

RESOLUTION NO. R-2018-89

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS, AWARDING A CONTRACT TO DESIGN THE CITY HALL REMODEL, CREATE BID DOCUMENTS, AND MANAGE THE CONSTRUCTION PROCESS OF THE CITY HALL REMODEL TO NEGRETE & KOLAR ARCHITECTS, LLP IN THE AMOUNT OF SIXTY THOUSAND DOLLARS AND NO CENTS (\$60,000.00) AS ATTACHED IN EXHIBIT A; AUTHORIZING THE CITY MANAGER TO EXECUTE ALL NECESSARY DOCUMENTS SUBJECT TO CITY ATTORNEY APPROVAL; PROVIDING FOR A REPEALING CLAUSE, AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, The City of Bastrop City Council understands the importance of expanding and remodeling City Hall for greater work efficiency; and

WHEREAS, The City of Bastrop City Hall building was constructed in 2012; and

WHEREAS, The City of Bastrop City Hall building has space available for build-out expansion; and

WHEREAS, The City of Bastrop City Council acknowledges that City growth has necessitated the need for expansion and remodeling of City Hall.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF BASTROP, TEXAS:

Section 1. That the City Council has found Negrete & Kolar Architects, LLP. to be a subject matter expert in the field of architecture.

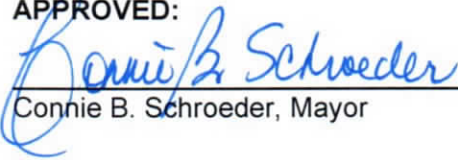
Section 2. The City Manager is hereby authorized to execute the Standard Form of Agreement between the City of Bastrop and Negrete & Kolar Architects, LLP, which is attached as Exhibit A, as well as all other necessary documents, subject to City Attorney approval.

Section 3. All orders, ordinances, and resolutions, or parts thereof, which are in conflict or inconsistent with any provision of this Resolution are hereby repealed to the extent of such conflict, and the provisions of this Resolution shall be and remain controlling as to the matters resolved herein.

Section 4. This resolution shall take effect immediately from and after its passage, and it is duly resolved.

DULY RESOLVED AND ADOPTED by the City Council of the City of Bastrop this 25th day of September 2018.

APPROVED:




Connie B. Schroeder, Mayor

ATTEST:



Ann Franklin, City Secretary

APPROVED AS TO FORM:



Alan Bojorquez, City Attorney

NEGRETE & KOLAR ARCHITECTS, LLP

September 11, 2018

Trey Job
Managing Director
Public Works and Leisure Services
1311 Chestnut Street
P.O. Box 427
Bastrop Texas, 78602
tjob@cityofbastrop.org

Re: Bastrop City Hall – Revised

Dear Trey

Thank you for the continued opportunity to re-assess and provide this scope and fee proposal for City of Bastrop review.

SCOPE

Alteration & Expansion of City Manager's Office Operations & IT Space

Approximately 2400 SF of new Space & 800 SF of Existing space

- Expand City Manager office operations into most current unfinished space
- Finish-out all space, except dead file storage
- Design Conference area within CM's office for twelve-fourteen persons
- Create Mayor's office in the current work room area
- Create five more office spaces between expansion area and existing
- Create conference space to hold a minimum of 6 persons in this area
- Convert mail operations room to IT storage
- Incorporate reduced mail operations in corridor area

Alteration and Renovation of the Planning Department Space

Approximately 250 SF

- Create space for conference room for 10 - 12 persons.
- Eliminate counter and create space for 4 open space work stations for Planning staff
- Two, minimum 6 x 6 and two minimum 8 x 6 workstations
- Re-work planning director office space and planning office 3 into better work spaces

Generally, the following will need to be addressed

- Demolition of existing improvements as determined except for primary Structural, Primary Mechanical, Primary Electrical & Primary Plumbing Core Systems.
- New and redirected electrical service and distribution
- New and redirected power & lighting for intended uses
- New and redirected HVAC distribution systems for the intended uses
- New and re-directed fire sprinkler coverage as required per the revised space plan
- New wall systems and finishes
- New doors, hardware, and dedicated millwork
- When expansion space is done, move into re-doing the current city manager's suite

We will generate CAD backgrounds from the PDF record documents provided. We will confirm existing area dimensions and location of MEP improvements. We further understand that MEP systems will need to be coordinated from their point of origin within the building.

Definition of Services

Our proposed fee is a fixed fee based on the level of work to be undertaken to implement the envisioned modifications. The services will consist of Existing Area Analysis, Code application determination, Field Measurement, Design, Construction Documents & Construction Phase Observation Services generally as follows:

- Architectural & MEP Basic Services consisting of
 - a. Program Resolution
 - b. Field Verification of Existing
 - c. Code Application Determination
 - d. Concept Design Submittal and workshop
 - e. Schematic Design Submittal and workshop
 - f. Design Development Submittal and workshop
 - g. Generation of Opinion of Probable costs from concept through Construction Documents. Typically, this would include an initial opinion and two updates
- We will work closely with your authorizing agents to assure approval of each phase before moving on to the next phase
- Construction Documents suitable for jurisdictional permitting and Construction
- Construction Administration & Observation by A/E team with twice monthly or as needed site visitation to assess construction progress.

Fee Proposal

• Architectural & MEP Fee:	\$60,000
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These services are contemplated to be delivered as one design effort and Phased construction to facilitate continued occupancy. These services would be delivered based on typical AIA Agreement Form Documents suitable for this application.

EXCLUSIONS

This Scope and Fee Proposal does not include:

1. Cost of existing property and utility surveys
2. Cost of hazardous materials investigations and analysis for recommended construction
3. Cost of printed documents and filing fees required by jurisdictional authorities
4. Cost of building permit fees
5. Cost of printing final Construction Documents

If this proposal for services meets your needs, please advise me on what your next step may be to begin this work.

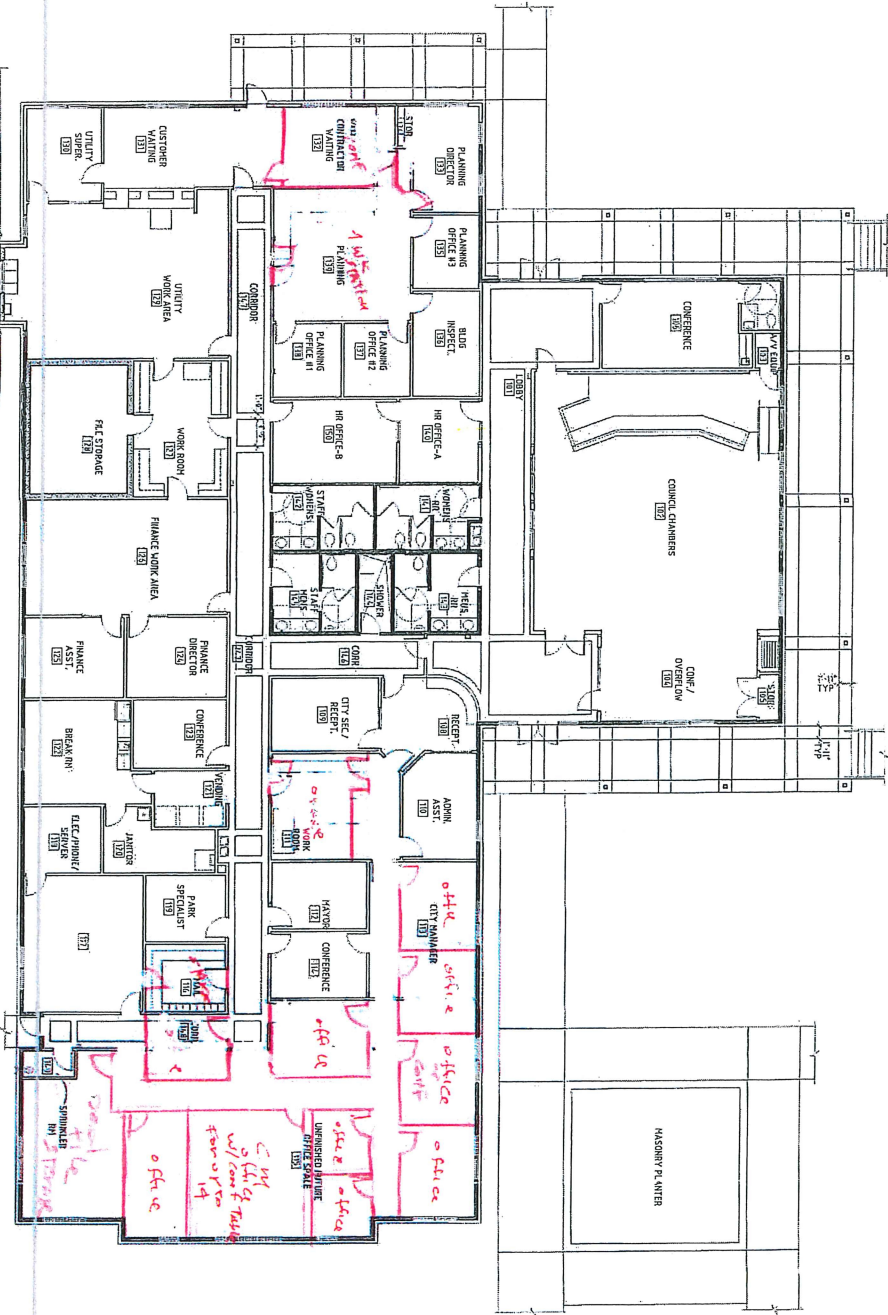
Regards

David Negrete AIA
Negrete & Kolar Architects LLP

CONCRETE SCORING PLAN

SCALE: 1/4" = 1'-0"


NOTE:
THERE WILL BE ADDITIONAL CONTROL JOINTS
REQUIRED BY THE STRUCTURAL ENGINEER
AND THE CONCRETE CONTRACTOR. THE ARCHITECT
WILL PREPARE A CONTROL JOINT
LAYOUT PRIOR TO INSTALLATION OF CONTROL
JOINTS AND CONCRETE SCORING.



A1.6

SHEET NUMBER:
SHEET TITLE:
CONCRETE SCORING
PLAN
DATE:
DEC 2, 2009

BASTROP CITY HALL
1311 CHESTNUT ST.
BASTROP, TX 78602


 Alter & Evans
 Architects, Inc.
 813 S Lamar Blvd, Ste. 100
 Austin, Texas 78704
 Phone: 512-476-1100
 Fax: 512-476-1179
 MARY E. ALTER, AIA, LEED AP
 REGISTERED ARCHITECT - TEXAS

[Handwritten signature]



AIA[®] Document B104[™] – 2017

Standard Abbreviated Form of Agreement Between Owner and Architect

AGREEMENT made as of the Thirty-First day of October in the year 2018
(In words, indicate day, month and year.)

BETWEEN the Architect's client identified as the Owner:
(Name, legal status, address and other information)

City of Bastrop
1311 Chestnut Street
Bastrop Texas 78602

and the Architect:
(Name, legal status, address and other information)

Negrete & Kolar Architects LLP
11720 N. I.H. 35
Austin Texas 78753

for the following Project:
(Name, location and detailed description)

Bastrop City Hall Renovation
Bastrop Texas
Interior Modification of Existing Space and Finish-out of Existing Expansion Space

The Owner and Architect agree as follows.

ADDITIONS AND DELETIONS:
The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

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TABLE OF ARTICLES

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ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth below:

(State below details of the Project's site and program, Owner's contractors and consultants, Architect's consultants, Owner's budget for the Cost of the Work, and other information relevant to the Project.)

The City of Bastrop has identified the need for expansion of city operations onto existing unfinished space and renovation of some ancillary and identified existing space to be undertaken in a manner to appear seamless to the original fit, finish, and utilization of materials as that utilized in the existing finish and appearance of the subject City Hall.

The Program for the project consists of:

- Implementation of a conference space at the Planning Department
- Accommodation of resulting staff work space for four work stations
- Finish out of current unfinished space into relocated City Manager's office and ancillary offices
- Renovation of existing City Manager's office and adjacent areas into office and conference room space.

The Owner's Budget for Construction is \$290,000.

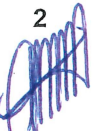
The Architects Consultant's include Trinity Engineering, a State of Texas Licensed MEP Engineering firm selected by the Architect based on Qualifications and Experience.

The construction of the anticipated improvements is expected to proceed as soon as documents authored by the Architect are accepted and made ready for bidding.

OTHER INFORMATION:

- Architect's Proposal Dated September 11, 2018
- Initial Concept Sketch of limits of Project work

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§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the schedule, the Architect's services and the Architect's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™-2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide the professional services set forth in this Agreement consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.2 The Architect shall maintain the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.8:

(Identify types and limits of insurance coverage, and other insurance requirements applicable to the Agreement, if any.)

.1 General Liability

\$2,000,000

.2 Automobile Liability

\$2,000,000

.3 Workers' Compensation

\$1,000,000

.4 Professional Liability

\$1,000,000

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services.

§ 3.1.1 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on (1) the accuracy and completeness of the services and information furnished by the Owner and (2) the Owner's approvals. The Architect shall provide prompt written notice to the Owner no later than fifteen (15) days from substantial realization if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

§ 3.1.2 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.3 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

§ 3.2 Design Phase Services

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 3.2.2 The Architect shall discuss with the Owner the Owner's program, schedule, budget for the Cost of the Work, Project site, and alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the Project requirements.

§ 3.2.3 The Architect shall consider the relative value of alternative materials, building systems and equipment, together with other considerations based on program, aesthetics, and any sustainable objectives, in developing a design for the Project that is consistent with the Owner's schedule and budget for the Cost of the Work.

§ 3.2.4 Based on the Project requirements, the Architect shall prepare Design Documents for the Owner's approval consisting of drawings and other documents appropriate for the Project and the Architect shall prepare and submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.2.5 The Architect shall submit the Design Documents to the Owner; and request the Owner's approval.

§ 3.3 Construction Documents Phase Services

§ 3.3.1 Based on the Owner's approval of the Design Documents, the Architect shall prepare for the Owner's approval Construction Documents consisting of Drawings and Specifications setting forth in detail the requirements for the construction of the Work. The Owner and Architect acknowledge that in order to construct the Work the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.4.4.

§ 3.3.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.

§ 3.3.3 The Architect shall submit the Construction Documents to the Owner, update the estimate for the Cost of the Work and advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.

§ 3.3.4 The Architect, following the Owner's approval of the Construction Documents and of the latest estimate of the Cost of the Work, shall assist the Owner in obtaining bids or proposals and awarding and preparing contracts for construction.

§ 3.4 Construction Phase Services

§ 3.4.1 General

§ 3.4.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A104™-2017, Standard Abbreviated Form of Agreement Between Owner and Contractor. If the Owner and Contractor modify AIA Document A104-2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 3.4.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the

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Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

§ 3.4.1.3 Subject to Section 4.2, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

§ 3.4.2 Evaluations of the Work

§ 3.4.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.2, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

§ 3.4.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents and has the authority to require inspection or testing of the Work.

§ 3.4.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 3.4.2.4 When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith.

§ 3.4.2.5 The Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

§ 3.4.3 Certificates for Payment to Contractor

§ 3.4.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.4.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified.

§ 3.4.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.4.4 Submittals

§ 3.4.4.1 The Architect shall review and approve, or take other appropriate action, upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or any construction means, methods, techniques, sequences or procedures.

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§ 3.4.4.2 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

§ 3.4.4.3 The Architect shall review and respond to written requests for information about the Contract Documents. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness.

§ 3.4.5 Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2.3, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.4.6 Project Completion

The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services are not included in Basic Services but may be required for the Project. The Architect shall provide the Supplemental Services indicated below, and the Owner shall compensate the Architect as provided in Section 11.2. Supplemental Services may include programming, site evaluation and planning, environmental studies, civil engineering, landscape design, telecommunications/data, security, measured drawings of existing conditions, coordination of separate contractors or independent consultants, detailed cost estimates, on-site project representation beyond requirements of Section 4.2.2, value analysis, interior architectural design, tenant related services, preparation of record drawings, commissioning, sustainable project services, and any other services not otherwise included in this Agreement.

(Identify below the Supplemental Services that the Architect is required to provide and insert a description of each Supplemental Service, if not further described in an exhibit attached to this document.)

Supplemental Services are not included nor anticipated in this Agreement. Basic Services Provided by the Architect will include programming, measurement/verification of existing interior conditions, and interior architectural design. All other supplemental services noted in 4.1 are neither anticipated nor included. The City of Bastrop IT Department will provide all Telecom and Data services and will only require coordinated locations of such services in the Architects Documents.

§ 4.2 The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Upon recognizing the need to perform Additional Services, the Architect shall notify the Owner. The Architect shall not provide the Additional Services until the Architect receives the Owner's written authorization. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3.

§ 4.2.1 The Architect shall provide services necessitated by a change in the Initial Information, changes in previous instructions or approvals given by the Owner, or a material change in the Project including size; quality; complexity; the Owner's schedule or budget for Cost of the Work; or procurement or delivery method as an Additional Service.

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§ 4.2.2 The Architect has included in Basic Services Twice Monthly (or as needed) visits to the site by the Architect during construction. The Architect shall conduct site visits in excess of that amount as an Additional Service.

§ 4.2.3 The Architect shall, as an Additional Service, provide services made necessary by a Contractor's proposed change in the Work. The Architect shall prepare revisions to the Architect's Instruments of Service necessitated by Change Orders and Construction Change Directives as an Additional Service.

§ 4.2.4 If the services covered by this Agreement have not been completed within Twelve (12) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements.

§ 5.2 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project; a written legal description of the site; and services of geotechnical engineers or other consultants, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project.

§ 5.4 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

§ 5.5 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests; tests for air and water pollution; and tests for hazardous materials.

§ 5.6 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 5.7 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.8 The Owner shall endeavor to communicate with the Contractor through the Architect about matters arising out of or relating to the Contract Documents.

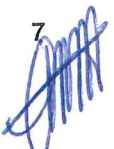
§ 5.9 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

§ 5.10 Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment,

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donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and shall be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Architect.

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding and price escalation; to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1, as a Supplemental Service.

§ 6.4 If, through no fault of the Architect, construction procurement activities have not commenced within 90 days after the Architect submits the Construction Documents to the Owner the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner's current budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
- .5 implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise the Architect's services shall be without additional compensation unless Architect's cost forecast indicated Bids would exceed the available budget, then re-design shall be compensated as negotiated as mutually reasonable. In any event, the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

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§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 The Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums when due pursuant to Article 9 and Article 11. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

§ 7.5 Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other, for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A104-2017, Standard Abbreviated Form of Agreement Between Owner and Contractor. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect and Owner waive consequential damages for claims, disputes or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.6.

§ 8.1.4 The Architect agree to indemnify and hold Owner harmless from all claims, losses, expenses, fees, including attorney's fees, costs, and judgements that may be asserted against the Owner that result from negligent acts or omissions of the Architect pursuant to Texas Law, Architects employees, if any, and Architect's agents.

Init.

§ 8.2 Mediation

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 8.2.2 Mediation, unless the parties mutually agree otherwise, shall be administered by a Mediator mutually agreed upon by both parties within ten days of such call for mediation in accordance with its Construction Industry Mediation Procedures in effect on the date of this Agreement. The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 8.2.3 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:

(Check the appropriate box.)

Arbitration pursuant to Section 8.3 of this Agreement

Litigation in a court of competent jurisdiction

Other: (Specify)

If the Owner and Architect do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.

§ 8.3 Arbitration – Not Applicable – Delete 8.3.1 Thru 8.3.4.3

§

(Paragraphs Deleted)

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

Init.

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§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 9.6 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, Reimbursable Expenses incurred, and all costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements.

§ 9.7 In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Architect the following fees:

(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)

.1 Termination Fee:

Termination Fee shall consist of Architects costs and sub-consultant costs incurred to date of termination including payment up to completion status of the documents as submitted by the Architect plus 20% of the fee invoiced to date of Termination.

.2 Licensing Fee if the Owner intends to continue using the Architect's Instruments of Service:

To be negotiated upon occurrence and request

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A104-2017, Standard Abbreviated Form of Agreement Between Owner and Contractor.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.

§ 10.4 If the Owner requests the Architect to execute certificates or consents, the proposed language of such certificates or consents shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect.

§ 10.6 The Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

Init.

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§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. However, the Architect's materials shall not include information the Owner has identified in writing as confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic Services described under Article 3, the Owner shall compensate the Architect as follows:

.1 Stipulated Sum
(Insert amount)

Sixty Thousand Dollars (\$60,000)

(Paragraph Deleted)

(Paragraph Deleted)

§ 11.2 For Supplemental Services identified in Section 4.1, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

Not Applicable

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation.)

As Negotiated

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus Twenty percent (20 %), or as follows:

As Negotiated

§ 11.5 Where compensation for Basic Services is based on a stipulated sum or percentage of the Cost of the Work, the compensation for each phase of services shall be as follows:

Design Phase	Thirty - Five	percent (35	%)
Construction Documents Phase	Fifty	percent (50	%)
Bidding & Construction Phase	Fifteen	percent (15	%)

Total Basic Compensation one hundred percent (100 %)

§ 11.6 When compensation identified in Section 11.1 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner's most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner's budget for the Cost of the Work.

§ 11.6.1 When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants, if any, are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices.

(If applicable, attach an exhibit of hourly billing rates or insert them below.)

To be determined upon request of hourly service billing

Employee or Category	Rate
TBD	TBD

§ 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- .1 Transportation for authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets requested by the Owner;
- .3 Permitting and other fees required by authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, and standard form documents;
- .5 Fees for handling for express delivery requested by the Owner;
- .6 Expense of overtime work requiring higher than regular rates if authorized in advance by the Owner;
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project beyond that provided by Architect in the course of delivery of Basic Services as determined by the Architect;
- .8 Expense of professional liability insurance dedicated exclusively to this Project or the expense of additional insurance coverage or limits requested by the Owner in excess of that normally maintained by the Architect and the Architect's consultants;
- .9 Site office expenses requested by the owner; and
- .10 Other similar Project-related expenditures requested by the Owner.

Normal travel to and from Bastrop to Austin in the course of delivery of professional services is NOT a reimbursable expense.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus Twenty percent (20 %) of the expenses incurred.

§ 11.9 Payments to the Architect

§ 11.9.1 Initial Payment

An initial payment of Zero (\$ 0) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.9.2 Progress Payments

§ 11.9.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid () days

after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.
(Insert rate of monthly or annual interest agreed upon.)

N/A % N/A

§ 11.9.2.2 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding.

§ 11.9.2.3 Records of Reimbursable Expenses, expenses pertaining to Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:
(Include other terms and conditions applicable to this Agreement.)

§ 12.1 In any dispute subject to Article 8, the prevailing party shall be entitled to recover its reasonable attorneys' fees.

§ 12.2 **Project Enhancement.** If, due to Architect's or its consultant's error or omission, any required item or component of the Project is omitted from Architect's or its consultant's documents, Architect and its consultants shall not be responsible for paying the cost to add such item or component to the extent that (a) such item or component would have been otherwise necessary to the Project, (b) the cost incurred to add such item or component does not exceed the cost that would have been incurred by the Owner if the item or component had not been omitted, or (c) otherwise adds value, betterment, or enhancement to the Project.

§ 12.3 **Limitation of Liability.** TO THE FULLEST EXTENT PERMITTED BY LAW, THE TOTAL LIABILITY OF ARCHITECT, ITS EMPLOYEES, OFFICERS, SUBCONSULTANTS AND SUBCONTRACTORS, TO OWNER FOR ANY AND ALL INJURIES, CLAIMS, LOSSES, EXPENSES, OR DAMAGES WHATSOEVER FROM ANY CAUSE OR CAUSES, INCLUDING, BUT NOT LIMITED TO, CONTRIBUTION, STRICT LIABILITY, BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, OR ERRORS OR OMISSIONS SHALL NOT EXCEED THE ARCHITECT'S TOTAL FEE. NOTWITHSTANDING ANY OTHER PROVISION OF THE AGREEMENT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY PUNITIVE, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES INCURRED DUE TO THE FAULT OF THE OTHER PARTY, REGARDLESS OF THE NATURE OF THIS FAULT OR WHETHER IT WAS COMMITTED BY THE OWNER OR BY ARCHITECT, THEIR EMPLOYEES, AGENTS, SUBCONSULTANTS, OR SUBCONTRACTORS. CONSEQUENTIAL DAMAGES INCLUDE, BUT ARE NOT LIMITED TO, LOSS OF USE AND LOSS OF PROFIT.

§ 12.4 **No Warranty.** Architect makes no warranty, either expressed or implied, as to Architect's findings, recommendations, drawings, specifications, or professional advice. Any warranties or guarantees contained in any purchase orders, certifications, requisitions, or notices to proceed issued by the Owner are specifically objected to and excluded. Owner recognizes that neither Architect nor any of our consultants or contractors owes any fiduciary responsibility to Owner.

§ 12.5 **No Certification.** Architect shall not be required to sign any documents, no matter by whom requested, that would result in Architect or its consultants having to certify, guarantee, or warrant the existence of conditions whose existence Architect or its consultants cannot ascertain. The Owner also agrees not to make resolution of any dispute with Architect or payments of any amount due to Architect in any way contingent upon Architect's (or any consultant) signing any such certification.

§ 12.6 **Responsibility for Contractor's and Manufacturer's Data.** Architect shall be entitled to rely on the completeness and accuracy of the information provided by the Contractor and manufacturers of various building assemblies and components regarding the material and performance characteristics of the Work and manufactured products, including the presence of asbestos, hazardous, or toxic materials including molds and fungus (collectively "hazardous materials").

Init.

§ 12.7 **Liability for Consultants.** Architect is not responsible to Owner or any third-parties for errors, omissions, or other deficiencies in the services of any other design professional, vendor, design-build contractor, or others rendering design, engineering, or related services for Owner or Contractors (of any tier) or suppliers and not employed by Architect. Architect's sole responsibility in connection with the services of Owner's consultants or design-build contractors shall be to endeavor to coordinate Owner's consultant's portion of the design with Architect's design. Owner shall require consultants or design-build contractors retained by the Owner to coordinate their services and documents with those of Architect and Architect's consultants.

§ 12.8 **Severability.** If any provision of the Agreement is held to be illegal, invalid or unenforceable under present or future laws, such provision shall be fully severable, and the Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision is not a party hereof, and the remaining provisions shall remain in full force and effect. In lieu of any illegal, invalid or unenforceable provision, there shall be added automatically as a part of the Agreement, a provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable.

§ 12.9 **Construction of Agreement.** The parties acknowledge that each party and, if it so chooses, its counsel have reviewed and negotiated the Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of the Agreement or any amendments or exhibits.

§ 12.10 **Opinions of Cost.** Should Architect provide any cost opinions, it is understood that those opinions are based on the experience and judgment of Architect and are merely opinions. Architect does not warrant that actual costs will not vary from those opinions because, among other things, Architect has no control over market conditions.

§ 12.11 **No Personal Liability.** Owner understands and agrees that Architect is a business entity that has contracted to perform services, and any services provided by Architect's employees, agents or officers are not provided in their individual capacity. Owner will not make any claim or demand against any of Architect's employees, agents, partners, members, or officers in their individual capacity.

§ 12.12 **Texas Law requires that vendors make certain disclosures.** Prior to the effective date of this Agreement, Architect has submitted to Owner a copy of the Conflict of Interest Questionnaire form (CIQ Form) approved by the Texas Ethics Commission (Texas Local Government Code Chapter 176) and the Affidavit regarding Prohibition on Contracts with Companies Boycotting Israel (Texas Government Code Chapter 2270). Architect must also fill out Form 1295, as required by the Texas Ethics Commission, and submit it to Owner. The form may be found here. https://www.ethics.state.tx.us/whatsnew/elf.info_form_1295.htm.

§ 12.13 It is understood by the parties that Architect is an independent contractor with respect to Owner and not an employee of Owner. Owner will not provide fringe benefits, including health insurance benefits, paid vacation, or any employee benefit for the benefit of the Architect, nor who Architect may contract with other individuals or firms for architectural or other associated services.

§ 12.14 During the period Architect is covered by this agreement, Architect will contact Owner in writing if a potential conflict of interest with a third-party client may exist. If the City Council of Owner finds that a project for a third-party client or Architect has a direct conflict with Owner, Architect will be contacted by Owner in writing. If the conflict of interest cannot be resolved to either party's satisfaction, either Architect or Owner may terminate this Agreement with seven (7) days' written notice to the other party.

§ 12.15 The failure of any party to enforce any provision of this Agreement shall not be construed as a waiver of that party's right to subsequently enforce and compel strict compliance with every provision of the Agreement.

§ 12.16 The Laws of the State of Texas shall govern this Agreement

§ 12.17 The venue for any and all legal disputes arising under this Agreement shall be Bastrop County, Texas.

§ 12.18 **Survival of Terms.** All Articles of the Boyer Master Agreement and N&K LLP Proposal and their subparagraphs, along with 12.1 through 12.18, of the Agreement shall survive termination of this Agreement for any

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cause or reason.

ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and Architect.

§ 13.2 This Agreement is comprised of the following documents identified below:

- .1 AIA Document B104™–2017, Standard Abbreviated Form of Agreement Between Owner and Architect

(Paragraphs Deleted)

(Paragraph Deleted)

.3 Exhibits:

(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits identified in Section 4.1.)


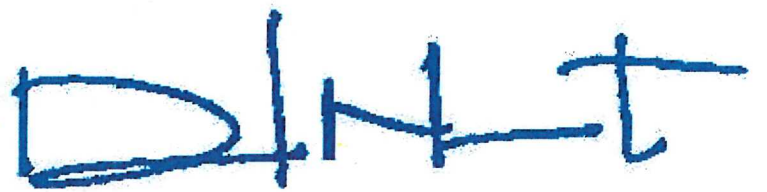
- 1. Architect’s Proposal Dated September 11, 2018
- 2. Initial Concept Sketch of Limits of the Project

.4 Other documents:

(List other documents, if any, including additional scopes of service forming part of the Agreement.)

N/A

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

 <hr/> OWNER (Signature) LINDA HUMBLE (Printed name and title) CITY MANAGER	 <hr/> ARCHITECT (Signature) David Negrete AIA Principal (Printed name, title, and license number, if required)
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“The Texas Board of Architectural Examiners, P.O. Box 12337 Austin Texas, 78711-2337, Telephone 512.305.9000, Fax 512.305.8900, has jurisdiction over complaints regarding the professional practices of persons registered as Architects in Texas”

Additions and Deletions Report for **AIA® Document B104™ – 2017**

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 19:10:19 on 10/30/2018.

PAGE 1

AGREEMENT made as of the Thirty-First day of October in the year 2018

...

City of Bastrop
1311 Chestnut Street
Bastrop Texas 78602

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Negrete & Kolar Architects LLP
11720 N. I.H. 35
Austin Texas 78753

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Bastrop City Hall Renovation
Bastrop Texas
Interior Modification of Existing Space and Finish-out of Existing Expansion Space

PAGE 2

The City of Bastrop has identified the need for expansion of city operations onto existing unfinished space and renovation of some ancillary and identified existing space to be undertaken in a manner to appear seamless to the original fit, finish, and utilization of materials as that utilized in the existing finish and appearance of the subject City Hall.

The Program for the project consists of:

- Implementation of a conference space at the Planning Department
- Accommodation of resulting staff work space for four work stations
- Finish out of current unfinished space into relocated City Manager's office and ancillary offices
- Renovation of existing City Manager's office and adjacent areas into office and conference room space.

The Owner's Budget for Construction is \$290,000.

The Architects Consultant's include Trinity Engineering, a State of Texas Licensed MEP Engineering firm selected by the Architect based on Qualifications and Experience.

The construction of the anticipated improvements is expected to proceed as soon as documents authored by the Architect are accepted and made ready for bidding.

OTHER INFORMATION:

1. Architect's Proposal Dated September 11, 2018
2. Initial Concept Sketch of limits of Project work

PAGE 3

\$2,000,000

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\$2,000,000

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\$1,000,000

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\$1,000,000

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§ 3.1.1 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on (1) the accuracy and completeness of the services and information furnished by the Owner and (2) the Owner's approvals. The Architect shall provide prompt written notice to the Owner no later than fifteen(15) days from substantial realization if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

PAGE 6

Supplemental Services are not included nor anticipated in this Agreement. Basic Services Provided by the Architect will include programming, measurement/verification of existing interior conditions, and interior architectural design. All other supplemental services noted in 4.1 are neither anticipated nor included. The City of Bastrop IT Department will provide all Telecom and Data services and will only require coordinated locations of such services in the Architects Documents.

PAGE 7

§ 4.2.2 The Architect has included in Basic Services Twice Monthly (or as needed) visits to the site by the Architect during construction. The Architect shall conduct site visits in excess of that amount as an Additional Service.

...

§ 4.2.4 If the services covered by this Agreement have not been completed within Twelve (12) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

PAGE 8

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise

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the Architect's services shall be without additional ~~compensation~~ compensation unless Architect's cost forecast indicated Bids would exceed the available budget, then re-design shall be compensated as negotiated as mutually reasonable. In any event, the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

PAGE 9

§ 8.1.3 The Architect and Owner waive consequential damages for claims, disputes or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section ~~9.69.6.~~

...

§ 8.1.4 The Architect agree to indemnify and hold Owner harmless from all claims, losses, expenses, fees, including attorney's fees, costs, and judgements that may be asserted against the Owner that result from negligent acts or omissions of the Architect pursuant to Texas Law, Architects employees, if any, and Architect's agents.

PAGE 10

§ 8.2.2 Mediation, unless the parties mutually agree otherwise, shall be administered by ~~the American Arbitration Association~~ a Mediator mutually agreed upon by both parties within ten days of such call for mediation in accordance with its Construction Industry Mediation Procedures in effect on the date of this Agreement. The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

...

[X] Litigation in a court of competent jurisdiction

...

§ 8.3 Arbitration – Not Applicable – Delete 8.3.1 Thru 8.3.4.3

...

~~§8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement.~~

...

~~§ 8.3.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.~~

...

~~§ 8.3.2 The foregoing agreement to arbitrate, and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement, shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.~~

...

~~§ 8.3.3 The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.~~

...

~~§ 8.3.4 Consolidation or Joinder~~

...

~~§ 8.3.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).~~

...

~~§ 8.3.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.~~

...

~~§ 8.3.4.3 The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.~~

...

~~§ 8.4 The provisions of this Article 8 shall survive the termination of this Agreement.~~

...

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PAGE 11

Termination Fee shall consist of Architects costs and sub-consultant costs incurred to date of termination including payment up to completion status of the documents as submitted by the Architect plus 20% of the fee invoiced to date of Termination.

...

To be negotiated upon occurrence and request

PAGE 12

Sixty Thousand Dollars (\$60,000)

...

.2—Percentage Basis

...

(Insert percentage value)

...

() % of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6.

...

.3—Other

...

(Describe the method of compensation)

...

Not Applicable

...

As Negotiated

...

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus Twenty percent (20 %), or as follows:

...

As Negotiated

...

Design Phase	<u>Thirty - Five</u>	percent (<u>35</u>	%)
Construction Documents Phase	<u>Fifty</u>	percent (<u>50</u>	%)
<u>Bidding & Construction Phase</u>	<u>Fifteen</u>	percent (<u>15</u>	%)

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To be determined upon request of hourly service billing

...

TBD

TBD

...

.1 Transportation ~~and for~~ authorized out-of-town travel and subsistence;

...

.2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and ~~extranets;~~extranets requested by the Owner;

...

.5 ~~Postage, handling, and delivery;~~Fees for handling for express delivery requested by the Owner;

...

.7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the ~~Project;~~Project beyond that provided by Architect in the course of delivery of Basic Services as determined by the Architect;

...

.9 ~~All taxes levied on professional services and on reimbursable expenses;~~

...

~~.10 Site office expenses;~~Site office expenses requested by the owner; and

...

~~.11 Other similar Project-related expenditures;~~.10 Other similar Project-related expenditures requested by the Owner.

...

Normal travel to and from Bastrop to Austin in the course of delivery of professional services is NOT a reimbursable expense.

...

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus Twenty percent (20 %) of the expenses incurred.

...

An initial payment of Zero (\$ 0) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

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N/A % N/A

...

§ 12.1 In any dispute subject to Article 8, the prevailing party shall be entitled to recover its reasonable attorneys' fees.

...

§ 12.2 Project Enhancement. If, due to Architect's or its consultant's error or omission, any required item or component of the Project is omitted from Architect's or its consultant's documents, Architect and its consultants

shall not be responsible for paying the cost to add such item or component to the extent that (a) such item or component would have been otherwise necessary to the Project, (b) the cost incurred to add such item or component does not exceed the cost that would have been incurred by the Owner if the item or component had not been omitted, or (c) otherwise adds value, betterment, or enhancement to the Project.

...

§ 12.3 Limitation of Liability. TO THE FULLEST EXTENT PERMITTED BY LAW, THE TOTAL LIABILITY OF ARCHITECT, ITS EMPLOYEES, OFFICERS, SUBCONSULTANTS AND SUBCONTRACTORS, TO OWNER FOR ANY AND ALL INJURIES, CLAIMS, LOSSES, EXPENSES, OR DAMAGES WHATSOEVER FROM ANY CAUSE OR CAUSES, INCLUDING, BUT NOT LIMITED TO, CONTRIBUTION, STRICT LIABILITY, BREACH OF CONTRACT, BREACH OF WARRANTY, NEGLIGENCE, OR ERRORS OR OMISSIONS SHALL NOT EXCEED THE ARCHITECT'S TOTAL FEE. NOTWITHSTANDING ANY OTHER PROVISION OF THE AGREEMENT, NEITHER PARTY SHALL BE LIABLE TO THE OTHER FOR ANY PUNITIVE, SPECIAL, INCIDENTAL, OR CONSEQUENTIAL DAMAGES INCURRED DUE TO THE FAULT OF THE OTHER PARTY, REGARDLESS OF THE NATURE OF THIS FAULT OR WHETHER IT WAS COMMITTED BY THE OWNER OR BY ARCHITECT, THEIR EMPLOYEES, AGENTS, SUBCONSULTANTS, OR SUBCONTRACTORS. CONSEQUENTIAL DAMAGES INCLUDE, BUT ARE NOT LIMITED TO, LOSS OF USE AND LOSS OF PROFIT.

...

§ 12.4 No Warranty. Architect makes no warranty, either expressed or implied, as to Architect's findings, recommendations, drawings, specifications, or professional advice. Any warranties or guarantees contained in any purchase orders, certifications, requisitions, or notices to proceed issued by the Owner are specifically objected to and excluded. Owner recognizes that neither Architect nor any of our consultants or contractors owes any fiduciary responsibility to Owner.

...

§ 12.5 No Certification. Architect shall not be required to sign any documents, no matter by whom requested, that would result in Architect or its consultants having to certify, guarantee, or warrant the existence of conditions whose existence Architect or its consultants cannot ascertain. The Owner also agrees not to make resolution of any dispute with Architect or payments of any amount due to Architect in any way contingent upon Architect's (or any consultant) signing any such certification.

...

§ 12.6 Responsibility for Contractor's and Manufacturer's Data. Architect shall be entitled to rely on the completeness and accuracy of the information provided by the Contractor and manufacturers of various building assemblies and components regarding the material and performance characteristics of the Work and manufactured products, including the presence of asbestos, hazardous, or toxic materials including molds and fungus (collectively "hazardous materials").

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§ 12.7 Liability for Consultants. Architect is not responsible to Owner or any third-parties for errors, omissions, or other deficiencies in the services of any other design professional, vendor, design-build contractor, or others rendering design, engineering, or related services for Owner or Contractors (of any tier) or suppliers and not employed by Architect. Architect's sole responsibility in connection with the services of Owner's consultants or design-build contractors shall be to endeavor to coordinate Owner's consultant's portion of the design with Architect's design. Owner shall require consultants or design-build contractors retained by the Owner to coordinate

7


their services and documents with those of Architect and Architect's consultants.

...

§ 12.8 Severability. If any provision of the Agreement is held to be illegal, invalid or unenforceable under present or future laws, such provision shall be fully severable, and the Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision is not a party hereof, and the remaining provisions shall remain in full force and effect. In lieu of any illegal, invalid or unenforceable provision, there shall be added automatically as a part of the Agreement, a provision as similar in terms to such illegal, invalid or unenforceable provision as may be possible and be legal, valid and enforceable.

...

§ 12.9 Construction of Agreement. The parties acknowledge that each party and, if it so chooses, its counsel have reviewed and negotiated the Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of the Agreement or any amendments or exhibits.

...

§ 12.10 Opinions of Cost. Should Architect provide any cost opinions, it is understood that those opinions are based on the experience and judgment of Architect and are merely opinions. Architect does not warrant that actual costs will not vary from those opinions because, among other things, Architect has no control over market conditions.

...

§ 12.11 No Personal Liability. Owner understands and agrees that Architect is a business entity that has contracted to perform services, and any services provided by Architect's employees, agents or officers are not provided in their individual capacity. Owner will not make any claim or demand against any of Architect's employees, agents, partners, members, or officers in their individual capacity.

...

§ 12.12 Texas Law requires that vendors make certain disclosures. Prior to the effective date of this Agreement, Architect has submitted to Owner a copy of the Conflict of Interest Questionnaire form (CIQ Form) approved by the Texas Ethics Commission (Texas Local Government Code Chapter 176) and the Affidavit regarding Prohibition on Contracts with Companies Boycotting Israel (Texas Government Code Chapter 2270). Architect must also fill out Form 1295, as required by the Texas Ethics Commission, and submit it to Owner. The form may be found here. https://www.ethics.state.tx.us/whatsnew/elf.info_form_1295.htm.

...

§ 12.13 It is understood by the parties that Architect is an independent contractor with respect to Owner and not an employee of Owner. Owner will not provide fringe benefits, including health insurance benefits, paid vacation, or any employee benefit for the benefit of the Architect, nor who Architect may contract with other individuals or firms for architectural or other associated services.

...

§ 12.14 During the period Architect is covered by this agreement, Architect will contact Owner in writing if a potential conflict of



interest with a third-party client may exist. If the City Council of Owner finds that a project for a third- party client or Architect has a direct conflict with Owner, Architect will be contacted by Owner in writing. If the conflict of interest cannot be resolved to either party's satisfaction, either Architect or Owner may terminate this Agreement with seven (7) days' written notice to the other party.

...

§ 12.15 The failure of any party to enforce any provision of this Agreement shall not be construed as a waiver of that party's right to subsequently enforce and compel strict compliance with every provision of the Agreement.

...

§ 12.16 The Laws of the State of Texas shall govern this Agreement

...

§ 12.17 The venue for any and all legal disputes arising under this Agreement shall be Bastrop County, Texas.

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§ 12.18 Survival of Terms. All Articles of the Boyer Master Agreement and N&K LLP Proposal and their subparagraphs, along with 12.1 through 12.18, of the Agreement shall survive termination of this Agreement for any cause or reason.

...

~~2~~ AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

...


(Insert the date of the E203 2013 incorporated into this agreement.)

1. Architect's Proposal Dated September 11, 2018
2. Initial Concept Sketch of Limits of the Project

...

N/A

...

 
...
LYNDA K. HUMBLE, CITY MANAGER David Negrete AIA Principal
...

"The Texas Board of Architectural Examiners, P.O. Box 12337 Austin Texas, 78711-2337, Telephone 512.305.9000, Fax 512.305.8900, has jurisdiction over complaints regarding the professional practices of persons registered as Architects in Texas"

CERTIFICATE OF INTERESTED PARTIES

FORM 1295

1 of 1

Complete Nos. 1 - 4 and 6 if there are interested parties.
 Complete Nos. 1, 2, 3, 5, and 6 if there are no interested parties.

**OFFICE USE ONLY
 CERTIFICATION OF FILING**

Certificate Number:
 2018-420686

Date Filed:
 10/30/2018

Date Acknowledged:

1 Name of business entity filing form, and the city, state and country of the business entity's place of business.

Negrete & Kolar Architects LLP
 Austin, TX United States

2 Name of governmental entity or state agency that is a party to the contract for which the form is being filed.

City of Bastrop

3 Provide the identification number used by the governmental entity or state agency to track or identify the contract, and provide a description of the services, goods, or other property to be provided under the contract.

2018-2010
 Professional Architectural Services

4	Name of Interested Party	City, State, Country (place of business)	Nature of interest (check applicable)	
			Controlling	Intermediary

5 Check only if there is NO Interested Party.

6 UNSWORN DECLARATION

My name is David Negrete, and my date of birth is 02-12-1953.

My address is 11720 N. IH 35, Austin, Tx, 78753, Travis.
(street) (city) (state) (zip code) (country)

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Travis County, State of Texas, on the 30 day of October, 2018.
(month) (year)

David Negrete

 Signature of authorized agent of contracting business entity
 (Declarant)

