1.

**PROFESSIONAL SERVICES SCHEDULE/****PS SCHEDULE**

**[ATTACHED]**

**ARCHITECT’S KEY PERSONNEL**

**[ATTACHED]**

**OWNER’S SPECIAL CONDITIONS**

**[ATTACHED]**

**Exhibit C**

**OWNER’S SPECIAL conditions**

Capitalized terms as used herein such as “Owner”, “Architect”, “Architect Consultant”, “Contractor”, “Project”, and “Agreement” are used as defined in that certain ***Standard Form of Agreement between Owner and Architect,*** AIA Document B101 – 2017 ed., as modified for this Project, and shall each have the meanings set forth in the Agreement. Definitions set forth in Section 1.4 of the Agreement are hereby fully incorporated into this **Exhibit C** as if copied verbatim herein.

1. **Confidentiality**
	1. Protection of Confidential Information. Architect hereby acknowledges, understands and agrees: (i) that in the course of conducting its due diligence regarding the provision of services to Owner, certain Confidential Information will be disclosed to Architect; and (ii) that whether developed by Owner or others employed by or associated with Owner, all Confidential Information is, and shall remain, the exclusive and confidential property of Owner, and shall be at all times regarded, treated and protected as such by Architect in accordance with the Agreement. Failure to mark any information "Confidential" shall not affect the confidential nature of such information.
	2. Confidential Information. Confidential Information includes the information set forth in Section 1.4 of the Agreement and includes the following:
		1. Work product resulting from, or related to the business and/or operations of Owner, including but not limited to, methods, processes, procedures, analysis, techniques, and audits used by Owner in connection therewith.
		2. Computer software of any type or form in any stage of actual or anticipated research and development, including, but not limited to, programs and program modules, routines and subroutines, processes, algorithms, design concepts, design specifications (design notes, annotations, documentation, flowcharts, coding sheets, and the like), source code, object code and load modules, programming, program patches, and system designs.
		3. Information relating to Owner’s proprietary rights prior to any public disclosure thereof, including but not limited to, the nature of the proprietary rights, production data, technical and engineering data, test data and test results, the status and details of research and development of products and services, and information regarding acquiring, protecting, enforcing and licensing proprietary rights (including patents, copyrights, and trade secrets).
		4. Internal personnel and financial information, vendor names and other vendor information (including vendor characteristics, services, and agreements), customer lists and contacts, business plan(s), purchasing and internal cost information, internal services and operational manuals, pricing, marketing, and all other manner and methods of conducting Owner’s business.
		5. Marketing and development plans, price and cost data, price and fee amounts, pricing and billing policies, quoting procedures, marketing techniques and methods of obtaining business, forecasts and forecast assumptions and volumes, and future plans and potential strategies of Owner which have been or are being discussed.
	3. Covenants. As a consequence of Architect acquisition or anticipated acquisition of Confidential Information, Architect will occupy a position of trust and confidence to Owner with respect to Owner’s affairs and business. In view of the foregoing and of the mutual consideration to be provided to each party, Architect agrees that it is reasonable and necessary that it make the following covenants:
		1. Both during and forever after the performance of any due diligence investigation, Architect will not disclose Confidential Information to any person or entity other than as necessary in carrying out its duties on behalf of Owner and/or due diligence investigation, without first obtaining Owner’s prior, written consent, and Architect will take all reasonable precautions to prevent inadvertent disclosure of such Confidential Information. This prohibition against Architect’s disclosure of Confidential Information includes, but is not limited to, disclosing the fact that any similarity exists between the Confidential Information and information independently developed by another person or entity, and Architect understands that such similarity does not excuse Architect from abiding by its covenant or other obligations pursuant to the Agreement.
		2. Both during and after the conduct of its due diligence investigation, Architect will not use, copy, or transfer Confidential Information other than as necessary in carrying out its duties on behalf of Owner and/or due diligence investigation, without first obtaining prior written consent of Owner, and will take all reasonable precautions to prevent inadvertent use, copying, or transfer of such Confidential Information. This prohibition against Architect’s use, copying, or transfer of Confidential Information includes, but is not limited to, selling, licensing, or otherwise exploiting, directly or indirectly, any products or services, including software in any form, that embody or are derived from Confidential Information.
	4. Use. Architect agrees not to make any written use of or reference to Owner’s name or registered or unregistered trademarks (or any names under which Owner conducts business or operations) for any marketing, public relations, advertising, display or other business purpose or make any use of Owner’s facilities for any activity related to the express business purposes and interests of Owner pursuant to the Agreement, without the prior written consent of Owner, which consent may be withheld or granted in Owner’s sole and absolute discretion. Architect agrees not to utilize, either directly or indirectly, any Confidential Information in order to facilitate or create direct business relationships with business customers of Owner.
	5. Open Records Request or Similar Requests for Information. In the event that Architect receives a request to disclose all or any part of the Confidential Information under the terms of the Texas Public Information Act, a subpoena or other order issued by a court of competent jurisdiction or by another governmental agency, Architect shall: (i) notify Owner of the existence, terms, and circumstances surrounding such a request within one (1) business day of the receipt of the request; (ii) notify the entity requesting the information that such a request for information should be submitted to Owner, not Architect; (iii) provide the entity requesting the information the contact information of Owner’s public information coordinator; and (iv) forward all responsive information to Owner within two (2) business days of the receipt of the request.
	6. Confidentiality Provisions Applicable to Owner. Subject to the provisions of Section 1.7 below, Owner shall keep confidential all information, in whatever form, produced, prepared, or observed by Architect to the extent that such information is stamped “Confidential Information” or otherwise determined to be confidential by Applicable Laws.
	7. Public Records. Notwithstanding any provisions of the Agreement to the contrary, Architect understands that Owner will comply with the Texas Public Information Act, Tex. Gov’t. Code Ch. 552. If contacted by Owner, Architect will cooperate with Owner in the production of documents responsive to the request. Architect agrees to provide the documents responsive to the request in the format and within the time frame specified by Owner. Architect may request that Owner seek an opinion from the Office of the Attorney General of Texas. However, the final decision whether to seek a ruling from the Office of the Attorney General of Texas will be made by Owner in its sole discretion to comply with the legal requirements of the Texas Public Information Act. Additionally, Architect will notify Owner’s general counsel within twenty-four (24) hours of receipt of any third-party requests for information written, produced, collected, assembled, or maintained in connection with the Agreement and/or any amendment to the Agreement. The Agreement and/or any amendment to the Agreement and all data and other information generated or otherwise obtained in its performance is subject to the Texas Public Information Act. Architect agrees to maintain the confidentiality of information received from Owner during the performance of the Agreement, including information which discloses confidential personal information particularly, but not limited to, social security numbers. Furthermore, Architect is required to make any information created or exchanged with the State pursuant to the Agreement, and not otherwise excepted from disclosure under the Texas Public Information Act, available in a format that is accessible by the public as specified by Owner at no additional charge to the Owner.
2. **Suspension and Debarment.** Architect, on behalf of itself and its employees, agents, representatives, Consultants and Contractors, represents that as of the date of, and at all times during the term of, the Agreement, the following shall be true, complete, and correct:
	1. Architect is in compliance or will comply with, to the extent applicable, Owner’s compliance program and all applicable federal and state laws and regulations therein, including, but not limited to, federal and state healthcare fraud and abuse provisions;
	2. Architect is not a target or subject of a federal or state criminal, civil, or administrative investigation;
	3. Architect is not a party to any actual or threatened criminal, civil, or administrative action or proceeding concerning a potential violation of federal or state laws including, but not limited to, federal or state healthcare fraud and abuse provisions;
	4. Architect has not been convicted of any crime relating to any federal and/or state program; and
	5. Architect is not, and has not previously been, excluded, debarred, suspended, or otherwise deemed ineligible from participating in any federal or state healthcare program or other federal or state program.

During the term of the Agreement, Architect shall immediately give Owner written notice if Architect is not in compliance with any provision of this Section 2. Upon the occurrence of such event, whether or not notice is given to Owner, Owner may terminate the Agreement effective immediately upon written notice to Architect.

1. **Historically Underutilized Businesses**. Architect will proactively comply with Owner’s established policies regarding the utilization of S/W/MBE/HUB entities and goals, and all other applicable administrative rules and statutes relating to utilization of S/W/MBE/HUB entities for the Project.
2. **Equal Opportunity.** Architect shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, or national origin. Architect shall take affirmative action to ensure that applicants are employed and that employees are treated during employment without regard to their race, color, religion, sex, national origin, age, disability, political affiliation, or religious belief. Such action shall include, but not be limited to, the following: (i) employment, upgrading, demotion, or transfer; (ii) recruitment or recruitment advertising; (iii) layoff or termination; (iv) rates of pay or other forms of compensation; and (v) selection for training, including apprenticeship. Architect shall post in conspicuous places, available to employees or applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination Section. Architect shall include this Section in all subcontract agreements pertaining to the services to be provided under the Agreement.
3. **Nondiscrimination.** In their execution of the Agreement, the parties and others acting by or through them shall comply with all federal and state laws prohibiting discrimination, harassment, and sexual misconduct. To the extent not in conflict with federal or state law, the parties agree not to discriminate on the basis of race, color, national origin, age, sex, religion, disability, veterans’ status, sexual orientation, gender identity or gender expression. Any breach of this covenant may result in termination of the Agreement.
4. **Immigration Reform.** The Immigration Reform and Control Act of 1986, as amended, the Immigration Act of 1990, and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, require that all employees hired since 1986 provide proof of identity and employment eligibility before they can work in the United States. Owner is committed to complying with all applicable immigration laws of the United States and requires compliance by all contractors, subcontractors, and consultants who contract with the Owner. Architect shall not place any employee of Architect at a worksite, nor shall Architect permit any employee, nor the Architect or any Contractor or Consultant, to perform any work on behalf of, or for the benefit of, Owner without first confirming said employee’s authorization to lawfully work in the United States. Architect states that Architect: (i) maintains and follows an established policy to verify the employment authorization of its employees and to ensure continued compliance for the duration of employment; (ii) has verified the identity and employment eligibility of all employees in compliance with Applicable Law; (iii) has established internal safeguards and reporting policies to encourage its employees to report any suspected violations of immigration policies or of immigration law promptly to Architect’s senior management; and (iv) is without knowledge of any fact that would render any employee, Architect, any Consultant, or any Contractor ineligible to legally work in the United States. Architect further acknowledges, agrees, and states that it: (i) has complied, and shall at all times during the term of the Agreement comply, in all respects with the Immigration Reform and Control Act of 1986 and 1990, the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, as amended, and all of the laws, rules, and regulations relating thereto; (ii) has properly maintained, and shall at all times during the term of the Agreement properly maintain, all records required by the Department of Homeland Security, Immigration and Customs Enforcement, including, without limitation, the completion and maintenance of the Form I-9 for each of Architect’s employees; and (iii) has responded, and shall at all times during the term of the Agreement respond, in a timely fashion to any inspection requests related to such I-9 Forms. During the term of the Agreement, Architect shall, and shall cause its directors, officers, managers, agents and employees to, fully cooperate in all respects with any audit, inquiry, inspection or investigation that may be conducted by Owner or any state or county agency of Architect or any of its employees. Architect acknowledges, agrees, and represents all Consultants and Contractors permitted by it to perform services hereunder will be required to agree to these same terms as a condition to being awarded a contract for the performance of such services.
5. **E-Verify.** By entering into the Agreement, Architect certifies and ensures that it utilizes and will continue to utilize, for the term of the Agreement, the U.S. Department of Homeland Security’s E-Verify system, in accordance with the U.S. Department of Homeland Security’s rules, to determine the eligibility of: (i) all persons employed to perform duties within the State of Texas, during the term of the Agreement; and (ii) all persons (including the Architect and all Consultants and Contractors) assigned by the Architect to perform services pursuant to the Agreement, within the United States of America. Architect shall provide, upon request of Owner and if available, an electronic or hardcopy screenshot of the confirmation or tentative non-confirmation screen containing the E-Verify case verification number for attachment to the Form I-9 for the three (3) most recent hires that match the criteria above, by the Architect, Architect, Consultants and Contractors, as proof that this provision is being followed. If this certification is falsely made, the Agreement may be immediately terminated, at the discretion of Owner, and at no fault to Owner, with no prior notification. Architect shall also be responsible for the costs of any re-solicitation that Owner must undertake to replace the terminated Agreement. For persons not eligible for E-Verify screening, Architect (along with Architect and all Consultants and Contractors) shall provide, upon request by Owner, another form of documentation of proof of eligibility to work in the United States of America.
6. **Entities that Boycott Israel.** Pursuant to *Tex. Gov’t. Code §2271.002*, Architect certifies that either (i) it meets an exemption criteria under *Tex. Gov’t. Code §2271.002*; or (ii) it does not boycott Israel and will not boycott Israel during the term of the Agreement. Architect shall state any facts that make it exempt from the boycott.
7. **Entities that Boycott Energy Companies**. Pursuant to *Tex. Gov’t. Code §2274.002*, Architect certifies that either (i) it meets an exemption criteria under *Tex. Gov’t. Code §2274.002*, or (ii) it does not boycott companies that engage in the exploration, production, utilization, transportation, sale, or manufacturing of fossil fuel-based energy and do not commit or pledge to meet environmental standards beyond applicable federal and state law (“Energy Companies”) and will not boycott Energy Companies during the term of the Agreement. “Boycott Energy Company” has the meaning provided in *Tex. Gov’t. Code §809.001*. Architect shall state any facts that make it exempt from verification.
8. **Entities that Discriminate against Firearms Entities or Trade Associations**. Pursuant to *Tex. Gov’t. Code §2274.002*, Architect certifies that either (i) it meets an exemption criteria under *Tex. Gov’t. Code §2274.002,* or (ii) it does not have a practice, policy, guidance, or directive that discriminates against a firearm entity or firearm trade association (as defined under *Tex. Gov’t Code §2274.001*) and will not discriminate during the term of the Agreement against a firearm entity or firearm trade association. Architect shall state any facts that make it exempt from verification.
9. **Prohibition Against Contracting with Companies Engaged in Business with Iran, Sudan, or other Foreign Terrorist Organizations.** In accordance with *Tex. Gov’t. Code §2252.152*, Owner is prohibited from entering into a governmental contract (as defined in *Tex. Gov’t. Code §2252.151(3)*) with a company that is identified on a list prepared and maintained under *Tex. Gov’t. Code §§806.051*, *807.051*, or *2252.153*. If Architect is on the above-referenced list, the Agreement will be considered void or voidable and Owner will not be responsible to pay Architect for any services performed.
10. **Excluded Parties.** Architect certifies that it is not listed on the federal government’s terrorism watch list as described in Executive Order 13224.
11. **No Conflicts.** Architect represents that Architect has no actual or potential conflicts of interest in providing services to Owner under the Agreement and that Architect’s provision of services under the Agreement would not reasonably create an appearance of impropriety.
12. **Deceptive Trade Practices Act; Unfair Business Practices Disclosures.** Architect represents and states that it has not been found liable of Deceptive Trade Practices Act violations under *Tex. Bus. & Com. Code Ch. 17* or of any unfair business practice in any administrative hearing or court suit. Architect further certifies that it has no officers who have served as officers of other entities who have been found liable of Deceptive Trade Practices violations or of any unfair business practices in an administrative hearing or court suit. In the event that allegations of Deceptive Trade Practices violations under *Tex. Bus. & Com. Code Ch. 17* or of any unfair business practices against either Architect or any of Architect’s officers have occurred or are currently pending in an administrative proceeding or in a lawsuit filed with any court, then Architect has disclosed all such matters to Owner and provided a brief description of each allegation, information regarding the administrative body or court before which the matter is pending, and the current status of the matter.
13. **Disclosure of Interested Parties.** Architect certifies that, if the value of the Agreement or the anticipated value of the Agreement exceeds One Million Dollars ($1,000,000), it has complied with *Tex. Gov’t. Code §2252.908* and *1 Tex. Admin. Code §§46.1* through *§46.3* as implemented by the Texas Ethics Commission (TEC), if applicable, and has provided the Owner with a fully executed TEC Form 1295, certified by the TEC and signed and notarized by the Architect.
14. **General and Criminal Background Checks**
	1. Architect represents that Architect and Architect’s employees have not been convicted of a felony criminal offense, or of a crime involving moral turpitude, or that, if such a conviction has occurred, Architect has fully advised Owner as to the facts and circumstances surrounding the conviction.
	2. Architect, and all of its employees, Consultants, and Contractors that will perform any work or services on-Site at a county-owned property shall be subject to a criminal background check. Any expense associated with such criminal background check shall be borne by Architect.
	3. All criminal background check forms for the Architect and all of Architect’s employees, Consultants, and Contractors that will initially commence any work on-Site must be fully completed and submitted to Owner within **fifteen (15)** Days of the date of the appropriate notice of award, and the process thereafter must be diligently pursued by Architect. All criminal background checks must be completed before the Architect or any employee, Consultant, or Contractor performs any services at the Site.
	4. All criminal background checks must be accomplished by the Texas Department of Public Safety (the “DPS”), which includes fingerprint processing by an independent third-party company selected by DPS. Upon receipt of the fingerprints of the Architect and Architect’s employees, Consultants, and/or Contractors, DPS, or Owner, will adjudicate the results of the criminal background searches in accordance with Owner’s background check requirements and guidelines. The failure to timely secure criminal background check clearance shall not be considered a legitimate delay in the performance of the services hereunder.
15. **Use of Owner Property.** Architect is prohibited from using Owner Property for any purpose other than performing services authorized under the Agreement. “Owner Property” includes, but is not limited to: Owner’s office space, identification badges, Owner information technology equipment and networks (e.g., laptops, portable printers, cell phones, iPads, external hard drives, data storage devices, any Owner issued software, the Owner’s Virtual Private Network (VPN client)) information, and any other resources of Owner. Architect shall not remove Owner Property from the Owner’s campus. Architect may not use any computing device to access Owner’s network or e-mail. Architect shall not perform any maintenance services on Owner’s Property unless the Agreement expressly authorizes such services. During the time that Owner Property is in the possession of Architect, Architect shall be responsible for (i) all repair and replacement charges incurred by Owner that are associated with loss of Owner Property or damage beyond normal wear and tear; and (ii) all charges attributable to Architect’s use of Owner Property that exceeds the scope of the Agreement. Architect shall fully reimburse such charges to Owner within **ten (10)** Days of Architect’s receipt of Owner’s notice of amount due. Use of Owner Property for a purpose not authorized by the Agreement shall constitute breach of the Agreement and may result in termination of the Agreement and the pursuit of other remedies available to Owner under contract, at law, or in equity.
16. **Drug-Free Work Place.** Architect, Architect’s employees, Consultants, and Contractors shall comply with the applicable provisions of the Drug-Free Work Place Act of 1988 (Public Law No. 100-690, Title V, Subtitle D; 41 U.S.C. 701 et seq.) and maintain a drug-free work environment; and the final rule, government-wide requirements for drug-free work place (grants), issued by the Office of Management and Budget and the Department of Defense (32 CFR Part 280, Subpart F) to implement the provisions of the Drug-Free Work Place Act of 1988 is incorporated by reference and Architect, Architect’s employees, Consultants, and Contractors shall comply with the relevant provisions thereof, including any amendments to the final rule that may hereafter be issued.
17. **No Smoking.** All facilities where Work is to be performed or services rendered are nonsmoking buildings. Architect, Consultants, and Contractors, and all of their employees are prohibited from smoking in all areas except in areas designated for smoking.
18. **Signage.** Neither the Architect, nor any Consultant or Contractor shall display or distribute any advertising signs or notices of any kind whatsoever upon Owner’s premises without the prior written permission of Owner.

**OWNER-PROVIDED INFORMATION**

 Owner shall, with reasonable promptness, provide Architect a copy of, or reasonable access to, the following information and documentation regarding the Project:

1. Owner’s Construction, Renovation and Maintenance Activity Safety Policy dated 06/07/2021
2. Owner’s Rules and Regulations for Construction
3. Owner’s HIPAA Information

**ARCHITECT INSURANCE REQUIREMENTS**

Architect shall maintain in effect, and shall require its Consultants to maintain in effect, at all times during the full term of the Agreement, insurance policies providing the minimum coverages and policy limits specified in this **Exhibit E**. Architect will comply and will require its Consultants to comply fully with all requirements of this **Exhibit E** prior to commencing any services for the Project.

* 1. **Insurance Required of Architect**.

| **Policy** | **Policy Limits** |
| --- | --- |
| **Professional Liability**  | $XX,000,000 each claim$XX,000,000 annual aggregate |
| **Workers’ Compensation****Employers’ Liability Insurance** | Statutory limits under Texas law$1,000,000 Bodily Injury by Accident (accident)$1,000,000 Bodily Injury by Disease (policy limit)$1,000,000 Bodily Injury by Disease (each employee) |
| **Commercial General Liability**  | $2,000,000 each occurrence$4,000,000 annual general aggregate$4,000,000 products-completed operations aggregate |
| **Automobile Liability** | $1,000,000 each accident |
| **Excess Liability** | $10,000,000 each occurrence$10,000,000 aggregate |
| **Environmental/Pollution Liability**  | $5,000,000 each occurrence$5,000,000 aggregate |
| **Cyber/Privacy Liability** | $5,000,000 per claim$5,000,000 aggregate |

* + 1. **Professional Liability Insurance**. Professional liability coverage shall insure from and against all negligent acts, errors, and omissions of Architect, its employees, and all Consultants that arise out of the Agreement or the services performed under the Agreement. This insurance shall not include any type of exclusion or limitation of coverage applicable to claims arising from (i) bodily injury or property damage where coverage is provided on behalf of design professionals, or (ii) punitive, exemplary or multiplied damages. Any retroactive date must be effective prior to the beginning of services for Owner. The purchase of an extended discovery period or an extended reporting period on a claims-made policy will not be sufficient to meet the terms of this provision. Architect and its Consultants shall keep such insurance in force at all times during the course of the Agreement and until all claims arising out of the services are barred by the applicable statutes of limitation or repose provided under Texas law.
		2. **Workers’ Compensation and** **Employers’ Liability Insurance**. Architect and its Consultants shall provide workers’ compensation and employers’ liability insurance for all employees performing services on the Project with limits as set forth herein.
			1. Architect shall require each Consultant to certify in writing to the Architect that said Consultant provides, and will provide on this Project, workers’ compensation and employers’ liability insurance for all of Consultant’s employees employed on the Project. Owner shall be entitled, upon request and without expense, to receive copies of Architect’s and all Consultants’ written certifications of insurance.
			2. The policy must include an Other States Endorsement to include the State of Texas if Architect’s or Consultants’ businesses are domiciled outside the State of Texas.
			3. All policies shall be endorsed to include a waiver of subrogation in favor of Owner.
		3. **Commercial General Liability**. Commercial General Liability (“**CGL**”) coverage shall be provided on ISO occurrence form CG 00 01 (or a substitute form providing equivalent coverage). The CGL insurance general aggregate limit shall apply separately to this Project and Architect and Consultants shall provide evidence of same through ISO Endorsement CG 25 03 05 09. The policy shall include endorsement CG 25 03, Amendment of Aggregate Limits of Insurance (per Project), or its equivalent. CGL insurance shall cover liability including, but not limited to, liability arising from premises, operations, independent contractors, products-completed operations, personal and advertising injury, electronic data liability (under endorsement ISO CG 04 37), property damage, and personal injury and death resulting therefrom. This policy shall provide for full separation of insureds and shall not include any insured v. insured exclusions or limitations. The following is a non-exclusive list of additional exclusions and limiting endorsements that are prohibited:
* Liability assumed by Architect under a written agreement, including any contractual liability limitation endorsement restricting coverage to only liability that would exist in the absence of a contract, such as the ISO CG 21 39 or its equivalent, or any amendment of the insured contract definition endorsement such as the ISO CG 24 26 or its equivalent.
* Explosion, collapse, underground property damage, blasting, blowouts, cratering, or the like, including any Explosion, Collapse And Underground Property Damage Hazard endorsement such as the ISO CG 21 42 or ISO CG 21 43 endorsements, or their equivalent.
* Cross-liability on claims between any insureds, other than claims between named insureds.
* Injury to independent contractors and employees of independent contractors.
* Any type of classification or business description limitation endorsement.
* Any type of endorsement modifying the employers’ liability exclusion.
* Any type of punitive, exemplary or multiplied damages exclusion.

Owner reserves the right to notify Architect of any additional prohibited exclusions or endorsements in advance of placing the insurance for the Project. A copy of the CGL Schedule of Forms and Endorsement page(s) of the policy shall be provided to verify the coverages required, that the Endorsements required by these insurance requirements are included, and that none of the prohibited exclusions exist in the policy. This insurance shall apply as primary insurance with respect to any other insurance or self-insurance programs maintained by Owner. CGL insurance must be kept in force at all times during the course of the Agreement and until all claims arising out of the services are barred by the applicable statutes of limitation or repose provided under Texas law.

* + 1. **Automobile Liability Insurance**. An automobile liability insurance policy shall be provided by Architect and all Consultants. This policy shall cover liability arising out of any auto (including owned, hired, and non-owned autos) used in connection with the services on the Project and shall include coverage for loading and unloading hazards.  Automobile liability coverage shall be written on ISO form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage equivalent to that provided in the 1990 and later editions of CA 00 01. No aggregate shall be permitted.
		2. **Excess Liability Insurance**. An excess or umbrella liability insurance policy shall be provided by Architect and all Consultants with limits as provided herein. This policy shall be excess of the CGL, automobile liability, and employers’ liability insurance on a “following form” basis of the underlying policies. This policy shall be excess over and be no less broad than the CGL, automobile liability, and employers’ liability policies as described in these insurance requirements, including but not limited to the required additional insured status, designated project(s) and/or location(s), general aggregate, waiver of subrogation, notice of cancellation, and prohibited exclusions or limitations. The policy shall provide coverage where underlying primary insurance coverage limits are exhausted or otherwise unavailable or inadequate to cover a loss. Any excess or umbrella policy shall be kept in force at all times during the course of the Agreement and until all claims arising out of the services are barred by the applicable statutes of limitation or repose provided under Texas law.
		3. **Environmental/Pollution Liability Insurance**. An environmental/pollution liability policy shall be procured by Architect and all Consultants. This policy shall cover a pollution event or release on the Project site resulting from the Architect’s activities under and during the term of the Agreement, including any activities of Architect’s Consultants. The annual aggregate shall apply separately to this Project. Architect’s environmental/pollution liability coverage shall include mold, mold remediation, bacteria, naturally occurring hazardous substances, and diminution in value resulting from mold as it pertains to services performed by the Architect or its Consultants. This policy shall remain in effect at all times during the course of the Agreement and until all claims arising out of the services are barred by the applicable statutes of limitation or repose provided under Texas law, if such coverage is commercially available.
		4. **Cyber/Privacy** **Liability Coverage**. Cyber/privacy liability insurance shall be provided by Architect and all Consultants to cover risk of loss to electronic data. The policy must include coverage for electronic vandalism to electronic data, including coverage for a third party’s willful alteration of data, introduction of viruses which impact electronic data, unauthorized use of electronic data, and denial of service to website or email destinations.
	1. **Insurance Required of Consultants**. Each Consultant must provide professional liability, workers’ compensation, employers’ liability, commercial general liability, automobile liability, excess/umbrella coverage, environmental/pollution liability, and cyber/privacy liability with limits as set forth in the table below. The limits of such insurance may be adjusted in accordance with the nature of each Consultant’s operations but, if such adjustment is requested, it must be submitted to Owner for approval before the Consultant enters into an agreement or any services commence under the agreement in question. Additionally, all Consultants shall fully comply with all other provisions set forth in this**Exhibit E** including, but not limited to, Sections E.1.1-E.1.7 above and Sections E.3-E-17 below.

|  |  |
| --- | --- |
| Policy | Policy Limits By Consultant |
| Professional Liability | Structural | MEP | Waterproofing Consultant | Others |
| $XX,000,000 each claim$XX,000,000 annual aggregate | $XX,000,000 each claim$XX,000,000 annual aggregate | $XX,000,000 each claim$XX,000,000 annual aggregate | $XX,000,000 each claim$XX,000,000 annual aggregate |
| **Workers’ Compensation**Employers’ Liability Insurance | Statutory limits under Texas law$1,000,000 Bodily Injury by Accident (accident)$1,000,000 Bodily Injury by Disease (policy limit)$1,000,000 Bodily Injury by Disease (each employee) |
| Commercial General Liability  | $1,000,000 each occurrence$2,000,000 annual general aggregate$2,000,000 annual products-completed operations aggregate  |
| Automobile Liability | $1,000,000 each accident  |
| Excess Liability | $XX,000,000 each occurrence$XX,000,000 aggregate |
| Environmental/Pollution Liability  | $1,000,000 each occurrence$1,000,000 aggregate |
| Cyber/PrivacyLiability  | $2,000,000 per claim$2,000,000 aggregate |

* 1. **General** **Requirements for All Insurance Policies (including those provided by Consultants)**.All insurance coverages must be placed with carriers acceptable to Owner, licensed to do business in Texas, and having an A.M. Best’s Guide rating of A-/VII or better by A.M. Best, confirmed by one or more insurance certificates on an Acord 25 form. All insurance coverages shall be written on an occurrence basis (except professional liability and cyber/privacy liability) and shall be primary and not excess insurance vis-à-vis any coverage, any self‑insurance, or other policy of insurance maintained by Owner. Any coverage underwritten on a claims-made basis must include a retroactive date for the policy and all renewals coincident with the Effective Date of the Agreement and the certificate of insurance shall state that the coverage is claims-made and the retroactive date. Any premiums for this extended reporting period shall be paid by Architect. Certificates of insurance and additional insured endorsements required herein shall provide that the policies shall be primary without right of contribution from any insurance carried by Owner. Each policy, other than workers’ compensation/employers’ liability and professional liability, shall contain a severability of interest clause stating “*it is agreed that the insurance afforded by this policy shall apply separately to each insured against whom claim is made or suit is brought except with respect to the limits of the company’s liability*.” Each policy shall provide for full separation of insureds and include no insured v. insured limitations or exclusions.
	2. **Additional Insured Status**.Owner and Indemnitees and their officers, directors, agents, and employees shall be included as additional insureds on all policies procured by Architect and its Consultants, except workers’ compensation and professional liability, using ISO Additional Insured Endorsements CG 20 10 10 01 (Ongoing Operations) and CG 20 37 10 01 (Completed Operations) or their equivalent, as approved by Owner. Architect shall provide additional insured endorsements demonstrating the additional insured status of Owner and the Indemnitees as provided herein on such forms as required by Owner.
	3. **Waivers of Subrogation**.Each policy of insurance, except any professional liability policy, must contain an endorsement to the effect that the issuer waives any claim or right of subrogation to recover against Owner and Indemnitees and their officers, directors, agents, and employees. With respect to all such policies, Architect waives any and all rights of recovery or subrogation against Owner and its Indemnitees and their officers, directors, agents, and employees.
	4. **Evidence/Proof of Insurance/Endorsements**. Evidence of the insurance coverage required of Architect and Consultants must be furnished to Owner before commencement of the Architect’s services (or, with respect to Consultants, before such Consultant begins any portion of the services) and as coverage renews. Evidence of coverages shall be provided in certificates of insurance with a copy of the commercial general liability policies and all endorsements. The insurance policies shall provide or be endorsed to include a requirement for each insurer to give Owner notice at least thirty (30) days’ prior to any (i) erosion of limits; (ii) non-renewal; (iii) cancellation; or (iv) material change. “Material Change” includes, without limitation (a) a change in the policy period; (b) a material revision to, or removal of, a coverage section; (c) a reduction of the amount of limits of insurance, provided such reduction is not the result of payment of damages, medical expenses, or claim expenses; or (d) an increase of the amount of any self-insured retentions. Similarly, the commercial general liability policy shall be endorsed to include a 10-day Notice of Non-Payment of Premium in favor of Owner.
	5. **Notification to Owner**. Any and all policies, endorsements, approvals, certificates of insurance and/or notifications of erosion of limits, cancellation, non-renewal, or material change shall be transmitted to:

**Adam Lane**

**JPS Health Network**

1500 South Main Street

Fort Worth, Texas 76104

Telephone: 817-702-9998

Email: ALane02@jpshealth.org

**Darrick Walls**

**JPS Health Network**

1500 South Main Street

Fort Worth, Texas 76104

Telephone: 817-691-2062

Email: dwalls@broaddususa.com

with a copy to:

**Daphne Walker**

**Sr. Vice President, Chief Legal Counsel**

1500 South Main Street

Fort Worth, Texas 76104

Telephone: 817-702-9988

Email: DWalker10@jpshealth.org

E.8 **Deductibles, Retentions & Exclusions**. Insurance deductibles and premiums shall be paid by Architect or its Consultants without reimbursement by Owner. Any under-insurance, self-insurance, self-insured retentions (SIR), deductibles, and exclusions in coverage in the insurance policies required under the Agreement to the extent applicable, shall be assumed by, for the account of and at the sole risk of Architect and Consultants. All deductibles and self-insured retentions shall be disclosed to Owner before the placement of any insurance. No deductible or self-insured retention shall exceed $100,000, without prior written approval of Owner.

* 1. **No Commencement of Services**.Architect shall not, nor allow any Consultant(s) to, commence the performance of Services under the Agreement until the proof of satisfaction of the insurance requirements has been received and approved by Owner. However, any approval of the proof of satisfaction of the insurance requirements by Owner shall not relieve or decrease the liability of Architect hereunder.
	2. **Duty to Review/Cancellation**. Architect represents and acknowledges it has carefully reviewed its insurance program with its legal and risk advisors and believes its insurance policies comply with the insurance requirements in this **Exhibit E** and the Agreement, and further acknowledges a continuing obligation to ensure its insurance policies remain compliant herewith. Within 48 hours of a written request by Owner, Architect shall submit true and complete copies of Architect’s policies of insurance in electronic form by emailing true and complete of such policies to Owner’s insurance analyst. The true and complete copies of all applicable insurance policies shall be submitted in a timely manner, as no contract will be executed without the receipt, review, negotiation, and Owner acceptance, of the submitted policies. The policies shall include therewith a letter provided by Architect’s broker, agent, or its applicable insurance carrier representative for each policy, certifying that the electronic copies of the policies as furnished are true and correct copies. In addition, upon conducting such review, if Owner’s insurance analyst determines Architect’s insurance policies contain deficiencies that cause such policies to fail to comply with the insurance requirements of this **Exhibit E** and the Agreement, Architect agrees to reimburse Owner for all costs and fees incurred in attempting to resolve such policy deficiencies by modification or special endorsement thereof. Architect shall not cause or permit any required insurance to cancel or lapse prior to the expiration of all warranty periods. Architect must update all expired policies prior to submission of any invoice.
	3. **Right to Review**. Owner reserves the right to review these insurance requirements during the effective period of the Agreement and to make reasonable adjustments to insurance coverage and their limits when deemed necessary and prudent by Owner based upon changes in statutory law, court decisions, or the claims history of the industry and/or of Architect, provided however, such modifications must be commercially available to Architect. Owner shall make an equitable adjustment to the Architect’s compensation for any additional costs resulting therefrom.
	4. **Failure to Obtain or Maintain**. Failure to timely obtain and maintain the insurance coverages as required under this **Exhibit E** and the Agreement may subject Architect to disqualification from eligibility to participate in any other or future projects with Owner and/or suspension of the Architect’s services. Architect shall provide Owner thirty (30) days’ written notice of erosion of any aggregate limits below the minimum amounts required by this **Exhibit E** and the Agreement. In the event Architect or its Consultants fail to timely renew or pay any of the renewal premiums for any expiring policies, Owner shall have the right (but not the obligation) to: (i) make such payments; and/or (ii) acquire replacement coverage, and set off the amount(s) or costs thereof against the next payment(s) coming due to Architect under the Agreement or under any other contract between Owner and Architect. Owner may withhold any payments due to Architect from this Project or any other Owner project until satisfaction is achieved.
	5. **Enforceability of Requirements**. None of the requirements contained herein as to types, limits, or Owner’s approval of insurance coverage to be maintained by Architect is intended to and shall not in any manner limit, qualify, or quantify the liabilities and obligations assumed by Architect under the Agreement or otherwise provided by law. All insurance coverages required by this **Exhibit E** and the Agreement, as amended by Owner, shall be written in strict conformance with these requirements to provide complete and full coverage to Owner for the performance of services under the Agreement. If coverages and/or specified endorsements are not available due to a change in Texas law, Architect and its Consultants shall secure equivalent coverages, which shall be subject to approval by Owner. To the extent any provision of these insurance requirements is held to be void, voidable, invalid, or unenforceable, the remainder of these insurance requirements shall not be affected thereby and shall remain valid and fully enforceable.
	6. **Losses Paid by Architect**. Actual losses not covered by insurance as required by this **Exhibit E** and the Agreement shall be paid by Architect. Architect hereby waives all rights of recovery and releases, and shall cause its Consultants to release Owner from any and all claims or causes of action whatsoever which Architect and/or its Consultants might otherwise now or hereafter possess resulting in or from or in any way connected with any loss covered by insurance, whether required herein or not, or which should have been covered by insurance required herein, including the deductible and/or uninsured portion thereof, maintained and/or required to be maintained by Architect and/or its Consultants pursuant to this **Exhibit E** and the Agreement.
	7. **Owner a** **Third-Party Beneficiary**. It is hereby acknowledged and agreed that Owner is a third-party beneficiary of any agreement(s) between Architect and any and all Consultants and/or persons who procure, or cause to be procured any policy of insurance required hereunder.
	8. **Required Insurance Coverages No Effect On Indemnification**. The insurance and insurance limits required herein shall not be deemed as a limitation on Architect’s liability under the indemnifications granted to Owner under the Agreement.
	9. **No Warranty That Insurance Limits Will Be Adequate to Fully Protect Architect**. The insurance requirements set out herein shall not be interpreted as any representation or warranty that the insurance coverage and limits will necessarily be adequate to fully protect Architect.