

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

**THIS AGREEMENT FOR DESIGN AND ENGINEERING SERVICES** ("Agreement") is made and entered into by and between **Williamson County**, a body corporate and politic under the laws of the State of Texas, hereinafter "County", and **Studio 16:19, LLC**, hereinafter "A/E".

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

County intends to **make improvements to Champion Park (C1) and Southwest Regional Park (C2)**, hereinafter called the "Project"; and

County desires that A/E perform certain professional design and engineering services in connection with the Project; and

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:

### **SECTION I**

#### **SCOPE OF AGREEMENT**

A/E agrees to perform professional design and engineering 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 sections to follow.

### **SECTION II**

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

**A.** In consideration of the compensation herein provided, A/E shall perform professional landscape architecture and engineering services for the Project, which are acceptable to County, based on standard landscape architecture and engineering practices and the scope of work described on the Exhibit(s) attached to this Agreement. A/E shall also serve as County's professional landscape 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.

**B.** 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.

County shall not be responsible for work performed or costs incurred by A/E related to any task for which a Work Authorization or a Supplemental Work Authorization related thereto has not been issued and signed by both parties. A/E shall not be required to perform any work for which a Work Authorization or a Supplemental Work Authorization related thereto has not been issued and signed by both parties.

**C.** County will 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 County so instructs A/E.

**D.** 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”):

1. The Basic Scope of Services shall generally consist of all elements of work, materials and equipment required for the development of the Project, in accordance with the requirements, policies, and general practices of Williamson County.
2. Local, state and federal documents, codes and regulations shall be used in the development of the Project. If the Project occurs outside of a municipality, A/E shall comply with County’s current code adoption document.
3. As part of the Scope of Services, A/E shall submit its work products to County for review at regular intervals and as requested by County.
4. The detailed Scope of Services to be provided by County for the Project is set forth herein as **Exhibit “A”** to this Agreement, and is expressly incorporated and made a part hereof.
5. The detailed Basic Scope of Services for the Project to be provided by A/E is set forth herein as **Exhibit “B”** to this Agreement, and is expressly incorporated and made a part hereof.
6. County will prepare and issue Work Authorizations, in substantially the same form set forth herein as **Exhibit “F”** to this Agreement to authorize A/E to perform one or more Scope Items. Each Work Authorization will include a description of the work to be performed, a description of the tasks and milestones, a work schedule for the tasks, definite review times by County and A/E of all Architectural and Engineering Services and a fee amount agreed upon by County and A/E. The amount payable for a Work Authorization shall be supported by the estimated cost of each work task as described in the Work Authorization. The Work Authorization will not waive A/E’s responsibilities and obligations established in this Contract. The executed Work Authorizations shall become part of this Contract.

All work must be completed on or before the date specified in the Work Authorization. A/E shall promptly notify County of any event which will affect completion of the Work Authorization, although such notification shall not relieve A/E from costs or liabilities resulting from delays in completion of the Work Authorization. Should the review times or Planning, Design, and Engineering Services take longer than shown on the Work Authorization, through no fault of A/E, A/E may submit a timely written request for additional time, which shall be subject to the approval of County. Any changes in a Work Authorization shall be enacted by a written Supplemental Work Authorization before additional costs may be incurred. Any Supplemental Work Authorization must be executed by both parties within the period specified in the Work Authorization.

### SECTION III

#### ADDITIONAL SERVICES AND CHARGES

For the performance of the services not specifically described as Basic Services under Section II above (sometimes referred to herein as "Additional Services"), County will pay and A/E shall receive, under a negotiated written contract modification, Additional Services compensation based upon the method and rates set forth **Exhibit "C"**.

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 the prior written authorization of County by a fully executed Work Authorization.

### SECTION IV

#### TIME FOR PERFORMANCE

**A. Time for Performance.** A/E agrees to complete the services called for in **Exhibit "B"** in accordance with the Preliminary Work Schedule set forth in **Exhibit "D"** in accordance with the above described Work Authorizations or any Supplemental Work Authorization related thereto.

## SECTION V

### SUBMITTAL PROCESS AND REVISIONS TO A/E WORK PRODUCT

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

1. 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 Preliminary Work Schedule set forth in **Exhibit "D"**.
2. Upon receipt of A/E Work Products, the submission shall be checked for completion. "Completion" shall be defined as: all of the required items (as defined by the Scope of Services described herein) have been included in A/E Work Products in compliance with the requirements of this Agreement. The completeness of any A/E Work Product submitted to County will be determined by County within fourteen (14) days of such submittal and County will notify A/E in writing within such time period if such A/E Work Product has been found to be incomplete.
3. If the submission is Complete, County's technical review process will then begin. If the submission is incomplete, County will notify A/E, who shall perform such professional services as are required to complete the work and resubmit it to County within seven (7) days. This process shall be repeated until a submission is complete.
4. Within seven (7) days of determining that a particular A/E Work Product is Complete, County will review the completed work for compliance with the Scope of Work and determine whether or not to accept such A/E Work Product. If necessary, the completed work shall be returned to A/E, who shall perform any required work and resubmit it to County. This process shall be repeated until the work is accepted. "Acceptance" shall mean that in County's opinion substantial compliance with the requirements of this Agreement has been achieved.
5. After Acceptance, A/E shall perform any required modifications, changes, alterations, corrections, redesigns, and additional work necessary to receive final approval by County. "Approval" in this sense shall mean formal recognition that the work has been fully carried out.

**B. 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 Judge 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.

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

## SECTION VI

### A/E'S COMPENSATION

For and in consideration of the Basic Services rendered by A/E, County will pay to A/E a lump sum amount of **\$252,145**, hereinafter called the "Lump Sum Amount", plus the amount payable under Section III (Additional Services), provided that any amounts paid or payable shall be solely pursuant to a validly issued Work Authorization or any Supplemental Work Authorization related thereto.

A/E and County acknowledge the fact that the Lump Sum Amount stated above is the total estimated costs of the Basic Services to be rendered under this Agreement. This Lump Sum Amount is based upon the labor and non-labor costs estimated to be required in the performance of the various phases of Basic Services provided for under this Agreement. Compensation for Basic Services will be paid by County by monthly invoices of percentage completion of each Phase and not to exceed lump sum amounts by Phase as set forth in **Exhibit "C"**. Along with invoice, A/E shall submit working documents in any stage of completion to demonstrate incremental progress toward end of Phase submittals, as set forth in **Exhibit "D"**.

## SECTION VII

### TIME OF PAYMENT; PAYMENT AND INTEREST; AND RIGHT TO AUDIT

**A. Time of Payment.** During the performance of the Basic Services provided for in this Agreement, as described in **Exhibit "B"**, payments for Basic Services shall be made based upon the milestones completed as described in Section VI. Upon completion of a milestone, A/E shall submit a sworn statement to County detailing the milestone completed and the amount of payment due for achieving the milestone.

During the performance of Additional Services as described in Section III, 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 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 Additional Services provided for by this Agreement which were completed during such calendar month, the compensation which is due 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 County or whether they are the basis of invoices from subcontractors for which A/E seeks reimbursement from 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 County and that all information contained in the invoice that is being submitted is true and correct.

County will review the statements for both Basic and Additional Services within thirty (30) days of receipt and approve them with such modifications, if any, as it deems appropriate. County will pay each statement within thirty (30) days after County's approval; provided, however, that the approval or payment of any statement shall not be considered to be 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.

**B. Interest and Late Payments.** County's payment for goods and services shall be governed by Chapter 2251 of the Texas Government Code. Interest charges for any overdue payments shall be paid by County in accordance with Texas Government Code Section 2251.025. More specifically, the rate of interest that shall accrue on a late payment is the rate in effect on September 1 of County's fiscal year in which the payment becomes due. The said rate in effect on September 1 shall be equal to the sum of one percent (1%); and (2) the prime rate published in the Wall Street Journal on the first day of July of the preceding fiscal year that does not fall on a Saturday or Sunday.

In the event that an error appears in an invoice/application for payment submitted by A/E, County will notify A/E of the error not later than the twenty first (21st) day after the date County receives the invoice/application for payment. If the error is resolved in favor of A/E, A/E shall be entitled to receive interest on the unpaid balance of the invoice/application for payment submitted by A/E beginning on the date that the payment for the invoice/application for payment became overdue. If the error is resolved in favor of County, A/E shall submit a corrected invoice/application for payment that must be paid in accordance within the time set forth above. The unpaid balance accrues interest as provided by Chapter 2251 of the Texas Government Code if the corrected invoice/application for payment is not paid by the appropriate date.

**C. Right to Audit.** A/E agrees to maintain, for a period of seven years, detailed records identifying each individual performing the 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, and provide such other details as may be requested by County Auditor for verification purposes. A/E agrees that County or its duly authorized representatives shall, until the expiration of three 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 shall retain its records within the

boundaries of Williamson County and further agrees that County shall have access during normal working hours to all necessary A/E facilities and shall be provided adequate and appropriate work space in order to conduct audits in compliance with the provisions of this section. County will give A/E reasonable advance notice of intended audits.

## SECTION VIII

### SUSPENSION AND TERMINATION

**A. Suspension.** County may suspend the work at any time for any reason without terminating this Agreement by giving written Notice of Suspension and the work may be reinstated and this Agreement resumed in full force and effect within thirty (30) calendar days of receipt by A/E of written Notice of Reinstatement from County. In the event such suspension of the Project or A/E's services hereunder extends for a period of ninety (90) consecutive calendar days or more, A/E may terminate this Agreement in writing.

If County suspends A/E's Services, the Time for Performance as determined in Section IV, for a Work Authorization or any Supplemental Work Authorization related thereto, shall be extended for a time period equal to the suspension period.

**B. Termination.** County may terminate this Agreement, any Work Authorization, or Supplemental Work Authorization related thereto at any time by notice in writing to A/E. Upon receipt of such notice, A/E shall discontinue all services in connection with the performance of this Agreement, any Work Authorization, or Supplemental Work Authorization related thereto and shall proceed to cancel promptly all existing orders and contracts insofar as such orders or contracts are chargeable to this Agreement. Within sixty (60) days after receipt of notice of termination, A/E shall submit a statement, showing in detail the services performed under this Agreement, any Work Authorization, or Supplemental Work Authorization related thereto to the date of termination. County will then pay A/E that proportion of the prescribed charges which the services actually performed under this Agreement bear to the total services called for under this Agreement, any Work Authorization, or Supplemental Work Authorization related thereto, less such payments on account of charges as have been previously made. Copies of all completed or partially completed designs, drawings, electronic data files and specifications prepared under this Agreement shall be delivered to County when and if this Agreement is terminated.

## SECTION IX

### 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 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:

To A/E: Studio 16:19, LLC  
1717 N IH-35, Suite 308  
Round Rock, TX 78664

Attention: Brent A. Baker, PLA, ASLA, CLARB  
Managing Principal

To County: Williamson County Judge  
Bill Gravell Jr. (or successor)  
710 Main Street, Suite 101  
Georgetown, Texas 78626

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

## **SECTION X**

### **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; (b) County is relying on A/E's representation herein that it possesses sufficient skill, knowledge, experience, and ability to fully perform the services and its obligations under this Agreement; (c) A/E shall assign to this Project qualified individual landscape architects and engineers, as required, and experienced personnel to manage those professionals, as needed, to ensure the quality of performance required herein; and (d) the fee stated in this Agreement is adequate compensation for the timely completion of the Basic Services. Furthermore, A/E's duties as set forth herein shall at no time be in any way diminished by reason of any approval by County nor shall A/E be released from any liability by reason of such approval by County, it being understood that County at all times is ultimately relying upon A/E's skill and knowledge in performing the services required hereunder.

## **SECTION XI**

### **SUCCESSORS AND ASSIGNS**

County and A/E bind themselves and their successors, executors, administrators and assigns to the other party of this Agreement and to the successors, executors, administrators and assigns of such



other party, in respect to all covenants of this Agreement. Neither County, nor A/E shall assign or transfer its interest in this Agreement without written consent of the other. Nothing herein shall be construed as creating any personal liability on the part of any officer or agent of any public body which may be a party hereto.

## **SECTION XII**

### **INSURANCE REQUIREMENTS**

A/E shall maintain in full force and effect worker's compensation insurance, professional liability insurance, and general liability insurance during the entire term of this Agreement, in the amount set forth in **Exhibit "E"** - Insurance Requirements, and shall incorporate a provision requiring direct written notice to County at least thirty (30) days prior to any cancellation, non-renewal or material reduction of the policies. Said liability insurance policy shall be purchased from a reliable company licensed or authorized to do business in Texas. Proof of required insurance shall be submitted on Certificate(s) of Insurance and Endorsement(s) issued to County, as required in **Exhibit "E"**.

A/E shall require that any and all other contractors and/or consultants engaged or employed by A/E carry and maintain the same insurance and coverages in relation to the services to be rendered by such contractors and/or consultants. A/E shall submit to County proof of such insurance. The maintenance in full current force and effect of such form and amount of insurance, in such amount as County will have accepted, shall be a condition precedent to A/E's exercise or enforcement of any rights under this Agreement.

## **SECTION XIII**

### **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.

## **SECTION XIV**

### **COMPLIANCE AND STANDARDS**

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 landscape architecture and engineering professions, and in recognition of such standards, comply with all applicable state, federal, and local laws, ordinances, rules and regulations relating to the services to be rendered hereunder, and A/E's performance.

## **SECTION XV**

### **OWNERSHIP OF DOCUMENTS, COPYRIGHT**

County shall be the absolute and unqualified owner of all A/E Work Product prepared pursuant to this Agreement by A/E and its subcontractors with the same force and effect as if County prepared same for use solely for the construction, maintenance, or remodel of the Project to which this Agreement pertains. Copies of all completed or partially completed A/E Work Product prepared pursuant to this Agreement by A/E shall be delivered to County when and if this Agreement is terminated or upon completion of this Agreement, whichever occurs first. A/E may retain one (1) set of reproducible copies of such documents and such copies shall be for A/E's sole use in preparation of studies or reports for Williamson County only. A/E is expressly prohibited from selling, licensing or otherwise marketing or donating such documents, or using such documents in the preparation of other work for any other client, without the prior express written permission of County.

## **SECTION XVI**

### **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 CONTRACT 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 CONTRACT.**

**THE LIMITS OF INSURANCE REQUIRED IN THIS CONTRACT AND/OR THE CONTRACT DOCUMENTS SHALL NOT LIMIT A/E'S OBLIGATIONS UNDER THIS SECTION. THE TERMS AND CONDITIONS CONTAINED IN THIS SECTION SHALL SURVIVE THE TERMINATION OF THE CONTRACT 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.

## **SECTION XVII**

### **MODIFICATIONS**

This instrument contains the entire Agreement between the parties relating to the rights 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.

## **SECTION XVIII**

### **AUTHORITY OF COUNTY JUDGE**

County Judge or his/her designee and/or agent as designated by County Judge (individually or collectively the "County Judge") shall decide any and all questions which may arise as to the interpretation of this Agreement and all questions as to the acceptable fulfillment of this Agreement by A/E. County Judge's decision shall be final. It is mutually agreed by both parties that County Judge shall act as referee in all questions arising under the terms of this Agreement between the parties hereto and that the decisions of County Judge in such shall be final and binding alike on both parties hereto. But nothing contained in this section shall be construed to authorize County Judge to alter, vary or amend any of the terms or provisions of this Agreement.

## **SECTION XIX**

### **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.

## **SECTION XX**

### **SEVERABILITY**

If any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof, but rather this entire Agreement will be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligation of the parties shall be construed and enforced in accordance therewith. The parties acknowledge that if any provision of this Agreement is determined to be invalid or unenforceable, it is the desire and intention of each that such provision be reformed and construed in such a manner that it will, to the maximum extent practicable, give effect to the intent of this Agreement and be deemed to be validated and enforceable.

## **SECTION XXI**

### **VENUE AND GOVERNING LAW**

This Agreement shall be performable in Williamson County, Texas. Each party to this Agreement hereby agrees and acknowledges that venue and jurisdiction of any suit, right, or cause of action arising out of or in connection with this Agreement shall lie exclusively in Williamson County, Texas. Furthermore, this Agreement shall be governed by and construed in accordance with the laws of the State of Texas, excluding, however, its choice of law rules.

## **SECTION XXII**

### **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.

**SECTION XXIII****NO THIRD-PARTY BENEFICIARIES**

This Agreement is for the sole and exclusive benefit of the parties hereto, and nothing in this Agreement, express or implied, is intended to confer or shall be construed as conferring upon any other person any rights, remedies or any other type or types of benefits.

**SECTION XXIV****CONSTRUCTION**

Each party to this Agreement 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.

**SECTION XXV****RELATIONSHIP OF THE PARTIES**

Each party to this Agreement, 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.

**SECTION XXVI****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 or employees, 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.

**SECTION XXVII****NO WAIVER**

No action or inaction taken pursuant to this Agreement should be deemed to constitute a waiver of compliance with any representation, warranty, covenant or agreement contained in this Agreement

and such action or inaction will not operate or be construed as a waiver of any subsequent breach, whether of a similar or dissimilar nature.

## **SECTION XXVIII**

### **EXHIBITS, WORK AUTHORIZATIONS, AND SUPPLEMENTAL WORK AUTHORIZATIONS**

In the event of any conflict, discrepancy, or inconsistency among any of the documents which make up this Agreement, the following shall control:

1. As between this Agreement and its Exhibits, Work Authorizations, Supplemental Work Authorizations, or any other documents which make up this Agreement, this Agreement shall govern.
2. In the event of any conflict, discrepancy, or inconsistency among any of the other Agreement Exhibits, Work Authorizations, or Supplemental Work Authorizations, A/E shall diligently review all such documents and notify County immediately upon discovery of the same for resolution by County.
3. Any documents not included or expressly contemplated in this Agreement do not, and shall not, form a part of this Agreement. The Agreement Exhibits are intended to be complimentary, and a requirement in one document shall be deemed a requirement in all documents.

**SECTION XXIX****EXECUTION**

County executes this Agreement by and through County Judge acting pursuant to Order of the Commissioners' Court of Williamson County, Texas, so authorizing. A/E's duly authorized representative acknowledges by his/her signature below that he/she has read and understands the above paragraphs and that A/E has the obligation to ensure compliance with its provisions by itself and its employees, agents, and representatives. This Agreement shall be effective as of the date of the last party's execution of this Agreement.

**WILLIAMSON COUNTY:**

By: Judge Bill Gravell Jr.  
Judge Bill Gravell Jr. (Jun 16, 2020 14:26 CDT)  
Bill Gravell Jr.  
Williamson County Judge

Date Signed: Jun 16, 2020, 20  

**LANDSCAPE ARCHITECT OR ENGINEER:**

Name of Company: studio 16:19, LLC  
By: B.A. Baker  
Printed Name: BRETT A. BAKER  
Title: MANAGING PRINCIPAL  
Date Signed: JUNE 9<sup>TH</sup>, 2020

## **LIST OF EXHIBITS**

**Exhibit A** - Services to be Provided by County

**Exhibit B** - Services to be Provided by A/E

**Exhibit C** - Fee Schedule / Hourly Rates

**Exhibit D** - Preliminary Work Schedule

**Exhibit E** - Insurance Requirements

**Exhibit F** - Work Authorization



## **Exhibit A**

### **SERVICES TO BE PROVIDED BY COUNTY**

County Services will be performed in accordance with the Phases of work as described in **Attachment “A”** of each Work Authorization.

## **Exhibit B**

### **SERVICES TO BE PROVIDED BY A/E**

Detailed A/E services shall be defined in **Attachment “B”** of each Work Authorization.

**Exhibit C****FEE SCHEDULE / HOURLY RATES**

A Lump Sum Amount and detailed Fee Schedule shall be defined in **Attachment “C”** of each Work Authorization.

Prime Consultant and Subconsultant individual hourly rate schedules attached below:

**studio16:19, LLC – prime/ landscape architect**

Principal/ Landscape Architect	\$185.00
Associate Principal/ LA/ Project Manager	\$145.00
Senior Associate/ LA/ IR	\$115.00
Associate/ LA Designer	\$ 90.00
Staff Planner/ Designer	\$ 75.00
Administrative	\$ 65.00

**WGI – civil engineer**

Chief Engineer	\$250.00
Project Manager	\$185.00
Engineer	\$140.00
Designer	\$100.00
Field Engineer	\$150.00

**Gessner – structural engineer**

Principal	\$200.00
Senior Engineer	\$160.00
Professional Engineer	\$135.00
Graduate Engineer II	\$105.00
Graduate Engineer I	\$ 80.00
Designer	\$ 80.00
Construction Inspector	\$ 85.00
Estimator	\$ 60.00
Admin/ Clerical	\$ 60.00

**WGI – electrical engineer (MEP)**

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Project Manager	\$185.00
Principal Engineer	\$230.00
Project Engineer	\$150.00
Engineer in Training	\$100.00

**Gessner – geotechnical engineer**

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Project Manager	\$160.00
Professional Engineer	\$135.00
EIT Engineer	\$105.00
Lab Technician	\$ 52.00
Drilling Crew Lead	\$ 60.00
Drilling Assistant	\$ 52.00
Field Coordinator	\$ 60.00

**Inland Geodetics – surveyor**

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Project Manager	\$146.00
Registered Professional Licensed Surveyor (RPLS)	\$140.00
Senior Technician	\$102.00
Technician	\$ 98.00
Licensed State Land Surveyor (LSLS)	\$156.00
Admin/ Clerical	\$ 56.00

**Cox McClain Environmental Consultant**

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Senior Environmental Planner	\$130.00
Environmental Planner IV	\$110.00
Environmental Scientist IV	\$ 95.00
Environmental Scientist III	\$ 85.00
Archeologist/ Biologist I	\$ 75.00
Senior Field Tech	\$ 0.00

## **Exhibit D**

### **PRELIMINARY WORK SCHEDULE**

A detailed Work Schedule shall be defined in **Attachment “D”** of each Work Authorization.

The schedule may be refined during the course of the Project but shall not predate the Execution Date nor exceed the Termination Date.

## Exhibit E

### INSURANCE REQUIREMENTS

During the term of this Agreement, A/E agrees to provide and maintain the following insurance:

- A. Worker's Compensation in accordance with statutory requirements.
- B. Commercial General Liability Insurance with a combined minimum Bodily Injury and Property Damage limits of \$1,000,000.00 per occurrence and \$2,000,000.00 in the aggregate, including coverage on same for independent subcontractor(s). WILLIAMSON COUNTY SHALL BE NAMED AS AN ADDITIONAL INSURED UNDER THIS COVERAGE.
- C. Automobile Liability Insurance for all owned, non-owned, and hired vehicles with combined minimum limits for Bodily Injury and Property Damage limits of \$500,000.00 per occurrence and \$1,000,000.00 in the aggregate. A/E shall require any subcontractor(s) to provide Automobile Liability Insurance in the same minimum amounts.
- D. Professional Liability Errors and Omissions Insurance in the amount of \$2,000,000.00 per claim.

A/E shall be responsible for payment of premiums for all of the insurance coverages required under this section. 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 \$75,000 in A/E's insurance must be declared and approved in writing by County in advance.

A/E shall not commence any field work under this Agreement until he has obtained all required insurance and such insurance has been approved by County. A/E shall not allow any subcontractor(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.

The 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. 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. ALL INSURANCE CERTIFICATES SHALL INCLUDE A CLAUSE TO THE EFFECT THAT THE POLICY SHALL NOT BE CANCELED, REDUCED, RESTRICTED OR LIMITED UNTIL TEN (30) DAYS AFTER COUNTY HAS RECEIVED WRITTEN NOTICE AS EVIDENCED BY RETURN RECEIPT OF REGISTERED OR CERTIFIED LETTER.

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 or mediation 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 under this Agreement and/or Exhibits which absolutely requires arbitration or mediation of such claim, or as otherwise required by law or a court of law with jurisdiction over the provisions of this Agreement.

**Exhibit F****WORK AUTHORIZATION  
NO. \_\_\_\_****PROJECT:** \_\_\_\_\_

This Work Authorization is made pursuant to the terms and conditions of the **Agreement for Planning, Design, and Engineering Services**, being dated \_\_\_\_\_ and entered into by and between Williamson County, Texas, a political subdivision of the State of Texas, hereinafter "County" and \_\_\_\_\_, hereinafter "A/E".

**PART 1.** A/E shall provide the following Planning, Design, and Engineering Services set forth in **Attachment "B"** of this Work Authorization.

**PART 2.** The maximum amount payable for services under this Work Authorization without modification is \$\_\_\_\_\_.

**PART 3.** Payment to A/E for the services established under this Work Authorization shall be made in accordance with the Contract.

**PART 4.** This Work Authorization shall become effective on the date of final acceptance and full execution of the parties hereto and shall terminate on \_\_\_\_\_. The Planning, Design, and Engineering Services set forth in **Attachment "B"** of this Work Authorization shall be fully completed on or before said date unless extended by a Supplemental Work Authorization.

**PART 5.** This Work Authorization does not waive the parties' responsibilities and obligations provided under the Contract.

**PART 6.** County believes it has sufficient funds currently available and authorized for expenditure to finance the costs of this Work Authorization. A/E understands and agrees that County's payment of amounts under this Work Authorization is contingent on County receiving appropriations or other expenditure authority sufficient to allow County, in the exercise of reasonable administrative discretion, to continue to make payments under this Contract. It is further understood and agreed by A/E that County shall have the right to terminate this Contract at the end of any County fiscal year if the governing body of Williamson 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.

**PART 7.** This Work Authorization is hereby accepted and acknowledged below.

EXECUTED this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

A/E:

\_\_\_\_\_

COUNTY:

Williamson County, Texas

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

Signature

\_\_\_\_\_

Printed Name

\_\_\_\_\_

Title

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

Signature

\_\_\_\_\_

Printed Name

\_\_\_\_\_

Title



**LIST OF ATTACHMENTS**

**Attachment A** - Services to be Provided by County

**Attachment B** - Services to be Provided by A/E

**Attachment C** - Fee Schedule

**Attachment D** - Preliminary Work Schedule









# Agenda Item #27 6-16-2020 (Park Bond PSA Studio 1619)

Final Audit Report

2020-06-16

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