



## **AGREEMENT FOR DESIGN & ENGINEERING SERVICES**

**PROJECT:** JJC Recreational Shed Restroom Addition ("Project")

**ARCHITECT/**

**ENGINEER:** K&W Engineering Solutions, LLC ("A/E")  
Amber Kurkowski, CEO / Co-Owner  
650 Shell Stone Trail  
Georgetown, TX 78628

**COUNTY'S DESIGNATED**

**REPRESENTATIVE:** Williamson County Facilities Department  
Attn: Director of Facilities  
3101 SE Inner Loop  
Georgetown, Texas 78626

**THIS AGREEMENT FOR DESIGN AND ENGINEERING SERVICES** ("Agreement") is made and entered into effective as of the latest date of the signatories indicated at the conclusion of this document and all attachments (the "Effective Date"), by and between **Williamson County**, a body corporate and politic under the laws of the State of Texas ("County") and A/E.

### **R E C I T A L S**

**WHEREAS, V.T.C.A., Government Code §2254.002(2)(A)(vii) under Subchapter A** entitled "Professional Services Procurement Act" provides for the procurement by counties of services of professional architects and engineers; and

**WHEREAS, County intends to add on to existing auxiliary building at the Williamson County Juvenile Justice Center to provide restrooms and a wash-down area; and**

**WHEREAS, County desires that A/E perform certain professional services in connection with the Project; and**

**WHEREAS, A/E represents that it is qualified and desires to perform such services;**

**NOW, THEREFORE, County and A/E, in consideration of the mutual covenants and agreements herein contained, do mutually agree as follows:**

## **ARTICLE 1 SCOPE OF AGREEMENT**

A/E agrees to perform professional services in connection with the Project as stated herein, and for having rendered such services, County agrees to pay to A/E compensation as stated in the articles to follow.

## **ARTICLE 2 CONTRACT DOCUMENTS AND APPLICABLE PROJECT DOCUMENTS**

### **2.1 Contract Documents.**

Contract Documents consist of this Agreement, any exhibits attached hereto (which exhibits are hereby incorporated into and made a part of this Agreement) and all fully executed Supplemental Agreements which are subsequently issued. These form the entire Agreement, and all are as fully a part of this Agreement as if attached to this Agreement or repeated herein.

### **2.2 Existing Information.**

County shall provide A/E with all existing plans, maps, studies, reports, field notes, statistics, computations, and other data in its possession relative to existing facilities and to this particular Project at no cost to A/E; however, any and all such information shall remain the property of County and shall be returned, if the County so instructs A/E.

### **2.3 Project Documents.**

In addition to any other pertinent and necessary Project documents, the following documents shall be used in the development of the Project:

#### **2.3.1**

Texas Accessibility Standards (TAS) of the Architectural Barriers Act, **Article 9102, Texas Civil Statutes, Effective March 15, 2012**, including latest revisions

#### **2.3.2**

Americans with Disabilities Act (ADA)

#### **2.3.3**

Williamson County Facilities Building Code Adoption List, 2020 edition as updated

#### **2.3.4**

Williamson County Consultant Design Submittal Guidelines, 2020 edition as updated

### **ARTICLE 3**

#### **NON-COLLUSION; DEBARMENT; AND FINANCIAL INTEREST PROHIBITED**

##### **3.1 Non-collusion.**

A/E warrants that it has not employed or retained any company or persons, other than a bona fide employee working solely for A/E, to solicit or secure this Agreement, and that it has not paid or agreed to pay any company or subconsultant any fee, commission, percentage, brokerage fee, gifts, or any other consideration, contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, County reserves and shall have the right to annul this Agreement without liability or, in its discretion and at its sole election, to deduct from the agreement price or compensation, or to otherwise recover, the full amount of such fee, commission, percentage, brokerage fee, gift or contingent fee.

##### **3.2 Debarment Certification.**

A/E must sign the Debarment Certification enclosed herewith as **Exhibit E**.

##### **3.3 Financial Interest Prohibited.**

A/E covenants and represents that A/E, its officers, employees, agents, consultants, and subcontractors will have no financial interest, direct or indirect, in the purchase or sale of any product, materials, or equipment that will be recommended or required for the construction of the Project.

### **ARTICLE 4**

#### **CHARACTER AND SCOPE OF SERVICES**

##### **4.1**

In consideration of the compensation herein provided, A/E shall perform professional design and engineering services for the Project, which are acceptable to County, based on standard architectural and engineering practices and the scope of work described on the Exhibits attached to this Agreement. A/E shall also serve as County's professional architect and engineer in those phases of the Project to which this Agreement applies and will consult with and give advice to County during the performance of A/E's services.

##### **4.3**

A/E shall perform the following Basic Scope of Services (sometimes referred to herein as the "Basic Scope of Services", "Basic Services" or the "Scope of Services"):

###### **4.3.1**

The Basic Scope of Services shall generally consist of all elements of work, meetings, materials, and equipment required for the development of the Project in accordance with the requirements, policies, and general practices of Williamson County.

#### **4.3.2**

As part of the Basic Services, A/E shall submit its work products to County for review as requested by County.

#### **4.3.3**

The detailed Basic Services for the Project is set forth herein as **Exhibit A** to this Agreement, which is expressly incorporated and made a part hereof.

### **ARTICLE 5 TIME FOR PERFORMANCE**

#### **5.1 Commencement.**

A/E shall not commence work until A/E has been thoroughly briefed on the scope of the Project and has been notified in writing to proceed, as evidenced by a Notice to Proceed.

#### **5.2 Duration.**

A/E agrees to complete the Basic Services within the time period set forth in **Exhibit C**. The time limits set out therein may, for good cause, be extended, in writing, by County as the Project proceeds.

### **ARTICLE 6 COMPENSATION AND EXPENSES**

#### **6.1 Basic Fee.**

For and in consideration of the Basic Services rendered by A/E, County shall pay to A/E up to **Four Thousand Four Hundred Dollars (\$ 4,400)** hereinafter called the "Basic Fee", plus the amount payable under **Article 7** (Additional Services and Charges).

The Basic Fee is based upon all estimated labor costs required in the performance of all items and phases of the Basic Services set forth in **Exhibit A**. Compensation for Basic Services will be paid by County by monthly invoices of percentage completion. County will only be obligated to pay A/E for the performance of items and phases of the Basic Services actually rendered and incurred, which may be less than the above stated Basic Fee.

#### **6.2 Expenses.**

A/E shall be reimbursed for actual non-labor and subcontract expenses incurred in the performance of the services under this Agreement in accordance with the Williamson County Vendor Reimbursement Policy set forth under **Exhibit D**. Invoices requesting reimbursement for costs and expenditures related to the Project (reimbursables) must be accompanied by copies of the provider's invoice and **must strictly comply with the Williamson County Vendor Reimbursement Policy**. The copies of the provider's invoice must evidence the actual costs billed

to A/E without markup. Reimbursable Expenses are in addition to compensation for Basic and Additional Services and must not exceed **Four Hundred Forty Dollars (\$ 440)**.

## **ARTICLE 7 ADDITIONAL SERVICES AND CHARGES**

For the performance of services not specifically described as Basic Services under **Article 4** above (sometimes referred to herein as “Additional Services”), County shall pay and A/E shall receive, under a negotiated, written supplemental agreement, Additional Services compensation based upon the method and rates set forth in **Exhibit B**.

A/E shall not, however, be compensated for work made necessary by A/E’s negligent errors or omissions. In the event of any dispute over the classification of A/E’s services as Basic or Additional Services under this Agreement, the decision of County shall be final and binding on A/E.

It is expressly understood and agreed that A/E shall not furnish any Additional Services without the prior written authorization of County. County shall have no obligation to pay for such Additional Services which have been rendered without prior written authorization of County as hereinabove required. Furthermore, in no event will County be obligated to compensate A/E for any Additional Services and charges in an amount more than **One Thousand One Hundred Dollars (\$ 1,100)**.

## **ARTICLE 8 TIME OF PAYMENT; PAYMENT AND INTEREST; AND RIGHT TO AUDIT**

### **8.1 Time of Payment.**

During the performance of the services provided for in this Agreement, monthly payments shall be made based upon that portion of the services which has been completed.

On or about the last day of each calendar month during the performance of the services to be provided under this Agreement, A/E shall submit to County working documents in any stage of completion to demonstrate incremental progress of Basic Services and the compensation which is due for percentage completion of Basic Services. For amounts payable under **Article 7** which have not been previously billed or paid, A/E shall submit a sworn statement to County, along with time sheets detailing hours worked, receipts detailing expenses incurred and other support documentation, in a form acceptable to the Williamson County Auditor, setting forth the services provided for by this Agreement which were completed during such calendar month plus the amounts payable under **Article 7** which have not been previously billed or paid. In the event the statement includes charges based upon hourly billing rates for services or any other rates based upon the amount of time worked by an individual or individuals in performing services, whether the charges are being billed directly to the County or whether they are the basis of invoices from

subcontractors for which A/E seeks reimbursement from the County, the charges shall be accompanied by an affidavit signed by an officer or principal of A/E certifying that the work was performed, it was authorized by the County and that all information contained in the invoice that is being submitted is true and correct.

The County shall review the documentation and shall pay each statement as set forth in this **Article 8**, however, the approval or payment of any statement shall not be considered evidence of performance by A/E to the point indicated by such statement or of receipt or acceptance by County of the services covered by such statement. Final payment does not relieve A/E of the responsibility of correcting any errors or omissions resulting from A/E's negligence.

Upon submittal of the initial invoice, A/E shall provide the County Auditor with an Internal Revenue Form W-9, Request for Taxpayer Identification Number and Certification that is complete in compliance with the Internal Revenue Code, its rules and regulations.

## **8.2 Prompt Payment Policy.**

In accordance with **Chapter 2251, V.T.C.A., Texas Government Code**, payment to A/E will be made within **thirty (30) days** of the day on which the performance of services was complete, or within **thirty (30) days** of the day on which the County Auditor receives a correct invoice for services, whichever is later. A/E may charge a late fee (fee shall not be greater than that which is permitted by Texas law) for payments not made in accordance with this prompt payment policy; however, this policy does not apply in the event:

### **8.2.1**

There is a bona fide dispute between County and A/E concerning the supplies, materials, or equipment delivered or the services performed that causes the payment to be late; or

### **8.2.2**

There is a bona fide dispute between A/E and a subcontractor/ subconsultant or between a subcontractor/ subconsultant and its supplier concerning supplies, materials, or equipment delivered or the Basic Services performed which causes the payment to be late; or

### **8.2.3**

The invoice is not submitted to Williamson County in strict accordance with instructions, if any, on the purchase order, or this Agreement or other such contractual agreement.

The County Auditor shall document to A/E the issues related to disputed invoices within **ten (10) calendar days** of receipt of such invoice. Any non-disputed invoices shall be considered correct and payable per the terms of **Texas Government Code, Chapter 2251, V.T.C.A.**

## **ARTICLE 9 PROJECT TEAM**

County's Designated Representative for purposes of this Agreement is as follows:

**Williamson County Facilities Department  
Attn: Director of Facilities  
3101 SE Inner Loop  
Georgetown, Texas 78626**

County shall have the right, from time to time, to change the County's Designated Representative by giving A/E written notice thereof. With respect to any action, decision, or determination which is to be taken or made by County under this Agreement, the County's Designated Representative may take such action or make such decision or determination or shall notify A/E in writing of an individual responsible for, and capable of, taking such action, decision, or determination, and shall forward any communications and documentation to such individual for response or action. Actions, decisions or determinations by County's Designated Representative on behalf of County shall be done in his or her reasonable business judgment unless express standards or parameters therefor are included in this Agreement, in which case, actions taken by County's Designated Representative shall be in accordance with such express standards or parameters. Any consent, approval, decision, or determination hereunder by County's Designated Representative shall be binding on County; *provided, however*, County's Designated Representative shall not have any right to modify, amend, or terminate this Agreement or executed Supplemental Agreement. County's Designated Representative shall not have any authority to execute a Supplemental Agreement unless otherwise granted such authority by the Williamson County Commissioners Court.

A/E's Designated Representative for purposes of this Agreement is as follows:

**K&W Engineering Solutions, LLC  
Amber Kurkowski, CEO / Co-Owner  
650 Shell Stone Trail  
Georgetown, TX 78628**

A/E shall have the right, from time to time, to change A/E's Designated Representative by giving County written notice thereof. With respect to any action, decision, or determination which is to be taken or made by A/E under this Agreement, A/E's Designated Representative may take such action or make such decision or determination, or shall notify County in writing of an individual responsible for and capable of taking such action, decision, or determination and shall forward any communications and documentation to such individual for response or action. Actions, decisions, or determinations by A/E's Designated Representative on behalf of A/E shall be done in his or her reasonable business judgment unless express standards or parameters therefor are included in this Agreement, in which case, actions taken by A/E's Designated

Representative shall be in accordance with such express standards or parameters. Any consent, approval, decision, or determination hereunder by A/E's Designated Representative shall be binding on A/E. A/E's Designated Representative shall have the right to modify, amend, and execute Supplemental Agreements on behalf of A/E.

## **ARTICLE 10 NOTICE**

Any notice required to be given under the provisions of this Agreement shall be in writing and shall be duly served when it shall have been deposited, enclosed in a wrapper with the proper postage prepaid thereon, and duly registered or certified, return receipt requested, in a United States Post Office, addressed to County or A/E at the following addresses. If mailed, any notice or communication shall be deemed to be received **three (3) days** after the date of deposit in the United States Mail. Unless otherwise provided in this Agreement, all notices shall be delivered to the following addresses:

**County:** Williamson County Judge  
710 Main Street, Suite 101  
Georgetown, Texas 78626

With copy to: Williamson County Facilities Department  
Attn: Director of Facilities  
3101 SE Inner Loop  
Georgetown, Texas 78626

and to: Office of General Counsel  
Williamson County  
710 Main Street, Suite 102  
Georgetown, Texas 78626

**A/E:** K&W Engineering Solutions, LLC  
650 Shell Stone Trail  
Georgetown, TX 78628

Attention: Amber Kurkowski  
CEO / Co-Owner

Either party may designate a different address by giving the other party ten (10) days written notice.



## **ARTICLE 11 PROGRESS EVALUATION**

A/E shall, from time to time during the progress of the Basic Services, confer with County at County's election. A/E shall prepare and present such information as may be pertinent and necessary, or as may be reasonably requested by County, in order for County to evaluate features of the Basic Services. At the request of County or A/E, conferences shall be provided at A/E's office, the offices of County, or at other locations designated by County. When requested by County, such conferences shall also include evaluation of the Basic Services. County may, from time to time, require A/E to appear and provide information to the Williamson County Commissioners Court.

Should County determine that the progress in Basic Services does not satisfy the terms of the Agreement then County shall review same with A/E to determine corrective action required.

A/E shall promptly advise County in writing of events which have or may have a significant impact upon the progress of the Basic Services, including but not limited to the following:

### **11.1**

Problems, delays, adverse conditions which may materially affect the ability to meet the objectives of the Agreement or preclude the attainment of Project Basic Services by established time periods; and such disclosure shall be accompanied by statement of actions taken or contemplated, and County assistance needed to resolve the situation, if any; and

### **11.2**

Favorable developments or events which enable meeting goals sooner than anticipated in relation to the Agreement.

## **ARTICLE 12 CHANGES IN COMPLETED BASIC SERVICES**

If County deems it necessary to request changes to previously satisfactorily completed Basic Services or parts thereof which involve changes to the original Basic Services or character of Basic Services under this Agreement, then A/E shall make such revisions as requested and as directed by County. Such revisions shall be considered as Additional Services and paid for as specified under **Article 7**. A/E shall make revisions to Basic Services authorized hereunder as are necessary to correct errors appearing therein, when required to do so by County. No additional compensation shall be due for such Basic Services.

## **ARTICLE 13 REVIEW PROCESS AND REVISIONS TO A/E WORK PRODUCT**

### **13.1 Review Process.**

A/E's Work Product will be reviewed by County under its applicable technical requirements and procedures, as follows:

#### **13.1.1 Submittal.**

Reports, plans, surveys, field notes, original drawings, computer tapes, graphic files, tracings, calculations, analyses, reports, specifications, data, sketches and/or schematics prepared by A/E and supporting documents (collectively referred to hereinabove and hereinafter as the "A/E Work Product(s)"), shall be submitted by A/E on or before the dates specified for completion, as set out in the Production Schedule set forth in **Exhibit C**.

#### **13.1.2 Completion.**

Reports, plans, specifications, and supporting documents shall be submitted by A/E on or before the dates specified in **Exhibit C**. Upon receipt of same, the submission shall be checked for completion. "Completion" or "Complete" shall be defined as all of the required items, as set out in **Exhibit A** have been included in compliance with the requirements of this Agreement. The completeness of any Basic Services submitted to County shall be determined by County within thirty (30) days of such submittal and County shall notify A/E in writing within such thirty (30) day period if such Basic Services have been found to be incomplete. If the submission is Complete, County will notify A/E and County's technical review process will begin.

If the submission is not Complete, County will notify A/E, who shall perform such professional services as are required to complete the Basic Services and resubmit it to County. This process shall be repeated until a submission is Complete.

#### **13.1.3 Acceptance.**

County will review the completed Basic Services for compliance with this Agreement. If necessary, the completed Basic Services will be returned to A/E, who shall perform any required Basic Services and resubmit to County. This process shall be repeated until the Basic Services are Accepted. "Acceptance" or "Accepted" shall mean that in County's reasonable opinion, substantial compliance with the requirements of this Agreement has been achieved.

#### **13.1.4 Final Approval.**

After Acceptance, A/E shall perform any required modifications, changes, alterations, corrections, redesigns, and additional work necessary to receive Final Approval by County. "Final Approval" in this sense shall mean formal recognition that the Basic Services have been fully carried out.

### **13.2 Revision to A/E Work Product.**

A/E shall make, without expense to County, such revisions to A/E Work Product as may be required to correct negligent errors or omissions so A/E Work Product meets the needs of County, but after the approval of A/E Work Product any revisions, additions, or other modifications made

at County's request which involve extra services and expenses to A/E shall entitle A/E to additional compensation for such extra services and expenses; provided, however, A/E hereby agrees to perform any necessary corrections to A/E Work Products which are found to be in negligent error or omission as a result of A/E's development of A/E Work Product, at any time, without additional compensation. If it is necessary, due to such error or omission by A/E, to revise any A/E Work Product in order to make the Project constructible, A/E shall do so without additional compensation. In the event of any dispute over the classification of A/E's Work Products as Complete, Accepted, or Approved under this Agreement, the decision of County shall be final and binding on A/E, subject to any civil remedy or determination otherwise available to the parties and deemed appropriate by the parties.

### **13.3 Days.**

All references to a "day" in this Agreement shall mean a calendar day unless otherwise specified.

### **13.4 County's Reliance on A/E.**

A/E's duties as set forth herein shall at no time be in any way diminished by reason of any review, evaluation, or approval by County nor shall A/E be released from any liability by reason of such review, evaluation or approval by County, it being understood that County, at all times, is ultimately relying upon A/E's skill, ability, and knowledge in performing the Basic Services required hereunder.

## **ARTICLE 14 SUSPENSION**

Should County desire to suspend the Basic Services, but not to terminate this Agreement, then such suspension may be effected by County giving A/E **thirty (30) calendar days'** verbal notification followed by written confirmation to that effect. Such **thirty (30)-day** notice may be waived in writing by agreement and signature of both parties. The Basic Services may be reinstated and resumed in full force and effect within **sixty (60) days** of receipt of written notice from County to resume the Basic Services. Such **sixty (60)-day** notice may be waived in writing by agreement and signature of both parties. If this Agreement is suspended for more than **thirty (30) days**, A/E shall have the option of terminating this Agreement and, in the event, A/E shall be compensated for all Basic Services performed and reimbursable expenses incurred, provided such Basic Services and reimbursable expenses have been previously authorized and approved by County, to the effective date of suspension.

County assumes no liability for Basic Services performed or costs incurred prior to the date authorized by County for A/E to begin Basic Services, and/or during periods when Basic Services are suspended, and/or subsequent to the completion date.

## **ARTICLE 15 VIOLATION OF CONTRACT TERMS/ BREACH OF CONTRACT**

Violation of contract terms or breach of contract by A/E shall be grounds for termination of this Agreement, and any increased costs arising from A/E's default, breach of contract, or violation of contract terms shall be paid by A/E.

## **ARTICLE 16 TERMINATION**

This Agreement may be terminated as set forth below.

### **16.1**

By mutual agreement and consent, in writing, of both parties.

### **16.2**

By County, by notice in writing to A/E, as a consequence of failure by A/E to perform the Basic Services set forth herein in a satisfactory manner.

### **16.3**

By either party, upon the failure of the other party to fulfill its obligations as set forth herein.

### **16.4**

By County, for reasons of its own and not subject to the mutual consent of A/E, upon not less than **thirty (30) days** written notice to A/E.

### **16.5**

By satisfactory completion of all Basic Services and obligations described herein.

Should County terminate this Agreement as herein provided, no fees other than fees due and payable at the time of termination plus reimbursable expenses incurred shall thereafter be paid to A/E. In determining the value of the Basic Services performed by A/E prior to termination, County shall be the sole judge. Compensation for Basic Services at termination will be based on a percentage of the Basic Services completed at that time. Should County terminate this Agreement under **Section 16.4** above, then the amount charged during the **thirty (30)-day** notice period shall not exceed the amount charged during the preceding **thirty (30) days**.

If A/E defaults in the performance of this Agreement or if County terminates this Agreement for fault on the part of A/E, then County shall give consideration to the actual costs incurred by A/E in performing the Basic Services to the date of default, the amount of Basic Services required which was satisfactorily completed to date of default, the value of the Basic Services which are usable to County, the cost to County of employing another firm to complete the Basic Services

required and the time required to do so, and other factors which affect the value to County of the Basic Services performed at the time of default.

The termination of this Agreement and payment of an amount in settlement as prescribed above shall extinguish all rights, duties, and obligations of County under this Agreement. If the termination of this Agreement is due to the failure of A/E to fulfill its contractual obligations, then County may take over the Project and prosecute the Basic Services to completion. In such case, A/E shall be liable to County for any additional and reasonable costs incurred by County.

A/E shall be responsible for the settlement of all contractual and administrative issues arising out of any procurements made by A/E in support of the Basic Services under this Agreement.

## **ARTICLE 17 USE OF DOCUMENTS**

All documents, including but not limited to drawings, specifications, and data or programs stored electronically, (hereinafter referred to as "A/E Work Products") prepared by A/E and its subcontractors/ subconsultants are related exclusively to the services described in this Agreement and are intended to be used with respect to this Project. However, it is expressly understood and agreed by and between the parties hereto that all of A/E's designs under this Agreement (including but not limited to tracings, drawings, estimates, specifications, investigations, studies and other documents, completed or partially completed), shall be the property of County to be thereafter used in any lawful manner as County elects. Any such subsequent use made of documents by County shall be at County's sole risk and without liability to A/E.

By execution of this Agreement and in confirmation of the fee for services to be paid under this Agreement, A/E hereby conveys, transfers, and assigns to County all rights under the Federal Copyright Act of 1976 (or any successor copyright statute), as amended, all common law copyrights and all other intellectual property rights acknowledged by law in the Project Designs and Work Product developed under this Agreement. Copies may be retained by A/E. A/E shall be liable to County for any loss or damage to any such documents while they are in the possession of or while being worked upon by A/E or anyone connected with A/E, including agents, employees, Engineers or subcontractors/ subconsultants. All documents so lost or damaged shall be replaced or restored by A/E without cost to County.

Upon execution of this Agreement, A/E grants to County permission to reproduce A/E's work and documents for purposes of constructing, using, and maintaining the Project, provided that County will comply with its obligations, including prompt payment of all sums when due, under this Agreement. A/E shall obtain similar permission from A/E's subcontractors/ subconsultants consistent with this Agreement. If and upon the date A/E is adjudged in default of this Agreement, County is permitted to authorize other similarly credentialed design professionals to

reproduce and, where permitted by law, to make changes, corrections, or additions to the work and documents for the purposes of completing, using, and maintaining the Project.

County shall not assign, delegate, sublicense, pledge, or otherwise transfer any permission granted herein to another party without the prior written consent of A/E. However, County shall be permitted to authorize the contractor, subcontractors, and material or equipment suppliers to reproduce applicable portions of A/E Work Products appropriate to and for use in the execution of the Work. Submission or distribution of A/E Work Products to meet official regulatory requirements or for similar purposes in connection with the Project is permitted. Any unauthorized use of A/E Work Products shall be at County's sole risk and without liability to A/E and its subconsultants.

Prior to A/E providing to County any A/E Work Products in electronic form or County providing to A/E any electronic data for incorporation into A/E Work Products, County and A/E shall, by separate written agreement, set forth the specific conditions governing the format of such A/E Work Products or electronic data, including any special limitations not otherwise provided in this Agreement. Any electronic files are provided by A/E for the convenience of County and use of them is at County's sole risk. In the case of any defects in electronic files or any discrepancies between them and any hardcopy of the same documents prepared by A/E, the hardcopy shall prevail. Only printed copies of documents conveyed by A/E shall be relied upon.

A/E shall have no liability for changes made to the drawings by other consultants subsequent to the completion of the Project. Any such change shall be sealed by A/E making that change and shall be appropriately marked to reflect what was changed or modified.

## **ARTICLE 18**

### **PERSONNEL, EQUIPMENT, AND MATERIAL**

A/E shall furnish and maintain, at its own expense, quarters for the performance of all Basic Services, and adequate and sufficient personnel and equipment to perform the Basic Services as required. All employees of A/E shall have such knowledge and experience as will enable them to perform the duties assigned to them. Any employee of A/E who, in the reasonable opinion of County, is incompetent or whose conduct becomes detrimental to the Basic Services shall immediately be removed from association with the Project when so instructed by County. A/E certifies that it presently has adequate qualified personnel in its employment for performance of the Basic Services required under this Agreement, or will obtain such personnel from sources other than County. A/E may not change the Project Manager without prior written consent of County.

## **ARTICLE 19 SUBCONTRACTING**

A/E shall not assign, subcontract, or transfer any portion of the Basic Services under this Agreement without prior written approval from County. All subcontracts shall include the provisions required in this Agreement. No subcontract shall relieve A/E of any responsibilities under this Agreement.

## **ARTICLE 20 MODIFICATIONS**

This instrument contains the entire Agreement between the parties relating to the right herein granted and obligations herein assumed. Any oral or written representations or modifications concerning this instrument shall be of no force and effect excepting a subsequent written modification signed by both parties hereto.

## **ARTICLE 21 COMPLIANCE WITH LAWS**

### **21.1 Compliance.**

A/E shall render the services hereunder in accordance with generally accepted standards applicable thereto and shall use that degree of care and skill commensurate with the architecture and engineering professions, and in recognition of such standards, A/E shall comply with all applicable federal, state, and local laws, statutes, codes, ordinances, rules and regulations, and the orders and decrees of any court, or administrative bodies or tribunals in any manner affecting the performance of this Agreement, including, without limitation, minimum/ maximum salary and wage statutes and regulations, and licensing laws and regulations. A/E shall furnish County with satisfactory proof of its compliance.

A/E shall further obtain all permits and licenses required in the performance of the Basic Services contracted for herein.

### **21.2 Taxes.**

A/E shall pay all taxes, if any, required by law arising by virtue of the Basic Services performed hereunder. County is qualified for exemption pursuant to the provisions of **Section 151.309 of the Texas Limited Sales, Excise, and Use Tax Act**.

## **ARTICLE 22 INDEMNIFICATION**

A/E AGREES, TO THE FULLEST EXTENT PERMITTED BY LAW, TO INDEMNIFY AND HOLD COUNTY HARMLESS FROM AND AGAINST ANY AND ALL LIABILITIES, LOSSES, PENALTIES, JUDGMENTS, CLAIMS, LAWSUITS, DAMAGES, COSTS AND EXPENSES, INCLUDING, BUT NOT LIMITED TO, REASONABLE ATTORNEYS' FEES, ("LOSSES") TO THE EXTENT SUCH LOSSES ARE CAUSED BY OR RESULTS FROM A NEGLIGENT ACT OR OMISSION, NEGLIGENCE, OR INTENTIONAL TORT COMMITTED BY A/E, A/E'S EMPLOYEES, AGENTS, OR ANY OTHER PERSON OR ENTITY UNDER CONTRACT WITH A/E INCLUDING, WITHOUT LIMITATION, A/E'S SUBCONSULTANTS, OR ANY OTHER ENTITY OVER WHICH A/E EXERCISES CONTROL.

A/E FURTHER AGREES, TO THE FULLEST EXTENT PERMITTED BY LAW, TO INDEMNIFY AND HOLD COUNTY HARMLESS FROM ANY AND ALL LIABILITIES, LOSSES, PENALTIES, JUDGMENTS, CLAIMS, LAWSUITS, DAMAGES, COSTS AND EXPENSES, INCLUDING, BUT NOT LIMITED TO, REASONABLE ATTORNEYS' FEES, ("LOSSES") TO THE EXTENT SUCH LOSSES ARE CAUSED BY OR RESULTS FROM A/E'S FAILURE TO PAY A/E'S EMPLOYEES, SUBCONTRACTORS, SUBCONSULTANTS, OR SUPPLIERS, IN CONNECTION WITH ANY OF THE WORK PERFORMED OR TO BE PERFORMED UNDER THIS AGREEMENT BY A/E.

A/E FURTHER AGREES TO INDEMNIFY AND HOLD COUNTY HARMLESS FROM ANY AND ALL LIABILITIES, LOSSES, PENALTIES, CLAIMS, LAWSUITS, DAMAGES, COSTS AND EXPENSES, INCLUDING, BUT NOT LIMITED TO, REASONABLE ATTORNEYS' FEES, ("LOSSES") TO THE EXTENT SUCH LOSSES ARE CAUSED BY OR RESULTS FROM THE INFRINGEMENT OF ANY INTELLECTUAL PROPERTY ARISING OUT OF THE USE OF ANY PLANS, DESIGN, DRAWINGS, OR SPECIFICATIONS FURNISHED BY A/E IN THE PERFORMANCE OF THIS AGREEMENT.

THE LIMITS OF INSURANCE REQUIRED IN THIS AGREEMENT AND/OR THE CONTRACT DOCUMENTS SHALL NOT LIMIT A/E'S OBLIGATIONS UNDER THIS **ARTICLE 22**. THE TERMS AND CONDITIONS CONTAINED IN THIS **ARTICLE 22** SHALL SURVIVE THE TERMINATION OF THE AGREEMENT AND/OR CONTRACT DOCUMENTS OR THE SUSPENSION OF THE WORK HEREUNDER. TO THE EXTENT THAT ANY LIABILITIES, PENALTIES, DEMANDS, CLAIMS, LAWSUITS, LOSSES, DAMAGES, COSTS AND EXPENSES ARE CAUSED IN PART BY THE ACTS OF COUNTY OR THIRD PARTIES FOR WHOM A/E IS NOT LEGALLY LIABLE, A/E'S OBLIGATIONS SHALL BE IN PROPORTION TO A/E'S FAULT. THE OBLIGATIONS HEREIN SHALL ALSO EXTEND TO ANY ACTIONS BY COUNTY TO ENFORCE THIS INDEMNITY OBLIGATION.

IN THE EVENT THAT CONTRACTORS INITIATE LITIGATION AGAINST COUNTY IN WHICH CONTRACTOR ALLEGES DAMAGES AS A RESULT OF ANY ACTS, ERRORS OR OMISSIONS OF A/E OR ANY OF ITS EMPLOYEES OR ANY PERSON, FIRM OR CORPORATION DIRECTLY OR INDIRECTLY EMPLOYED BY A/E, INCLUDING, BUT NOT LIMITED TO, DEFECTS, ERRORS, OR OMISSIONS IN THE CONSTRUCTION DOCUMENTS OR IN THE ADMINISTRATION OF THE AGREEMENT BY A/E OR ANY OF ITS EMPLOYEES OR ANY PERSON, FIRM OR CORPORATION DIRECTLY OR INDIRECTLY EMPLOYED BY A/E, AND/OR INADEQUATE SERVICES PURSUANT TO THE CONSTRUCTION PHASE-ADMINISTRATION OF THE CONSTRUCTION CONTRACT AS DEFINED AND REQUIRED BY THIS AGREEMENT, AGREEMENT EXHIBITS AND THE CONSTRUCTION CONTRACT DOCUMENTS, THEN COUNTY SHALL HAVE THE RIGHT TO JOIN A/E AT COUNTY'S COST. A/E SHALL ALSO HOLD COUNTY HARMLESS AND INDEMNIFY



COUNTY TO THE EXTENT THAT A/E, ANY OF ITS EMPLOYEES, AGENTS, SUBCONTRACTORS, SUBCONSULTANTS, OR SUPPLIERS, OR OTHER ENTITIES OVER WHICH A/E EXERCISES CONTROL, CAUSED SUCH DAMAGES TO CONTRACTOR, INCLUDING ANY AND ALL COSTS AND ATTORNEYS' FEES INCURRED BY COUNTY IN CONNECTION WITH THE DEFENSE OF ANY CLAIMS WHERE A/E, ITS EMPLOYEES, AGENTS, SUBCONTRACTORS, SUBCONSULTANTS, OR SUPPLIERS, OR OTHER ENTITIES OVER WHICH A/E EXERCISES CONTROL, ARE ADJUDICATED AT FAULT.

## **ARTICLE 23 PROFESSIONAL'S RESPONSIBILITIES**

A/E shall be responsible for the accuracy of its Professional Services and shall promptly make necessary revisions or corrections to its Work Product resulting from errors, omissions, or negligent acts, and same shall be done without compensation. County shall determine A/E's responsibilities for all questions arising from design errors and/or omissions, subject to the dispute resolution provisions of **Article 31**. A/E shall not be relieved of responsibility for subsequent correction of any such errors or omissions in its work product, or for clarification of any ambiguities until after the construction phase of the Project has been completed.

## **ARTICLE 24 PROFESSIONAL'S SEAL**

The responsible architect and engineer shall sign, seal, and date all appropriate submissions to County in accordance with Texas laws and the rules of the State Boards of Registration for Professionals.

## **ARTICLE 25 INSURANCE**

A/E shall comply with the following insurance requirements, at all times, during this Agreement:

### **25.1 Coverage Limits.**

A/E, at A/E's sole cost, shall purchase and maintain, during the entire term while this Agreement is in effect, the following insurance:

#### **25.1.1**

Worker's Compensation in accordance with statutory requirements.

#### **25.1.2**

Commercial General Liability Insurance with a combined minimum Bodily Injury and Property Damage limits of \$1,000,000 per occurrence and \$2,000,000 in the aggregate.

### **25.1.3**

Automobile Liability Insurance for all owned, non-owned, and hired vehicles with combined minimum limits for Bodily Injury and Property Damage limits of \$500,000 per occurrence and \$1,000,000 in the aggregate.

### **25.1.4**

Professional Liability Errors and Omissions Insurance in the amount of \$2,000,000 per claim.

## **25.2 Additional Insureds; Waiver of Subrogation.**

County, its directors, officers and employees shall be added as additional insureds under policies listed under (2) and (3) above, and on those policies where County, its directors, officers and employees are additional insureds, such insurance shall be primary; and, any insurance maintained by County shall be excess and not contribute with it. Such policies shall also include waivers of subrogation in favor of County.

## **25.3 Premiums and Deductible.**

A/E shall be responsible for payment of premiums for all insurance coverages required under this **Article 25**. A/E further agrees that for each claim, suit, or action made against insurance provided hereunder, with respect to all matters for which A/E is responsible hereunder, A/E shall be solely responsible for all deductibles and self-insured retentions. Any deductibles or self-insured retentions over \$50,000 in A/E's insurance must be declared and approved in writing by County in advance.

## **25.4 Commencement of Work.**

A/E shall not commence any work under this Agreement until it has obtained all required insurance and such insurance has been approved by County. As further set out below, A/E shall not allow any subcontractor/ subconsultant(s) to commence work to be performed in connection with this Agreement until all required insurance has been obtained and approved; and, such approval shall not be unreasonably withheld. Approval of the insurance by County shall not relieve or decrease the liability of A/E hereunder.

## **25.5 Insurance Company Rating.**

Required insurance must be written by a company approved to do business in the State or Texas with a financial standing of at least an A-rating, as reflected in Best's insurance ratings or by a similar rating system recognized within the insurance industry at the time the policy is issued.

## **25.6 Certification of Coverage.**

A/E shall furnish County with a certification of coverage issued by the insurer. A/E shall not cause any insurance to be canceled nor permit any insurance to lapse. **In addition to any other notification requires set forth hereunder, A/E shall also notify County, within twenty-four (24) hours of receipt, of any notices of expiration, cancellation, non-renewal, or material change in coverage it receives from its insurer.**

## **25.7 No Arbitration.**

It is the intention of County and agreed to and hereby acknowledged by A/E, that no provision of this Agreement shall be construed to require County to submit to mandatory arbitration in the settlement of any claim, cause of action or dispute, except as specifically required in direct connection with an insurance claim or threat of claim under an insurance policy required hereunder or as may be required by law or a court of law with jurisdiction over the provisions of this Agreement.

## **25.8 Subcontractor/ Subconsultant's Insurance.**

Without limiting any of the other obligations or liabilities of A/E, A/E shall require each subcontractor/ subconsultant performing work under this Agreement (to the extent a subcontractor/ subconsultant is allowed by County) to maintain during the term of this Agreement, at the subcontractor/ subconsultant's own expense, the same stipulated minimum insurance required in this **Article 25** above, including the required provisions and additional policy conditions as shown below in this **Article 25**.

A/E shall obtain and monitor the certificates of insurance from each subcontractor/ subconsultant in order to assure compliance with the insurance requirements. A/E must retain the certificates of insurance for the duration of this Agreement and shall have the responsibility of enforcing these insurance requirements among its subcontractor/ subconsultants. County shall be entitled, upon request and without expense, to receive copies of these certificates of insurance.

## **25.9 Insurance Policy Endorsements.**

Each insurance policy shall include the following conditions by endorsement to the policy:

### **25.9.1**

County shall be notified **thirty (30) days** prior to the expiration, cancellation, nonrenewal or any material change in coverage, and such notice thereof shall be given to County by certified mail to:

**Williamson County Purchasing  
100 Wilco Way  
Suite P101  
Georgetown, Texas 78626**

### **25.10.1**

The policy clause "Other Insurance" shall not apply to any insurance coverage currently held by County, to any such future coverage, or to County's Self-Insured Retentions of whatever nature.

## **25.10 Cost of Insurance.**

The cost of all insurance required herein to be secured and maintained by A/E shall be borne solely by A/E, with certificates of insurance evidencing such minimum coverage in force to be filed with County. Such certificates of insurance are evidenced as **Exhibit F**.

## **ARTICLE 26 SUCCESSORS AND ASSIGNS**

This Agreement shall be binding upon and inure to the benefit of the parties hereto, their successors, lawful assigns, and legal representatives. A/E may not assign, sublet, or transfer any interest in this Agreement, in whole or in part, by operation of law or otherwise, without obtaining the prior written consent of County.

## **ARTICLE 27 SEVERABILITY**

In the event any one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such invalidity, illegality or unenforceability shall not affect any other provision thereof and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.

## **ARTICLE 28 PRIOR AGREEMENTS SUPERSEDED**

This Agreement constitutes the sole agreement of the parties hereto and supersedes any prior understandings or written or oral agreements between the parties respecting the subject matter defined herein. This Agreement may only be amended or supplemented by mutual agreement of the parties hereto in writing.

## **ARTICLE 29 A/E'S ACCOUNTING RECORDS**

A/E agrees to maintain, for a period of **three (3) years** after final payment under this Agreement, detailed records identifying each individual performing services, the date or dates the services were performed, the applicable hourly rates, the total amount billed for each individual, and the total amount billed for all persons, records of reimbursable costs and expenses of other providers and provide such other details as may be requested by the County Auditor for verification purposes. A/E agrees that County or its duly authorized representatives shall, until the expiration of **three (3) years** after final payment under this Agreement, have access to and the right to examine and photocopy any and all books, documents, papers, and records of A/E which are directly pertinent to the services to be performed under this Agreement for the purposes of making audits, examinations, excerpts, and transcriptions. A/E further agrees that County shall have access during normal working hours to all necessary A/E facilities and shall be provided

adequate and appropriate workspace in order to conduct audits in compliance with the provisions of this **Article 29**. County shall give A/E reasonable advance notice of intended audits.

## **ARTICLE 30 GENERAL PROVISIONS**

### **30.1 Time is of the Essence.**

A/E understands and agrees that time is of the essence and that any failure of A/E to complete the Basic Services within the agreed Production Schedule set out in **Exhibit C** may constitute a material breach of this Agreement. A/E shall be fully responsible for its delays or for failures to use its reasonable efforts in accordance with the terms of this Agreement and A/E's standard of performance as defined herein. Where damage is caused to County due to A/E's negligent failure to perform, County may accordingly withhold, to the extent of such damage, A/E's payments hereunder without waiver of any of County's additional legal rights or remedies.

### **30.2 Force Majeure.**

Neither County nor A/E shall be deemed in violation of this Agreement if prevented from performing any of their obligations hereunder by reasons for which they are not responsible or circumstances beyond their control. However, notice of such impediment or delay in performance must be timely given, and all reasonable efforts undertaken to mitigate its effects.

### **30.3 Enforcement and Venue.**

This Agreement shall be enforceable in Georgetown, Williamson County, Texas, and if legal action is necessary by either party with respect to the enforcement of any or all of the terms or conditions herein, exclusive venue for same shall lie in Williamson County, Texas. This Agreement shall be governed by and construed in accordance with the laws and court decisions of the State of Texas excluding, however, its choice of law rules.

### **30.4 Standard of Performance.**

The standard of care for all professional architecture, engineering, consulting and related services performed or furnished by A/E and its employees under this Agreement will be the care and skill ordinarily used by members of A/E's profession, practicing under the same or similar circumstances at the same time and in the same locality.

### **30.5 Opinion of Probable Cost.**

Any opinions of probable Project cost or probable construction cost provided by A/E are made on the basis of information available to A/E and on the basis of A/E's experience and qualifications and represents its judgment as an experienced and qualified professional. However, since A/E has no control over the cost of labor, materials, equipment, or services furnished by others, or over the contractor(s') methods of determining prices, or over competitive bidding or market conditions, A/E does not guarantee that proposals, bids or actual Project or construction cost will not vary from opinions of probable cost A/E prepares.

### **30.6 Opinions and Determinations.**

Where the terms of this Agreement provide for action to be based upon opinion, judgment, approval, review, or determination of either party hereto, such terms are not intended to be and shall never be construed as permitting such opinion, judgment, approval, review, or determination to be arbitrary, capricious, or unreasonable.

### **30.7 Reports of Accidents.**

Within **twenty-four (24) hours** after A/E becomes aware of the occurrence of any accident or other event which results in, or might result in, injury to the person or property of any third person (other than an employee of A/E), whether or not it results from, or involves, any action or failure to act by A/E or any employee or agent of A/E and which arises in any manner from the performance of this Agreement, A/E shall send a written report of such accident or other event to County, setting forth a full and concise statement of the facts pertaining thereto. A/E shall also immediately send to County a copy of any summons, subpoena, notice, or other documents served upon A/E, its agents, employees, or representatives, or received by it or them, in connection with any matter before any court arising in any manner from A/E's performance of work under this Agreement.

### **30.8 Gender, Number, and Headings.**

Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires. The headings and section numbers are for convenience only and shall not be considered in interpreting or construing this Agreement.

### **30.9 Construction.**

Each party hereto acknowledges that it and its counsel have reviewed this Agreement and that the normal rules of construction are not applicable and there will be no presumption that any ambiguities will be resolved against the drafting party in the interpretation of this Agreement.

### **30.10 Independent Contractor Relationship.**

Both parties hereto, in the performance of this Agreement, shall act in an individual capacity and not as agents, employees, partners, joint ventures or associates of one another. The employees or agents of one party shall not be deemed or construed to be the employees or agents of the other party for any purposes whatsoever.

### **30.11 No Waiver of Immunities.**

Nothing in this Agreement shall be deemed to waive, modify, or amend any legal defense available at law or in equity to County, its past or present officers, employees, or agents, nor to create any legal rights or claim on behalf of any third party. County does not waive, modify, or alter, to any extent whatsoever, the availability of the defense of governmental immunity under the laws of the State of Texas and of the United States.

### **30.12 Texas Public Information Act.**

To the extent, if any, that any provision in this Agreement is in conflict with **Texas Government Code 552.001** et seq., as amended (the "Public Information Act"), the same shall be of no force or effect. Furthermore, it is expressly understood and agreed that County, its officers and employees may request advice, decisions and opinions of the Attorney General of the State of Texas in regard to the application of the Public Information Act to any items or data furnished to County as to whether or not the same are available to the public. It is further understood that County's officers and employees shall have the right to rely on the advice, decisions and opinions of the Attorney General, and that County, its officers and employees shall have no liability or obligation to any party hereto for the disclosure to the public, or to any person or persons, of any items or data furnished to County by a party hereto, in reliance of any advice, decision or opinion of the Attorney General of the State of Texas.

### **30.13 Governing Terms and Conditions.**

If there is an irreconcilable conflict between the terms and conditions set forth in this Agreement or any Supplemental Agreement and the terms and conditions set forth in any Exhibit, Appendix to this Agreement, the terms and conditions set forth in this Agreement or any Supplemental Agreement shall control over the terms and conditions set forth in any Exhibit, Appendix to this Agreement.

### **30.14 Appropriation of Funds by County.**

County believes it has sufficient funds currently available and authorized for expenditure to finance the costs of this Agreement. A/E understands and agrees that County's payment of amounts under this Agreement is contingent on the County receiving appropriations or other expenditure authority sufficient to allow the County, in the exercise of reasonable administrative discretion, to continue to make payments under this Agreement. It is further understood and agreed by A/E that County shall have the right to terminate this Agreement at the end of any County fiscal year if the governing body of County does not appropriate sufficient funds as determined by County's budget for the fiscal year in question. County may affect such termination by giving written notice of termination to A/E.

## **ARTICLE 31 DISPUTE RESOLUTION**

Except as otherwise specifically set forth herein, County and A/E shall work together in good faith to resolve any controversy, dispute, or claim between them which arises out of or relates to this Agreement, whether stated in tort, contract, statute, claim for benefits, bad faith, professional liability or otherwise ("Claim"). If the parties are unable to resolve the Claim within **thirty (30) days** following the date in which one party sent written notice of the Claim to the other party, and if a party wishes to pursue the Claim, such Claim shall be addressed through non-binding mediation. A single mediator engaged in the practice of law, who is knowledgeable about subject matter of this Agreement, shall be selected by agreement of the parties and serve as the mediator. Any mediation under this Agreement shall be conducted in Williamson County, Texas. The

mediator's fees shall be borne equally between the parties. Such non-binding mediation is a condition precedent to seeking redress in a court of competent jurisdiction, but this provision shall not preclude either party from filing a lawsuit in a court of competent jurisdiction prior to completing a mediation, if necessary to preserve the statute of limitations, in which case such lawsuit shall be stayed pending completion of the mediation process contemplated herein. This provision shall survive the termination of the Agreement.

## **ARTICLE 32 EQUAL OPPORTUNITY IN EMPLOYMENT**

The parties to this Agreement agree that during the performance of the services under this Agreement they will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The parties to this Agreement will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; termination; rates of pay or other forms of compensation, and selection for training, including apprenticeship.

## **ARTICLE 33 MERGER**

The Parties agree that this Agreement contains all of the terms and conditions of the understanding of the parties relating to the subject matter hereof. All prior negotiations, discussions, correspondence and preliminary understandings between the parties and others relating hereto are superseded by this Agreement.

## **ARTICLE 34 PUBLIC CONTACT**

Contact with the news media, citizens of Williamson County or governmental agencies shall be the responsibility of County. Under no circumstances shall A/E release any material or information developed in the performance of its services hereunder without the express written permission of County.

## **ARTICLE 35 A/E's REPRESENTATIONS**

A/E represents that it is financially solvent, able to pay its debts as they become due, and possesses sufficient working capital to complete the services and perform its obligation under



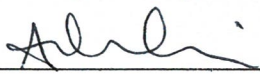
this Agreement and under the Contract Documents. A/E further represents and acknowledges that: (a) it is a sophisticated business entity that possesses the required level of experience and expertise in business administration, construction, and contract administration of projects of similar or like size, complexity, and nature as the Project and (b) the fee stated in this Agreement is adequate compensation for the timely completion of the Basic Services.

### ARTICLE 36 SIGNATORY WARRANTY

The undersigned signatory for A/E hereby represents and warrants that the signatory is an officer of the organization for which he/she has executed this Agreement and that he/she has full and complete authority to enter into this Agreement on behalf of the firm. The above-stated representations and warranties are made for the purpose of inducing County to enter into this Agreement.

**IN WITNESS WHEREOF**, County has caused this Agreement to be signed in its name by its duly authorized County Judge, thereby binding the parties hereto, their successors, assigns and representatives for the faithful and full performance of the terms and provisions hereof. NO OFFICIAL, EMPLOYEE, AGENT, OR REPRESENTATIVE OF THE COUNTY HAS ANY AUTHORITY, EITHER EXPRESS OR IMPLIED, TO AMEND, TERMINATE OR MODIFY THIS AGREEMENT, EXCEPT PURSUANT TO SUCH EXPRESS AUTHORITY AS MAY BE GRANTED BY THE WILLIAMSON COUNTY COMMISSIONERS COURT.

A/E:  
K&W Engineering Solutions, LLC

By:   
Signature

Ambrose Kuchowski  
Printed Name

CEO  
Title

Date Signed: 14 JAN 2021

WILLIAMSON COUNTY:

By: \_\_\_\_\_

Bill Gravell Jr.  
Williamson County Judge

Date Signed: \_\_\_\_\_

## **EXHIBIT A**

### **BASIC SCOPE OF SERVICES**

THE FOLLOWING SCOPE OF SERVICES IS INTENDED TO BE CONSISTENT WITH THE AGREEMENT. TO THE EXTENT THIS SCOPE OF SERVICES IS INCONSISTENT WITH THE AGREEMENT, THE AGREEMENT WILL SUPERSEDE THE SCOPE OF SERVICES AND WILL BE CONTROLLING.

In consideration of the Basic Fee provided in the Agreement, A/E shall perform the following Basic Services, based on standard architectural and engineering practices:

These services may include, but are not limited to structural, mechanical, plumbing, electrical, construction administration, and specialized studies and analysis.

#### **GENERAL REQUIREMENTS**

**Design Criteria.** A/E shall prepare all work in accordance with the latest version of applicable County's procedures, specifications, manuals, guidelines, standard drawings, and standard specifications. A/E shall prepare each PS&E package in a form suitable for letting through County's construction contract bidding and awarding process.

**Right-of-Entry and Coordination.** A/E shall notify County and secure permission to enter private property to perform any surveying, environmental, engineering or geotechnical activities needed off County property. In pursuance of County's policy with the general public, A/E shall not commit acts which would result in damages to private property, and A/E shall make every effort to comply with the wishes and address the concerns of affected private property owners. A/E shall contact each property owner prior to any entry onto the owner's property and shall request concurrence from County prior to each entry.

A/E shall notify County and coordinate with adjacent A/Es on all controls at project interfaces.

A/E shall prepare each exhibit necessary for approval by each utility, and other governmental or regulatory agency in compliance with the applicable format and guidelines required by each entity and as approved by County. A/E shall notify County in writing prior to beginning any work on any outside agency's exhibit.

**Progress Reporting.** A/E shall submit monthly (at a minimum) a progress status e-mail to County's Project Manager (PM) regardless of whether A/E is invoicing for that month.

A/E shall prepare and maintain a design and estimated construction schedule in a format acceptable to County during project phases prior to the Construction Administration Phase. A/E

shall schedule milestone submittals per Exhibit C – Production Schedule. Contractor shall prepare and maintain a construction schedule in Gantt chart format during the project Construction Administration Phase through the Close-out Phase.

Within 30 days of completion of construction of the project, A/E shall deliver all electronic files in formats acceptable to County.

Final payment is contingent upon County's receipt and confirmation by County's PM that the electronic files run and are formatted in accordance with the Agreement and all review comments are addressed.

A/E shall prepare a letter of transmittal to accompany each document submittal to County. At a minimum, the letter of transmittal must include County's project name, Agreement and Work Authorization numbers, as well as facility name and address.

**Coordination.** A/E shall coordinate issues through County's PM. County will communicate resolution of issues and provide A/E direction through County's PM.

**Level of Effort.** A/E shall base the level of effort at each phase on the prior work developed in earlier phases without unnecessary repetition or re-study.

**Quality Assurance (QA) and Quality Control (QC).** A/E shall provide peer review at all levels. For each deliverable, A/E shall maintain evidence of their internal review and mark-up of that deliverable as preparation for submittal. When internal mark-ups are requested by County in advance, County, at its sole discretion, may reject the deliverable should A/E fail to provide the evidence of quality control. A/E shall clearly label each document submitted for quality assurance as an internal mark-up document.

A/E shall perform QA and QC on all subconsultant products (when applicable to the project) prior to delivery to County. If, during the course of reviewing a submittal, it becomes apparent to County that the submittal contains unreasonable errors, omissions, or inconsistencies, County may cease its review and immediately return the submittal for appropriate action by A/E.

A submittal returned to A/E for this reason is not a submittal for purposes of the submission schedule. Rejected submittals shall not impact overall deadline of the Project nor the review period allotted to County officials. A/E shall provide an updated schedule showing interim submission date changes to make-up for any lost time. A/E shall not submit an invoice until County accepts the submittal as complete.

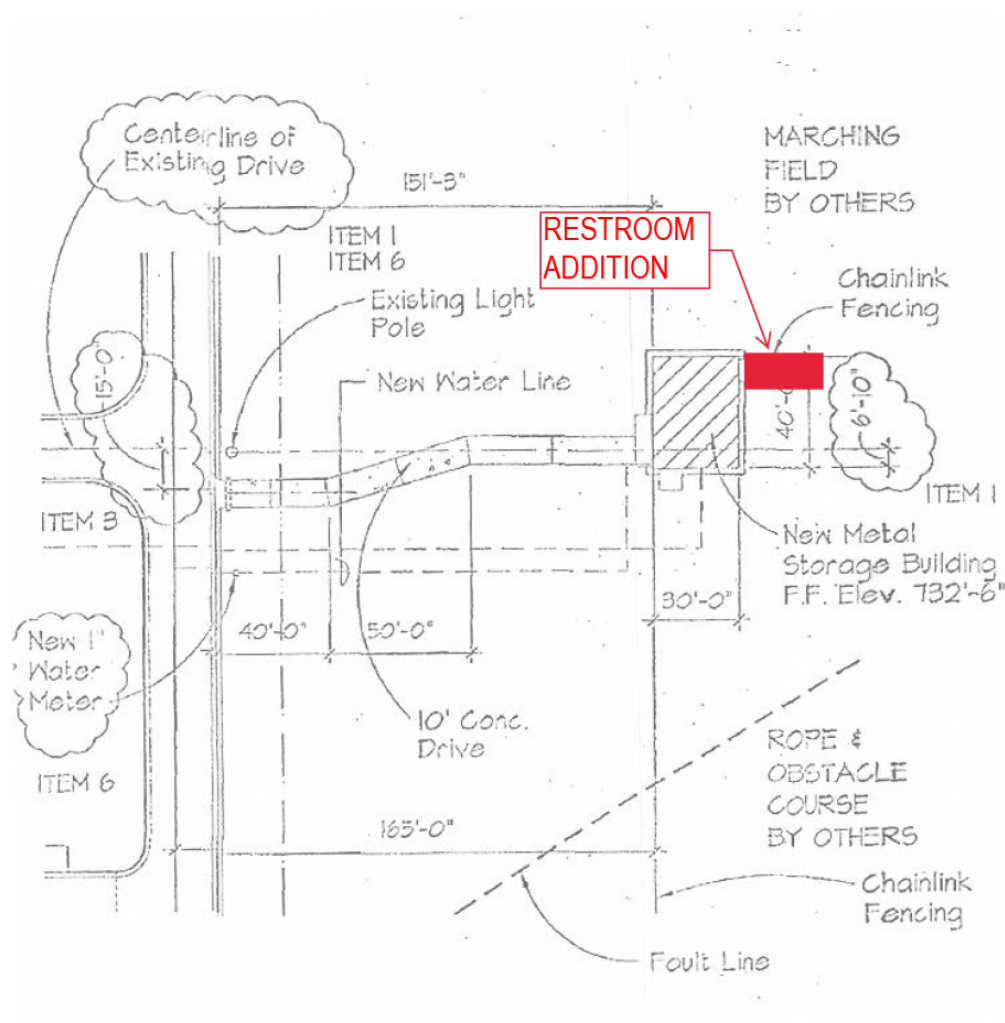
**Organization of Plan Sheets.** The PS&E package shall be complete and organized in a manner that is suitable for the bidding and awarding of a construction contract.

**Naming of Electronic Project Files and Organization of Design Project Folders.** A/E shall use succinct and understandable file names including project name, file content, date created (i.e. "Project Name\_SD PLANS\_year.month.day"). A/E shall maintain files in an organized folder structure that is readily understandable to outside users to facilitate communication and minimize complications in project close-out.

**SCOPE OF WORK:**

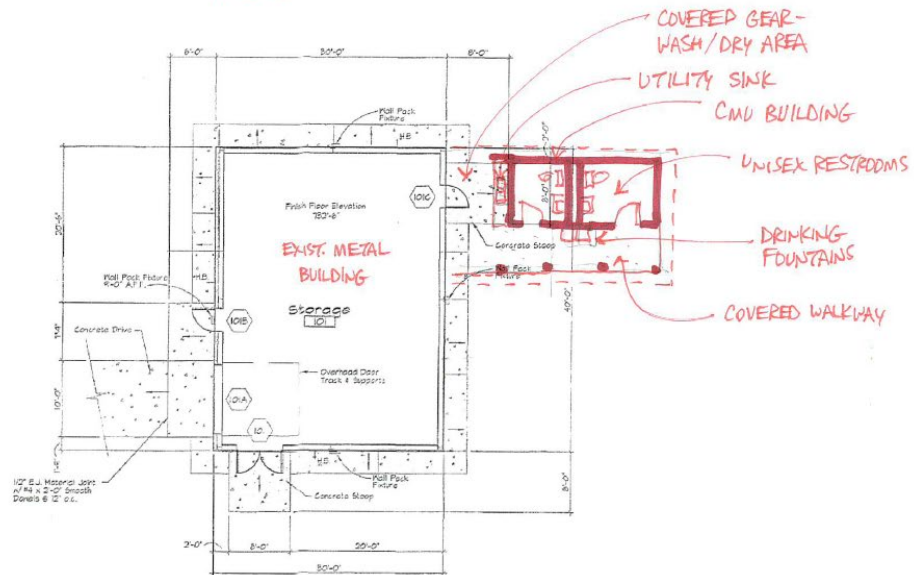
Williamson County Juvenile Justice Center (Recreation Shed)  
200 Wilco Way (Northeast Field)  
Georgetown, TX 78626  
P528

Provide Structural, Mechanical, Electrical and Plumbing Engineering to add (2) Unisex restrooms, a drinking fountain and covered wash-down area to the northeast corner of the existing Recreation Shed.



## J.J.C. REMOTE RESTROOM

CONCEPT PLAN 11.30.20



Design services shall be conducted in phases as outlined herein. Phases may be combined to expedite design process when defined in Exhibit C – Production Schedule. Individual phases or groups of phases shall be authorized herein or by fully executed Supplemental Agreement.

### Phase I - SCHEMATIC DESIGN – Program, Plans, Outline Specifications and Estimate

Upon receipt of written Notice to Proceed, A/E shall accomplish the following:

- A. Investigate site/facility and verify known existing or available utility locations.
- B. International Building Code (IBC), ASHRAE 90.1, ASHRAE 62.1, International Mechanical Code (IMC), National Electric Code (NEC), International Energy Conservation Code (IECC), and any other applicable codes and ordinances.
- C. Advise County of any changes, additions, or corrections to the preliminary program, plans, specifications, and budget.
- D. Provide deliverables in accordance with County's Design Submittal Guidelines.

### Phase II - DESIGN DEVELOPMENT - Plans, Specifications and Estimate

Upon County acceptance of previous phase, A/E shall proceed with the following work:

- A. Consult freely with County concerning the principal phases of the work and

immediately advise County of any unusual requirements or features not apparent during execution of the Schematic Design Phase.

- B. Develop plans and specifications, which indicate materials, construction methods and buildings systems. These building systems may include (but are not limited to) structural, mechanical, plumbing, and electrical.
- C. Provide deliverables in accordance with County's Design Submittal Guidelines.

### **Phase III - CONSTRUCTION DOCUMENTS - Plans, Specifications, and Estimate**

Upon County acceptance of previous phase, A/E shall proceed with the following work:

- A. Prepare complete plans, specifications, and engineering calculations (without professional seals) setting forth in detail the work required for the structural, mechanical, plumbing, and electrical work.
- B. Consult freely with County concerning the principal phases of the work immediately advise County of any unusual requirements or features not apparent during execution of the Schematic Design and Design Development Phases.
- C. Complete the PS&E for the entire Project and its component parts. The Project detailed cost estimate shall not exceed the project construction budget as approved in writing by County.
- D. Provide deliverables in accordance with County's Design Submittal Guidelines.

### **Phase IV – REGULATORY REVIEW AND PERMITS - Plans, Specifications, and Permits:**

Upon County acceptance of previous phase, A/E shall proceed with the following work:

- A. Participate in any Pre-submittal Meetings required by local jurisdiction prior to Permit application submittal.
- B. Receive and respond to permitting comments by the local jurisdiction having review authority.
- C. Revise plans and specifications as necessary to conform to permitting, accessibility, and budget requirements without additional charge to County.
- D. Provide deliverables in accordance with County's Design Submittal Guidelines.

### **Phase V – CONSTRUCTION CONTRACT BIDDING, AWARD, AND EXECUTION**



Upon County acceptance of previous phase, A/E shall proceed with the following work:

- A. Participate in a Pre-bid Meeting, answer RFI's from Contractors and suppliers, and prepare addenda items as required.
- B. Provide deliverables in accordance with County's Design Submittal Guidelines.

**Phase VI - CONSTRUCTION ADMINISTRATION - Project Observation and Inspection:**

Upon County acceptance of previous phase, A/E shall perform the following work:

- A. Review and submit copies of each shop drawing and submittal of materials and equipment to County.
- B. Conduct site visits with personnel technically qualified by education and experience to competently observe relevant aspects of construction. Make necessary observations to determine if workmanship and quality of materials generally conform to the plans and specifications, and that provisions of the contract are complied with.
- C. Reject work performed by Contractor which does not meet the requirements of the Construction Documents; and, order removal and replacement of such work.
- D. Accompany County on Substantial Completion Inspection with appropriate staff and affiliates. Prepare a punch list of items needing correction. After Contractor has performed the required corrections, notify County in writing that the contract has been performed in general conformance with the plans and specifications and is ready for Final Inspection.
- E. Provide deliverables in accordance with County's Design Submittal Guidelines.

**Phase VII – PROJECT CLOSE-OUT – Final Inspection and Document Review:**

Upon County acceptance of previous phase, A/E shall perform the following work:

- A. Accompany County on Final Inspection to determine if construction has been completed in general accordance with the Contract Documents.
- B. Review warranties, guarantees, bonds, equipment operating instructions, and similar deliverables to verify receipt, and general conformance to requirements of the Contract.
- C. Upon completion of construction and prior to the request for final payment, make changes in the original REVIT model or CAD files of the Project to show changes

made and noted by Contractor of the work and final location of the mechanical service lines and outlets including outside utilities. Develop project Record Construction Drawings and Specifications.

- D. Provide deliverables in accordance with County's Design Submittal Guidelines.



## EXHIBIT B

### FEE SCHEDULE

|                                                          |                  |      |
|----------------------------------------------------------|------------------|------|
| This schedule indicates fees by Phase of the Basic Fee:  | <b>\$ 4,400</b>  | 100% |
| <b>Phases I-VII - SCHEMATIC DESIGN through CLOSE-OUT</b> | <b>\$ 3,500</b>  | 80%  |
| Structural Engineering                                   | \$ 2,000         |      |
| MEP Engineering                                          | \$ 1,500         |      |
| <b>Site Visits - CONSTRUCTION ADMINISTRATION</b>         | <b>\$ 900</b>    | 20%  |
|                                                          | 3 \$ 300 / visit |      |

**CPI Rate Adjustments:** Rates shall remain firm for the first year of the Agreement and such rates shall be deemed the "Initial Base Rates". A/E must request rate adjustments, in writing, at least thirty (30) days prior to each annual anniversary date of the Agreement and any rate changes will take effect on the first day following the prior year. If A/E fails to request a CPI rate adjustment, as set forth herein, the adjustment will be effective thirty (30) days after County receives A/E's written request. No retroactive rate adjustments will be allowed. All rate adjustments and modifications shall be set forth in a written fully executed amendment.

Price adjustments will be made in accordance with changes in the U.S. Department of Labor Consumer Price Index (CPI-U) for All Urban Consumers, All Items, South Region (Base 1982-84 = 100).

The rate adjustment will be determined by multiplying the Initial Base Rates by a fraction, the numerator of which is the index number for most recently released index before each annual anniversary date of the Agreement and the denominator of which is the index number for the first month of the Agreement (the index number for the month in which the Agreement was originally executed). If the products are greater than the Initial Base Rates, County will pay the greater amounts as the rates during the successive year until the next rate adjustment. Rates for each successive year will never be less than the Initial Base Rates.

**Individual hourly rate schedule:**

|                    |            |
|--------------------|------------|
| Principal Engineer | \$150 / hr |
|--------------------|------------|

## EXHIBIT C

### PRODUCTION SCHEDULE

A/E agrees to complete the professional design services called for in **Exhibit A** of this Agreement within **Five Hundred Forty Seven (547) calendar days** from the date of this Agreement.

The above time limits may, for good cause, be extended, in writing, by County as the Project proceeds.

The schedule below indicates various project milestones and target dates.  
Standard end-of-phase review periods for County shall be (5) business days minimum.

Agreement Execution Date 02/02/21

#### **Phase I+II - DESIGN DEVELOPMENT**

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|                                                       |          |
|-------------------------------------------------------|----------|
| 60% Plans, Specifications and Estimate deliverables   | 04/02/21 |
| County written authorization to proceed to next phase | 04/09/21 |

#### **Phase III - CONSTRUCTION DOCUMENTS**

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|                                                          |          |
|----------------------------------------------------------|----------|
| Complete Plans, Specifications and Estimate deliverables | 06/08/21 |
| County written authorization to proceed to next phase    | 06/15/21 |

#### **Phase IV - REGULATORY REVIEW AND PERMITS**

---

|                                                                     |          |
|---------------------------------------------------------------------|----------|
| Sealed Plans and Specifications and Estimate deliverables to County | 06/22/21 |
| Plans submittal to TDLR and Permit application submittal to City    | 06/29/21 |
| Construction Permits received from City                             | 07/29/21 |

#### **Phase V - BIDDING, AWARD, AND EXECUTION**

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|                                   |          |
|-----------------------------------|----------|
| County advertises project for Bid | 08/12/21 |
| Contract Award                    | 09/10/21 |

#### **Phase VI - CONSTRUCTION ADMINISTRATION**

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|                                     |          |
|-------------------------------------|----------|
| Contractor Notice to Proceed        | 09/17/21 |
| Construction Substantial Completion | 03/18/22 |

**Phase VII - PROJECT CLOSE-OUT**

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|                               |          |
|-------------------------------|----------|
| Record Documents deliverables | 04/18/22 |
|-------------------------------|----------|

|                            |          |
|----------------------------|----------|
| Agreement Termination Date | 08/03/22 |
|----------------------------|----------|

## **EXHIBIT D**

### **WILLIAMSON COUNTY VENDOR REIMBURSEMENT POLICY**

The purpose of this Williamson County Vendor Reimbursement Policy ("Policy") is to provide clear guidelines to vendors on Williamson County's expectations and requirements regarding allowable reimbursable expenditures and required backup. The Policy will also minimize conflicts related to invoice payments and define non-reimbursable items. This Policy is considered a guideline and is not a contract.

This Policy may be altered, deleted, or amended at any time and without prior notice to vendors, by action of the Williamson County Commissioners Court. Unenforceable provisions of this Policy, as imposed by applicable law, regulations, or judicial decisions, shall be deemed to be deleted. Any revisions to this Policy will be distributed to all current vendors doing business with County.

#### **1. Invoices and Affidavits**

- 1.1** Invoices must adequately describe the goods or services provided to County and include all required backup (i.e. reimbursable expenses, mileage log, timesheets, receipts detailing expenses incurred etc.) that is in a form acceptable to the Williamson County Auditor. Invoices that do not adequately describe the goods or services provided to County or contain backup that is not satisfactory to the Williamson County Auditor will be returned to vendor for revisions and the provision above relating to invoice errors resolved in favor of County shall control as to the required actions of vendor and when such invoice must be paid by County.
- 1.2** In the event an invoice includes charges based upon hourly billing rates for services or any other rates based upon the amount of time worked by an individual or individuals in performing services, whether the charges are being billed directly to County or whether they are the basis of invoices from subcontractors for which the vendor seeks reimbursement from County, the charges shall be accompanied by an affidavit signed by an officer or principal of the vendor certifying that the work was performed, it was authorized by County and that all information contained in the invoice that is being submitted is true and correct.
- 1.3** Upon County's request, vendor must submit all bills paid affidavits wherein vendor must swear and affirm that vendor has paid each of its subcontractors, laborers, suppliers and material in full for all labor and materials provided to vendor for or in connection with services and work performed for County and, further, vendor must swear and affirm that vendor is not aware of any unpaid bills, claims, demands, or causes of action by any of its subcontractors, laborers, suppliers, or material for or in connection with the furnishing of labor or materials, or both, for services and work performed for County.

## **2. Travel Reimbursement**

- 2.1** County will only cover costs associated with travel on vendors outside a 50-mile radius from Williamson County, Texas.
- 2.2** County will only cover costs associated with travel as documented work for County. If a vendor is also doing business for another client, the travel costs must be split in proportion to the amount of work actually performed for County and the other client. The only allowable travel expense will be for the specific days worked for Williamson County.
- 2.3** No advance payments will be made to vendor for travel expenditures. The travel expenditure may only be reimbursed after the expenditure/trip has already occurred and vendor has provided the Williamson County Auditor with all necessary and required backup.
- 2.4** Vendors must submit all travel reimbursement requests on each employee in full. Specifically, a travel reimbursement request must include all related travel reimbursement expenses relating to a particular trip for which vendor seeks reimbursement. Partial travel reimbursement requests will not be accepted (i.e. vendor shall not submit hotel and mileage one month then the next month submit rental car and airfare). If the travel reimbursement appears incomplete, the invoice will be sent back to the vendor to be submitted when all information is ready to submit in full.
- 2.5** Reimbursement for transportation costs will be at the most reasonable means of transportation (i.e.: airline costs will be reimbursed for coach rate, rental car costs will only be reimbursed if rental car travel was most reasonable means of travel as compared to travel by air).
- 2.6** County will not be responsible for, nor will County reimburse additional charges due to personal preference or personal convenience of individual traveling.
- 2.7** County will not reimburse airfare costs if airfare costs were higher than costs of mileage reimbursement.
- 2.8** Additional expenses associated with travel that is extended to save costs (i.e. Saturday night stay) may be reimbursed if costs of airfare would be less than the cost of additional expenses (lodging, meals, car rental, mileage) if the trip had not been extended. Documentation satisfactory to the Williamson County Auditor will be required to justify expenditure.
- 2.9** County will only reimburse travel expense to necessary personnel of the vendor (i.e. no spouse, friends, or family members).

- 2.10** Except as otherwise set forth herein, a vendor must provide a paid receipt for all expenses. If a receipt cannot be obtained, a written sworn statement of the expense from the vendor may be substituted for the receipt.
- 2.11** Sales tax for meals and hotel stays are the only sales taxes that will be reimbursed. Sales tax on goods purchased will not be reimbursed. A sales tax exemption form is available from the Williamson County Auditor's Office upon request.
- 2.12** County will not pay for any late charges on reimbursable items. It is the responsibility of the vendor to pay the invoice first and seek reimbursement from County.

### **3. Meals**

- 3.1** Meal reimbursements are limited to a maximum of \$50.00 per day on overnight travel. On day travel (travel that does not require an overnight stay), meal reimbursements are limited to a maximum of \$20.00 per day. The travel must be outside the Williamson County, Texas line by a 50-mile radius.
- 3.2** Receipts are required on meal reimbursement amounts up to the maximum per day amount stated for overnight or day travel. If receipts are not presented, the vendor can request per diem (per diem limits refer to 3.2). However, a vendor cannot combine per diem and meal receipts. Only one method shall be allowed.
- 3.3** Meals are reimbursable only for vendors who do not have the necessary personnel located within a 50-mile radius of Williamson County, Texas that are capable of carrying the vendor's obligations to County. Meals will not be reimbursed to vendors who are located within a 50-mile radius of Williamson County, Texas.
- 3.4** County will not reimburse for alcoholic beverages.
- 3.5** Tips are reimbursable but must be reasonable to limitation of meal allowance
- 3.6** No meals purchased for entertainment purposes will be allowed.
- 3.7** Meal reimbursement must be substantiated with a hotel receipt.

### **4. Lodging**

- 4.1** Hotel accommodations require an itemized hotel folio as a receipt. The lodging receipt shall include name of the motel/hotel, number of occupant(s), goods or services for each individual charge (room rental, food, tax, etc.) and the name of the occupant(s). Credit card receipts or any other form of receipt are not acceptable.
- 4.2** Vendors will be reimbursed for a single room rate charge plus any applicable tax. If a single room is not available, the vendor must provide documentation to prove that a single room was not available in order to justify the expense over and above the single

room rate. A vendor may also be required to provide additional documentation if a particular room rate appears to be excessive.

- 4.3** Personal telephone charges, whether local or long distance, will not be reimbursed.

## **5. Airfare**

- 5.1** County will only reimburse up to a coach price fare for air travel.
- 5.2** County will exclude any additional charges due to personal preference or personal convenience of the individual traveling (i.e. early bird check in, seat preference charges, airline upgrades, etc. will not be an allowable reimbursement)
- 5.3** Air travel expenses must be supported with receipt copy of an airline ticket or an itinerary with actual ticket price paid. If tickets are purchased through a website, vendor must submit a copy of the webpage showing the ticket price if no paper ticket was issued.
- 5.4** Cancellation and/or change flight fees may be reimbursed by County but vendor must provide the Williamson County Auditor with documentation in writing from a County department head providing authorization for the change.
- 5.5** County will not reimburse vendor for tickets purchased with frequent flyer miles.

## **6. Car Rental**

- 6.1** Vendors that must travel may rent a car at their destination when it is less expensive than other transportation such as taxis, airport shuttles or public transportation such as buses or subways.
- 6.2** Cars rented must be economy or mid-size. Luxury vehicle rentals will not be reimbursed. Any rental costs over and above the cost of a mid-size rental will be adjusted.
- 6.3** Vendors will be reimbursed for rental cars if the rental car cost would have been less than the mileage reimbursement cost (based on the distance from vendor's point of origin to Williamson County, Texas) had the vendor driven vendor's car.
- 6.4** Vendors must return a car rental with appropriate fuel levels as required by rental agreement to avoid the car rental company from adding fuel charges.
- 6.5** Rental agreement and credit card receipt must be provided to County as back up for the request for reimbursement.
- 6.6** Insurance purchased when renting vehicle may also be reimbursed.



- 6.7** Car Rental optional extras such as GPS, roadside assistance, and administrative fees on Tolls will not be reimbursed.

## **7. Personal Car Usage**

- 7.1** Personal vehicle usage will be reimbursed in an amount equal to the standard mileage rate allowed by the IRS.
- 7.2** Per code of **Federal Regulations, Title 26, Subtitle A, Chapter 1, Subchapter B, Part IX, Section 274(d)**, all expense reimbursement requests must include the following:
- 7.2.1 Date
  - 7.2.2 Destination
  - 7.2.3 Purpose
  - 7.2.4 Name of traveler(s)
  - 7.2.5 Correspondence that verifies business purpose of the expense
- 7.3** The mileage for a personal vehicle must document the date, location of travel to/from, number of miles traveled and purpose of trip.
- 7.4** Mileage will be reimbursed on the basis of the most commonly used route.
- 7.5** Reimbursement for mileage shall not exceed the cost of a round trip coach airfare.
- 7.6** Reimbursement for mileage shall be prohibited between place of residence and usual place of work.
- 7.7** Mileage shall be calculated from employee's regular place of work or their residence, whichever is the shorter distance when traveling to a meeting or traveling to Williamson County, Texas for vendors who are located outside of Williamson County, Texas by at least a 50-mile radius.
- 7.8** When more than one person travels in same vehicle, only one person may claim mileage reimbursement.
- 7.9** Tolls, if reasonable, are reimbursable. Receipts are required for reimbursement. If a receipt is not obtainable, then written documentation of expense must be submitted for reimbursement (administrative fees on Tolls will not be reimbursed).
- 7.10** Parking fees, if reasonable are reimbursable for meetings and hotel stays. For vendors who contract with a third party for visitor parking at vendor's place of business, Williamson County will not reimburse a vendor based on a percentage of its

contracted visitor parking fees. Rather, Williamson County will reimburse Vendor for visitor parking on an individual basis for each time a visitor uses Vendor's visitor parking. Receipts are required for reimbursement. If a receipt is not obtainable, then written documentation of expense must be submitted for reimbursement.

- 7.11** Operating and maintenance expenses as well as other personal expenses, such as parking tickets, traffic violations, and car repairs and collision damage are not reimbursable.

## **8. Other Expenses**

- 8.1** Taxi fare, bus tickets, conference registrations, parking, etc. must have a proper original receipt.

## **9. Repayment of Non-reimbursable Expenses**

Vendors must, upon demand, immediately repay County for all inappropriately reimbursed expenses whenever an audit or subsequent review of any expense reimbursement documentation finds that such expense was reimbursed contrary to these guidelines and this Policy. Williamson County reserves the right to retain any amounts that are due or that become due to a vendor in order to collect any inappropriately reimbursed expenses that a vendor was paid.

## **10. Non-Reimbursable Expenses**

In addition to the non-reimbursable items set forth above in this Policy, the following is a non-exhaustive list of expenses that will not be reimbursed by Williamson County:

- 10.1** Alcoholic beverages/tobacco products
- 10.2** Personal phone calls
- 10.3** Laundry service
- 10.4** Valet service (excludes hotel valet)
- 10.5** Movie rentals
- 10.6** Damage to personal items
- 10.7** Flowers/plants
- 10.8** Greeting cards
- 10.9** Fines and/or penalties
- 10.10** Entertainment, personal clothing, personal sundries, and service

- 10.11** Transportation/mileage to places of entertainment or similar personal activities
- 10.12** Upgrades to airfare, hotel and/or car rental
- 10.13** Airport parking above the most affordable rate available
- 10.14** Excessive weight baggage fees or cost associated with more than two airline bags
- 10.15** Auto repairs
- 10.16** Babysitter fees, kennel costs, pet, or house-sitting fees
- 10.17** Saunas, massages, or exercise facilities
- 10.18** Credit card delinquency fees or service fees
- 10.19** Doctor bills, prescription and other medical services
- 10.20** Hand tools
- 10.21** Safety Equipment (hard hats, safety vests, etc.)
- 10.22** Office Supplies
- 10.23** Lifetime memberships to any association
- 10.24** Donations to other entities
- 10.25** Any items that could be construed as campaigning
- 10.26** Community outreach items exceeding \$2 per item
- 10.27** Technology Fees
- 10.28** Sales tax on goods purchased

Any other expenses which Williamson County deems, in its sole discretion, to be inappropriate or unnecessary expenditures.

## EXHIBIT E

### DEBARMENT CERTIFICATION

STATE OF TEXAS

§

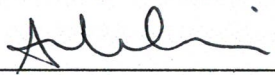
§

COUNTY OF WILLIAMSON

§

1. I, the undersigned, being duly sworn or under penalty of perjury under the laws of the United States and the State of Texas, certifies that A/E and its principals:
  - a. Are not presently debarred, suspended, proposed for debarment, declared ineligible or voluntarily excluded from covered transactions by any federal department or agency;
  - b. Have not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public\* transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
  - c. Are not presently indicted for or otherwise criminally or civilly charged by a governmental entity\* with commission of any of the offenses enumerated in **Paragraph 1(b)** of this certification;
  - d. Have not within a three-year period preceding this application/proposal had one or more public transactions\* terminated for cause or default; and
  - e. Have not been disciplined or issued a formal reprimand by any State agency for professional accreditation within the past three years.

**K&W Engineering Solutions, LLC**

  
Signature of Certifying Official

Amberle Kurkowski  
Printed Name of Certifying Official

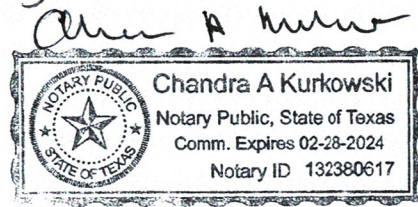
CEO  
Title of Certifying Official

14 JAN 2021  
Date

2. Where the PROVIDER is unable to certify to any of the statements in this certification, such PROVIDER shall attach an explanation to this certification.

\* federal, state, or local

SUBSCRIBED and sworn to before me, the undersigned authority, by Amberle Kurkowski  
the CEO of K&W Engineering Solutions, on behalf of said firm.  
Signatory Title Entity Name



Notary Public in and for the  
State of Texas

My commission expires: 2/28/2024

**EXHIBIT F**  
**CERTIFICATES OF INSURANCE**

A/E and Subconsultant Certificates of Insurance attached:



# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

01/14/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

|                                                                                                                             |                                                                                                                                                                                              |
|-----------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>PRODUCER</b><br>Whorton Insurance Services<br>11200 Jollyville Rd.<br><br>Austin TX 78759-4813                           | <b>CONTACT NAME:</b> Noe Moreno CIC,CLCS,ACSR<br><b>PHONE (A/C, No, Ext):</b> (512) 338-1191<br><b>FAX (A/C, No):</b> (512) 338-1196<br><b>E-MAIL ADDRESS:</b> NoeM@whortonins.com           |
| <b>INSURED</b><br>Charles A. Witt, DBA: K & W Engineering Solutions LLC<br>650 Shell Stone Trail<br><br>Georgetown TX 78628 | <b>INSURER(S) AFFORDING COVERAGE</b><br><b>INSURER A:</b> Kinsale Insurance Company<br><b>INSURER B:</b><br><b>INSURER C:</b><br><b>INSURER D:</b><br><b>INSURER E:</b><br><b>INSURER F:</b> |

**COVERAGES****CERTIFICATE NUMBER:** CL20121624592**REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR | TYPE OF INSURANCE                                                                                                                                                                                                                                                                         | ADDL INSD | SUBR WVD | POLICY NUMBER | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS                                                                                                                                                                                   |
|----------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|----------|---------------|-------------------------|-------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|          | <b>COMMERCIAL GENERAL LIABILITY</b><br><input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR<br><br>GEN'L AGGREGATE LIMIT APPLIES PER:<br><input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC<br><input type="checkbox"/> OTHER: |           |          |               |                         |                         | EACH OCCURRENCE \$<br>DAMAGE TO RENTED PREMISES (Ea occurrence) \$<br>MED EXP (Any one person) \$<br>PERSONAL & ADV INJURY \$<br>GENERAL AGGREGATE \$<br>PRODUCTS - COMP/OP AGG \$<br>\$ |
|          | <b>AUTOMOBILE LIABILITY</b><br><input type="checkbox"/> ANY AUTO<br><input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS<br><input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> NON-OWNED AUTOS ONLY                                         |           |          |               |                         |                         | COMBINED SINGLE LIMIT (Ea accident) \$<br>BODILY INJURY (Per person) \$<br>BODILY INJURY (Per accident) \$<br>PROPERTY DAMAGE (Per accident) \$<br>\$                                    |
|          | <b>UMBRELLA LIAB</b> <input type="checkbox"/> OCCUR<br><b>EXCESS LIAB</b> <input type="checkbox"/> CLAIMS-MADE<br><br>DED <input type="checkbox"/> RETENTION \$                                                                                                                           |           |          |               |                         |                         | EACH OCCURRENCE \$<br>AGGREGATE \$<br>\$                                                                                                                                                 |
|          | <b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b><br>ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y / N<br>If yes, describe under DESCRIPTION OF OPERATIONS below                                                              |           | N / A    |               |                         |                         | PER STATUTE <input type="checkbox"/> OTH-ER <input type="checkbox"/><br>E.L. EACH ACCIDENT \$<br>E.L. DISEASE - EA EMPLOYEE \$<br>E.L. DISEASE - POLICY LIMIT \$                         |
| A        | Professional Liability                                                                                                                                                                                                                                                                    |           |          | 0100103511-1  | 12/16/2020              | 12/16/2021              | LIMIT 2,000,000                                                                                                                                                                          |

**DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES** (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The policy includes a notice of cancellation endorsement providing for 30 days' advance notice if the policy is cancelled by the company other than for nonpayment of premium, or 10 days' notice if the policy is canceled for nonpayment of premium.

**CERTIFICATE HOLDER****CANCELLATION**

|                                                                                    |                                                                                                                                                                                                                   |
|------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Williamson County Purchasing<br>100 Wilco Way<br>Suite P101<br>Georgetown TX 78626 | <b>SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.</b><br><br><b>AUTHORIZED REPRESENTATIVE</b><br> |
|------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|

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CHARWIT-01

K FARRELL

# CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

1/14/2021

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

**IMPORTANT:** If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

|                                                                                                                                   |                                                                    |                                             |
|-----------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------|---------------------------------------------|
| <b>PRODUCER</b><br><b>AssuredPartners of TX, LLC DBA Capitol City Insurance</b><br><b>8030 N Mopac</b><br><b>Austin, TX 78759</b> | <b>CONTACT NAME:</b> <b>Kimberly Farrell</b>                       |                                             |
|                                                                                                                                   | <b>PHONE (A/C, No, Ext):</b> <b>(512) 343-0280 6394</b>            | <b>FAX (A/C, No):</b> <b>(512) 343-0352</b> |
|                                                                                                                                   | <b>E-MAIL ADDRESS:</b> <b>kimberly.farrell@assuredpartners.com</b> |                                             |
|                                                                                                                                   | <b>INSURER(S) AFFORDING COVERAGE</b>                               | <b>NAIC #</b>                               |
|                                                                                                                                   | <b>INSURER A :</b> <b>Hartford Underwriters Insurance Co.</b>      | <b>30104</b>                                |
|                                                                                                                                   | <b>INSURER B :</b> <b>Mercury County Mutual Insurance Company</b>  | <b>29394</b>                                |
|                                                                                                                                   | <b>INSURER C :</b> <b>Texas Mutual Insurance Company</b>           | <b>22945</b>                                |
|                                                                                                                                   | <b>INSURER D :</b>                                                 |                                             |
|                                                                                                                                   | <b>INSURER E :</b>                                                 |                                             |
|                                                                                                                                   | <b>INSURER F :</b>                                                 |                                             |

**INSURED**

**K&W Engineering Solutions, LLC**  
**650 Shell Stone Trail**  
**Georgetown, TX 78628**

## COVERAGES

## CERTIFICATE NUMBER:

## REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR LTR | TYPE OF INSURANCE                                                                                                                                                                                                                                                                                                         | ADDL INSD | SUBR WVD     | POLICY NUMBER         | POLICY EFF (MM/DD/YYYY) | POLICY EXP (MM/DD/YYYY) | LIMITS                                                                                                                                                                                                                                                                                      |
|----------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----------|--------------|-----------------------|-------------------------|-------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>A</b> | <input checked="" type="checkbox"/> <b>COMMERCIAL GENERAL LIABILITY</b><br><input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR<br><br>GEN'L AGGREGATE LIMIT APPLIES PER:<br><input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PROJECT <input type="checkbox"/> LOC<br>OTHER: |           |              | <b>65SBAAF9WLY</b>    | <b>4/3/2020</b>         | <b>4/3/2021</b>         | EACH OCCURRENCE \$ <b>2,000,000</b><br>DAMAGE TO RENTED PREMISES (Ea occurrence) \$ <b>1,000,000</b><br>MED EXP (Any one person) \$ <b>10,000</b><br>PERSONAL & ADV INJURY \$ <b>2,000,000</b><br>GENERAL AGGREGATE \$ <b>4,000,000</b><br>PRODUCTS - COMP/OP AGG \$ <b>4,000,000</b><br>\$ |
| <b>B</b> | <b>AUTOMOBILE LIABILITY</b><br><input type="checkbox"/> ANY AUTO OWNED AUTOS ONLY <input checked="" type="checkbox"/> SCHEDULED AUTOS<br><input checked="" type="checkbox"/> HIRED AUTOS ONLY <input checked="" type="checkbox"/> NON-OWNED AUTOS ONLY                                                                    |           |              | <b>BA420000015586</b> | <b>4/4/2020</b>         | <b>4/4/2021</b>         | COMBINED SINGLE LIMIT (Ea accident) \$ <b>1,000,000</b><br>BODILY INJURY (Per person) \$<br>BODILY INJURY (Per accident) \$<br>PROPERTY DAMAGE (Per accident) \$<br>\$                                                                                                                      |
| <b>A</b> | <input checked="" type="checkbox"/> <b>UMBRELLA LIAB</b> <input checked="" type="checkbox"/> OCCUR<br><input type="checkbox"/> EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE<br>DED RETENTION \$                                                                                                                       |           |              | <b>65SBAAF9WLY</b>    | <b>4/3/2020</b>         | <b>4/3/2021</b>         | EACH OCCURRENCE \$ <b>1,000,000</b><br>AGGREGATE \$ <b>1,000,000</b><br>\$                                                                                                                                                                                                                  |
| <b>C</b> | <b>WORKERS COMPENSATION AND EMPLOYERS' LIABILITY</b><br>ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) <input type="checkbox"/> Y / N<br>If yes, describe under DESCRIPTION OF OPERATIONS below                                                                                              |           | <b>N / A</b> | <b>0002046207</b>     | <b>3/31/2020</b>        | <b>3/31/2021</b>        | <input checked="" type="checkbox"/> PER STATUTE <input type="checkbox"/> OTH-ER<br>E.L. EACH ACCIDENT \$ <b>1,000,000</b><br>E.L. DISEASE - EA EMPLOYEE \$ <b>1,000,000</b><br>E.L. DISEASE - POLICY LIMIT \$ <b>1,000,000</b>                                                              |

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The General Liability Policy includes a blanket automatic additional insured with a waiver of subrogation on a primary non contributory basis when required by written contract or agreement. 30 day notice of cancellation applies.

## CERTIFICATE HOLDER

## CANCELLATION

**Williamson Country Purchasing**  
**100 Wilco Way**  
**Suite P101**  
**Georgetown, TX 78626**

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE





## BLANKET ADDITIONAL INSURED BY CONTRACT

This endorsement modifies insurance provided under the following:

### BUSINESS LIABILITY COVERAGE FORM

Except as otherwise stated in this endorsement, the terms and conditions of the Policy apply.

#### A. The following is added to Section C. WHO IS AN INSURED:

##### Additional Insureds When Required By Written Contract, Written Agreement Or Permit

The person(s) or organization(s) identified in Paragraphs a. through f. below are additional insureds when you have agreed, in a written contract or written agreement, or when required by a written permit issued by a state or governmental agency or subdivision or political subdivision that such person or organization be added as an additional insured on your Coverage Part, provided the injury or damage occurs subsequent to the execution of the contract or agreement, or the issuance of the permit.

A person or organization is an additional insured under this provision only for that period of time required by the contract, agreement or permit.

However, no such person or organization is an additional insured under this provision if such person or organization is included as an additional insured by any other endorsement issued by us and made a part of this Coverage Part.

The insurance afforded to such additional insured will not be broader than that which you are required by the contract, agreement, or permit to provide for such additional insured.

The insurance afforded to such additional insured only applies to the extent permitted by law.

The limits of insurance that apply to additional insureds are described in Section D. LIABILITY AND MEDICAL EXPENSES LIMITS OF INSURANCE. How this insurance applies when other insurance is available to an additional insured is described in the Other Insurance Condition in Section E. LIABILITY AND MEDICAL EXPENSES GENERAL CONDITIONS.

##### a. Vendors

Any person(s) or organization(s) (referred to below as vendor), but only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business and only if this Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

(1) The insurance afforded to the vendor is subject to the following additional exclusions:

This insurance does not apply to:

- (a) "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement. This exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
- (b) Any express warranty unauthorized by you;
- (c) Any physical or chemical change in the product made intentionally by the vendor;
- (d) Repackaging, except when unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
- (e) Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products;
- (f) Demonstration, installation, servicing or repair operations, except such operations performed at the vendor's premises in connection with the sale of the product;
- (g) Products which, after distribution or sale by you, have been labeled or relabeled or used as a container, part or ingredient of any other thing or substance by or for the vendor; or



- (h) "Bodily injury" or "property damage" arising out of the sole negligence of the vendor for its own acts or omissions or those of its employees or anyone else acting on its behalf. However, this exclusion does not apply to:
  - (i) The exceptions contained in Paragraphs (d) or (f); or
  - (ii) Such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business, in connection with the distribution or sale of the products.
- (2) This insurance does not apply to any insured person or organization from whom you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.
- b. Lessors Of Equipment
  - (1) Any person or organization from whom you lease equipment; but only with respect to their liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person or organization.
  - (2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after you cease to lease that equipment.
- c. Lessors Of Land Or Premises
  - (1) Any person or organization from whom you lease land or premises, but only with respect to liability arising out of the ownership, maintenance or use of that part of the land or premises leased to you.
  - (2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:
    - (a) Any "occurrence" which takes place after you cease to lease that land or be a tenant in that premises; or
    - (b) Structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.
- d. Architects, Engineers Or Surveyors
  - (1) Any architect, engineer, or surveyor, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:
    - (a) In connection with your premises; or
    - (b) In the performance of your ongoing operations performed by you or on your behalf.
  - (2) With respect to the insurance afforded to these additional insureds, the following additional exclusion applies:
    - (a) This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of or the failure to render any professional services, including:
      - (i) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or
      - (ii) Supervisory, surveying, inspection, architectural or engineering activities.
    - This exclusion applies even if the claims allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by an insured, if the "bodily injury", "property damage", or "personal and advertising injury" arises out of the rendering of or the failure to render any professional service.
    - (b) This insurance does not apply to "bodily injury" or "property damage" included within the "products-completed operations hazard".
- e. State Or Governmental Agency Or Subdivision Or Political Subdivision Issuing Permit
  - (1) Any state or governmental agency or subdivision or political subdivision, but only with respect to operations performed by you or on your behalf for which the state or governmental agency or subdivision or political subdivision has issued a permit.
  - (2) With respect to the insurance afforded to these additional insureds, this insurance does not apply to:
    - (a) "Bodily injury", "property damage" or "personal and advertising injury" arising out of operations performed for the federal government, state or municipality; or



(b) "Bodily injury" or "property damage" included within the "products-completed operations hazard".

f. Any Other Party

(1) Any other person or organization who is not in one of the categories or classes listed above in Paragraphs a. through e. above, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

(a) In the performance of your ongoing operations performed by you or on your behalf;

(b) In connection with your premises owned by or rented to you; or

(c) In connection with "your work" and included within the "products-completed operations hazard", but only if:

(i) The written contract, written agreement or permit requires you to provide such coverage to such additional insured; and

(ii) This Coverage Part provides coverage for "bodily injury" or "property damage" included within the "products-completed operations hazard".

(2) With respect to the insurance afforded to these additional insureds, the following additional exclusion applies:

This insurance does not apply to "bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services, including:

(a) The preparing, approving, or failure to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders, designs or drawings and specifications; or

(b) Supervisory, surveying, inspection, architectural or engineering activities.

This exclusion applies even if the claims allege negligence or other wrongdoing in the supervision, hiring, employment, training or monitoring of others by an insured, if the "bodily injury", "property damage", or "personal and advertising injury" arises out of the rendering of or the failure to render any professional service described in Paragraphs f.(2)(a) or f.(2)(b) above.



If any of the other insurance does not permit contribution by equal shares, we will contribute by limits. Under this method, each insurer's share is based on the ratio of its applicable limit of insurance to the total applicable limits of insurance of all insurers.

7. Transfer Of Rights Of Recovery Against Others To Us

a. Transfer Of Rights Of Recovery

If the insured has rights to recover all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, those rights are transferred to us. The insured must do nothing after loss to impair them. At our request, the insured will bring "suit" or transfer those rights to us and help us enforce them. This condition does not apply to Medical Expenses Coverage.

b. Waiver Of Rights Of Recovery (Waiver Of Subrogation)

If the insured has waived any rights of recovery against any person or organization for all or part of any payment, including Supplementary Payments, we have made under this Coverage Part, we also waive that right, provided the insured waived their rights of recovery against such person or organization in a contract, agreement or permit that was executed prior to the injury or damage.

F. LIABILITY AND MEDICAL EXPENSES DEFINITIONS

1. "Advertisement" means a notice that is broadcast or published to the general public or specific market segments about your goods, products or services for the purpose of attracting customers or supporters. For the purpose of this definition:

- a. Notices that are published include material placed on the Internet or on similar electronic means of communication; and
- b. Regarding web sites, only that part of a web site that is about your goods, products or services for the purpose of attracting customers or supporters is considered an advertisement.

2. "Advertising idea" means any idea for an "advertisement".

3. "Asbestos hazard" means an exposure or threat of exposure to the actual or alleged properties of asbestos and includes the mere presence of asbestos in any form.

4. "Auto" means:

- a. A land motor vehicle, trailer or semi-trailer designed for travel on public roads, including any attached machinery or equipment; or
- b. Any other land vehicle that is subject to a compulsory or financial responsibility law or other motor vehicle insurance or motor vehicle registration law where it is licensed or principally garaged.

However, "auto" does not include "mobile equipment".

5. "Bodily injury" means physical:

- a. Injury;
- b. Sickness; or
- c. Disease

sustained by a person and, if arising out of the above, mental anguish or death at any time.

6. "Coverage territory" means:

- a. The United States of America (including its territories and possessions), Puerto Rico and Canada;
- b. International waters or airspace, but only if the injury or damage occurs in the course of travel or transportation between any places included in a. above;
- c. All other parts of the world if the injury or damage arises out of:
  - (1) Goods or products made or sold by you in the territory described in a. above;
  - (2) The activities of a person whose home is in the territory described in a. above, but is away for a short time on your business; or



(2) Premises Rented To You

That is fire, lightning or explosion insurance for premises rented to you or temporarily occupied by you with permission of the owner;

(3) Tenant Liability

That is insurance purchased by you to cover your liability as a tenant for "property damage" to premises rented to you or temporarily occupied by you with permission of the owner;

(4) Aircraft, Auto Or Watercraft

If the loss arises out of the maintenance or use of aircraft, "autos" or watercraft to the extent not subject to Exclusion g. of Section B. Exclusions.

(5) Property Damage To Borrowed Equipment Or Use Of Elevators

If the loss arises out of "property damage" to borrowed equipment or the use of elevators to the extent not subject to Exclusion k. of Section B. Exclusions.

(6) When You Are Added As An Additional Insured To Other Insurance

That is other insurance available to you covering liability for damages arising out of the premises or operations, or products and completed operations, for which you have been added as an additional insured by that insurance; or

(7) When You Add Others As An Additional Insured To This Insurance

That is other insurance available to an additional insured.

However, the following provisions apply to other insurance available to any person or organization who is an additional insured under this Coverage Part:

(a) Primary Insurance When Required By Contract

This insurance is primary if you have agreed in a written contract, written agreement or permit that this insurance be primary. If other insurance is also primary, we will share with all that other insurance by the method described in c. below.

(b) Primary And Non-Contributory To Other Insurance When Required By Contract

If you have agreed in a written contract, written agreement or permit that this insurance is primary and non-contributory with the additional insured's own insurance, this insurance is primary and we will not seek contribution from that other insurance.

Paragraphs (a) and (b) do not apply to other insurance to which the additional insured has been added as an additional insured.

When this insurance is excess, we will have no duty under this Coverage Part to defend the insured against any "suit" if any other insurer has a duty to defend the insured against that "suit". If no other insurer defends, we will undertake to do so, but we will be entitled to the insured's rights against all those other insurers.

When this insurance is excess over other insurance, we will pay only our share of the amount of the loss, if any, that exceeds the sum of:

(1) The total amount that all such other insurance would pay for the loss in the absence of this insurance; and

(2) The total of all deductible and self-insured amounts under all that other insurance.

We will share the remaining loss, if any, with any other insurance that is not described in this Excess Insurance provision and was not bought specifically to apply in excess of the Limits of Insurance shown in the Declarations of this Coverage Part.

c. Method Of Sharing

If all the other insurance permits contribution by equal shares, we will follow this method also. Under this approach, each insurer contributes equal amounts until it has paid its applicable limit of insurance or none of the loss remains, whichever comes first.