
(as described in Art. 14.4)

ADJUSTED CCL: \$ _____
FEE PERCENTAGE: _____ %
ADJUSTED BASIC SERVICES AMOUNT \$ _____

OWNER:
By: _____
Name: _____
Title: _____
Date: _____

SAMPLE

EXHIBIT L

Project Scope Summary Questionnaire Form

Midwestern State University requires that the architect of record complete this summary based on the original contract documents in order to facilitate the development of the construction cost database. The database will assist future reports, estimates and presentations to the Texas Higher Education Coordinating Board and R.S. Means. Please note, not all items will have an exact answer, nor will every assembly total 100%. Please provide a response, based on your best interpretations of the contract documents, to **ALL** items listed.

Project No. & Title _____ - _____

Project Stage Title _____

Renovated

New

Gross Square Feet (Not including basement) _____

Assignable Square Feet (Not including basement) _____

Number of Rooms _____

Number of Stories At Grade & Above _____

Average Story Height At Grade & Above (ft) _____

Number of Basement Levels & Gross Square Feet _____

Building Perimeter (Lft) * _____

Type of Foundation * _____

Primary _____ System *

Primary Exterior Closure & Percent * _____

Secondary _____

Percentage of Exterior Glass / Glazing _____

Primary Roofing System * _____

Primary Interior Partition Construction & Percent *

Secondary *

Number of Doors (A pair of doors equals two doors)

Primary Interior Flooring & Percent *

Secondary *

Primary Interior Ceiling Construction & Percent *

Secondary *

Type of Conveying System & Number of Units *

Number of Plumbing Fixtures Installed

Building HVAC CFM Requirements

* Refer to Page 2 for definitions & lists.

Project Scope Summary Instructions, Definitions & Lists - EXHIBIT L cont.

Please use the definitions and lists below to complete the questions on the Exhibit L. If a project does not have an assembly (i.e.: basement) then insert "None" into the appropriate blank. If a project has an existing assembly that is modified or repaired then insert "Modify" or "Repair", however, if a project scope does not modify or repair an existing assembly then insert "Existing" into the appropriate blank.

Gross Square Foot: The total floor space in a building (not including the basement) from the exterior skin at grade and above.

Assignable Square Foot: The net floor space in a building (not including the basement) measured from the inside surface of exterior walls and excluding interior walls and partitions, mechanical equipment rooms, lavatories, janitorial closets, elevators, stairways, major circulation corridors, aisles and elevator lobbies.

Building Perimeter: The total length measured (linear feet) around the building enclosure at, or near, the ground floor.

Building Types as Reported to THECB by Assignable Square Feet

070 - Unfinished Area	110 - Classroom	210 - Class
Laboratory		
220 - Special Class Laboratory	230 - Individual Study Laboratory	250 - Non-Class
Laboratory (R&D)		

310 - Office	350 - Conference Room	410 -
Reading/Study Room (Small)		
420 - Stack (Large Library) Room	430 - Open-Stack Reading Room	440 - Processing
520 - Athletic/Physical Education Audio/Visual, Radio, TV Facilities	523 - Athletic/Facilities Spectating	530 -
540 - Clinic (Examination Rooms) Assembly/Theater	550 - Demonstration Facilities	610 -
620 - Exhibition (Museum)	630 - Food Facilities (Cafeteria)	650 - Lounge
660 - Merchandising Facilities (Retail) Room (Non-Class/Office)	670 - Recreation	680 - Meeting
720 - Shop (Repair & Maintenance) Storage Facility	730 - Storage	740 - Vehicle
810 - Patient Bedroom Station	820 - Patient Bath	830 - Nurses
840 - Surgery Laboratory	850 - Health Care Treatment	860 - Health Care
870 - Health Care Supplies Service	880 - Health Care (Public Waiting)	895 - Health Care
910 - Sleep/Study w/out Toilet/Bath	920 - Sleep Study w/ Toilet/Bath	950 - Apartment
Foundation		
Cast-in-Place Concrete Walls	Grade Beam / Comb on Gr	Grade Beam /
SOG - Post Tension		
Spread Footings	Piers / Piles / Columns	
Superstructure		
Bearing Walls	Concrete Foundation w/ Steel Frame	Precast Concrete
Reinforced Concrete / Post Tension	Tilt-Up Concrete Panels	Wood
Exterior Closure		
Aluminum Siding w/ Metal or Wood Stud Back-up		Decorative
Concrete Block	Dryvit / Eps	Exposed Precast
Double Glazed Plate Glass Panels	Face Brick w/ CMU Back-up	Face Brick w/
Concrete Panels	Glass & Metal Curtain Wall	Natural Stone w/
Exposed Cast-in-Place Concrete		Natural Stone w/
Metal Stud Back-up		Porcelain Tile w/
Galvanized Steel Stud Back-up		Wood Siding w/
CMU Back-up		
Modified 3" Precast Panel w/ Metal Stud Back-up		
Metal Stud Back-up		
Painted Concrete Block	Plaster on w/ Metal or Wood Stud Back-up	
Metal stud Back-up		
Stucco on CMU Back-up	Tilt-up Concrete Panels	
Roofing System		
Built-up	Clay Tile	Cold Applied
Elastomeric / Single-ply Membrane	Modified Bitumen	Pre-formed Metal
Prepared Rock	Shingle (Asphalt / Wood)	
Interior Partition Construction (not including basement)		
CMU	Painted CMU	Painted Drywall
w/ Metal Stud		
Painted Drywall w/ Wood Stud	Wallpapered Drywall w/ Metal Stud	Wallpapered
Drywall w/ Wood Stud		
Interior Flooring (not including basement)		
Ardex / Concrete Topping	Carpet (Glued or Padded)	Ceramic /
Porcelain Tile		
Exposed / Sealed Concrete	Granite / Marble	Limestone
Painted Concrete	Seamless Epoxy	Terrazzo

VCT	Vinyl	Wood
Interior Ceiling Construction (not including basement)		
Acoustical Lay-in	Acoustical Drop Panel	Drywall
Exposed Concrete / Metal Decking	Exposed Painted Concrete / Decking	Plaster
Sprayed-on Exposed Concrete	Wood	
Conveying System		
Hydraulic Elevators	Geared Traction Elevator	Escalator

SAMPLE