

MASTER CONSULTANT SERVICES AGREEMENT

THIS MASTER CONSULTANT SERVICES AGREEMENT (this "Master Agreement") is made as of [REDACTED] [REDACTED], [202] (the "Effective Date"), between TARRANT COUNTY HOSPITAL DISTRICT D/B/A JPS HEALTH NETWORK ("Owner") and [REDACTED] ("Consultant") (collectively, the "Parties") to govern the Technology Planning/Engineering Services to be provided by Consultant under various Service Orders issued by Owner for particular Projects related to the Tarrant County Hospital District Facilities Master Plan Program. This Master Agreement shall apply to all Service Orders agreed to by the Parties within the Term of this Master Agreement until the completion of each Service Order.

The Owner and Consultant agree as set forth below:

1. MASTER AGREEMENT

1.1. The Parties enter into this Master Agreement to standardize the terms and conditions applicable to, and to seek coordination of, the Services to be performed by Consultant under various Service Orders. By entering into this Master Agreement, the Parties wish to provide uniformity of certain provisions and basic minimum requirements for all Services performed by Consultant under any Service Order. Upon Consultant's commencement of any Services for Owner, regardless of whether a Service Order has been executed for such Services, the terms and conditions of this Master Agreement shall apply. The execution of any Service Order shall be deemed to incorporate the terms and conditions of this Master Agreement. This Master Agreement shall control in the event of a conflict with any provision of any Service Order or any documents incorporated therein.

1.2. **Term.** This Master Agreement shall be effective for **one (1) year** after the Effective Date, and shall continue on a year-to-year basis unless terminated earlier in accordance with Article 9 herein. This Master Agreement shall apply to all Service Orders agreed to by the Parties within the Term. The Term of this Master Agreement will be extended for an individual Service Order that completes after this Master Agreement expires. Notwithstanding the foregoing, each Service Order may be individually terminated in accordance with Article 9, even if the Master Agreement is not so terminated.

2. SERVICE ORDERS

2.1. "Service Order" means that certain agreement between Owner and Consultant for the specific scope of Services and other details for a Project, after Owner has approved such Project, which shall be subject to this Master Agreement and all Master Agreement Documents. Service Orders shall be issued in the form attached hereto as **Exhibit A**, as modified for the particular Project.

2.2. The execution of this Master Agreement shall not obligate Owner to issue any Service Orders to Consultant. The issuance of any Service Order shall not obligate Owner to issue any additional Service Orders.

3. DEFINITIONS

Unless the context otherwise specifies or requires, or unless provided otherwise in a Service Order, the terms defined in this Article 3 shall, for the purposes of this Master Agreement, have the meanings herein specified.

3.1. **Additional Services.** "Additional Services" means those Services provided by Consultant not included in Basic Services under a Service Order, but may be required or requested by the Owner for an individual Project. The term "Additional Services" is further defined in Section 4.2 herein. Particular Additional Services, if any, are defined in Section II.D of the Service Order.

3.2. **Applicable Laws.** "Applicable Laws" means any and all laws, statutes, rules, regulations, ordinances, codes, permits, or orders of any federal, state, or local Authorities Having Jurisdiction (including but not limited to the City of Fort Worth) over the Project, all as in effect as of the Effective Date of this Master Agreement and as amended during the Term of this Master Agreement including those governing labor, equal employment opportunity, safety, and environmental protection, further including, without limitation, (i) all applicable zoning ordinances, building codes, fire, and life safety codes; (ii) accessibility laws, codes, and ordinances including but not limited to the Texas Accessibility Standards of the Architectural Barriers Act, *Tex. Gov't. Code Ch. 469*, Elimination of Architectural Barriers, and the Americans with Disabilities Act of 1990 (42 U.S.C. §12181) ("ADA"), the 2010 ADA Standards for Accessible Design, and current ADAAG Standards; (iii) all standards relating to construction, inspection, and safety of hospitals set forth in *Tex. Admin. Code § 133* particularly including, but not limited to Subchapter F, H and I and Chapter 135, particularly including, but not limited to Subchapters B and C, excluding the development, implementation, or enforcement of any operational policy or plan, periodic inspection requirements following the issuance of the Certificate of Occupancy, and any "reporting" required of Owner by *Tex. Admin. Code § 135*; (iv) occupational safety acts and requirements applicable to the Project, including United States Occupational Safety and Health Administration ("OSHA") requirements and related federal and state regulations; (v) requirements of the Fair Labor Standards Act and applicable state wage and hour laws including *Tex. Gov't. Code §2258.001* et seq.; (vi) applicable laws relating to civil/human rights, including but not limited to (a) requirements under Titles VI and VII of the Civil Rights Act of 1964, as amended, (b) the Equal Pay Act of 1963, (c) the Rehabilitation Act of 1973, and (d) the Age Discrimination in Employment Act requirements; (vii) green building policies and regulations and sustainable building codes, including those implemented by the City of Fort Worth; (viii) all Environmental Laws, applicable storm water, street, utility and other related infrastructure requirements, requirements related to the use, removal, storage, transportation, disposal and remediation of Hazardous Materials and lead based paint, and all related health laws and regulations; (ix) the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"); (x) the Facilities Guidelines Institute Guidelines for Design and Construction of Outpatient Facilities (2018 edition) and Guidelines for Design and Construction of Hospitals (2018 edition); (xi) Centers for Medicare and Medicaid Services (CMS.gov) State Operations Manual for Ambulatory Surgical Centers and State Operations Manual for Hospitals; and (xii) any other applicable local, state, and federal laws respecting the Project.

3.3. **Authority/ies Having Jurisdiction.** "Authority Having Jurisdiction" or "Authorities Having Jurisdiction" means a federal, state, local, or other regional department, or an individual such as a fire marshal, building official, electrical inspector, utility provider or other individual having statutory authority.

3.4. Basic Services. "Basic Services" means those Services described in Section II.A of the Service Order and include the usual and customary Services necessary to carry out the work in accordance with the Standard of Care pursuant to any particular Service Order. The term "Basic Services" is further defined in Section 4.1 herein.

3.5. Confidential Information. "Confidential Information" shall mean all information, whether or not originated by Owner, which is used in, or a part of, Owner's business and operations and is: (i) proprietary to, about, or created by Owner; (ii) gives Owner some competitive advantage or the opportunity of obtaining such advantage or the disclosure of which could be detrimental to the interests of Owner; (iii) designated as "Confidential Information" by Owner, or from all the relevant circumstances should reasonably be assumed by Consultant to be confidential and proprietary to Owner; or (iv) not generally known by Consultant. "Confidential Information" shall not include information that: (a) is or becomes available to the public generally, other than as a result of disclosure by Consultant in breach of the terms of this Master Agreement; (b) becomes available to Consultant from a source (other than Owner) which source is not, to the best of Consultant's knowledge, subject to any legally binding obligation to keep the same confidential; or (c) has been independently acquired or developed by Consultant.

3.6. Construction Contract. The "Construction Contract" including the General Conditions (if any), all Exhibits and documents incorporated therein by reference shall be the separate agreement entered into by Owner and Contractor for construction services for the particular Project, if any. Nothing contained in the Construction Contract shall establish privity of contract between the Consultant and the Contractor or between Consultant and any other Owner-retained consultant or contractor.

3.7. Contractor. The "Contractor" means the entity selected by Owner to provide construction services for any particular Project pursuant to the Construction Contract, if any. If applicable, the Contractor shall be identified in each Service Order. Consultant may provide Services to a Project before a Contractor is selected. "Contractor" shall also include "Design-Builder" or "Construction Manager at Risk".

3.8. Day. "Day" means calendar day, unless otherwise stated herein.

3.9. Environmental Laws. "Environmental Laws" means any local, state, or federal law, rule, or regulation pertaining to environmental regulation, contamination, clean-up or disclosure, including, as may be amended from time to time including: (i) the Resource Conservation and Recovery Act of 1976 ("RCRA") (42 U.S.C. §6901 et seq.), as amended by the Used Oil Recycling Act of 1980 (Pub. L. No. 96-463, 94 Stat. 2055 (1980)), the Solid Waste Disposal Act Amendments of 1980 (Pub. L. No. 96-482, 94 Stat. 2334 (1980)), and the Hazardous and Solid Waste Amendments of 1984 (Pub. L. No. 98-616, 98 Stat. 3221 (1984)), and regulations promulgated thereunder; (ii) the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA") (42 U.S.C. §9601 et seq.), as amended by the Superfund Amendments and Reauthorization Act of 1986 (Pub. L. No. 99-499, 100 Stat. 1613 (1986)), and regulations promulgated thereunder; (iii) the Toxic Substances Control Act (15 U.S.C. §2601 et seq.); (iv) the Endangered Species Act of 1973 (15 U.S.C. §1531 et seq.) and its amendments; (v) the Clean Water Act, 33 U.S.C.A. § 1251 et seq. and National Pollutant Discharge Elimination System (NPDES)

regulations; (vi) the Clean Air Act, 42 U.S.C.A. §7401 et seq.; (vii) 2008 Lead Based Paint Renovation, Repair and Painting Program Rule, 40 CFR Part 7445, Subpart E; and (viii) the Emergency Planning and Community Right to Know Act of 1986, 42 U.S.C.A. §11001 et seq.; (ix) any corresponding state laws or ordinances including, without limitation, the (a) Texas Water Quality Control Act; (b) the Texas Water Code Chapter 26; (c) Texas Solid Waste Disposal Act; (d) Texas Health & Safety Code Chapter 361; and (e) Texas Clean Air Act, THSC Chapter 382; and (x) regulations, rules, guidelines, or standards promulgated pursuant to such laws, statutes and regulations, rules, guidelines, and standards as are amended from time to time.

3.10. Hazardous Materials or Hazardous Substances. "Hazardous Material(s)" or "Hazardous Substance(s)" shall mean any flammables, explosives, radioactive materials, petroleum-based materials exceeding applicable federal, state, or local regulatory limits, asbestos, polychlorinated biphenyl (PCB), radon, and other toxic substances or related materials, including without limitation substances defined as "hazardous wastes," "hazardous substances," "hazardous materials," "toxic substances," or "solid wastes" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Section 2601, et seq.; and any other Applicable Law, including Environmental Laws, and all amendments and revisions thereto. The term "Hazardous Materials" shall be interpreted in the broadest sense to include any and all substances, materials, wastes, pollutants, oils, or governmental regulated substances or contaminants as defined or designated as hazardous, toxic, radioactive, dangerous, or any other similar term in or under any of the Environmental Laws, including but not limited to, asbestos and asbestos containing materials, petroleum products including crude oil or any fraction thereof, gasoline, fuels, lubricating oils and solvents, urea formaldehyde, flammable materials, explosives, PCBs, radon, radioactive materials or waste, or any other substance that, because of its quantity, concentration, physical, chemical, or infectious characteristics may cause or threaten a present or potential hazard to human health or the environment or which may impair the beneficial use of property.

3.11. Master Agreement Documents. "Master Agreement Documents" shall mean collectively, this Master Agreement, each Service Order and the documents incorporated therein by reference or in exhibits. The terms of this Master Agreement shall control in the event of a conflict with other Master Agreement Documents.

3.12. Project. The "Project" means the individual project, identified in each Service Order, to which Consultant shall provide specific Services as identified in each Service Order.

3.13. Project Manager. The "Project Manager" shall mean the entity selected by Owner to provide project management services for the particular Project as required by the Owner. Unless Consultant has been provided with written notice from the Owner granting specific authority to the Project Manager, Project Manager shall not be authorized to bind the Owner as to any approval, consent, objection, or decision. Unless an alternative Project Manager is designated in a Service Order, the Project Manager is:

Broaddus Levis
916 Bryan Avenue
Fort Worth, TX 76104
dwatkins@broaddususa.com
Attn: David Watkins, Program Manager

All notices or information to be provided under the Master Agreement Documents to the Owner are also required to be provided, contemporaneously, to the Project Manager, unless Owner expressly notifies the Consultant in writing to the contrary. This obligation to furnish all such notices or information to the Project Manager exists whether or not the Master Agreement Documents expressly provide for notice to the Project Manager.

3.14. Services. “Services” means Basic Services and, where authorized, Additional Services, and are those activities performed by the Consultant pursuant to this Master Agreement and each Service Order, and shall be inclusive of all work and services necessary to fully perform the activities set forth and described in Article 4 below and each Service Order.

3.15. Site. “Site” means the property on which the particular Project is located as set forth in a Service Order.

3.16. Standard of Care. “Standard of Care” means that certain standard by which Consultant shall perform all Services hereunder, as prescribed by Tex. Gov’t. Code §2254.0031 (incorporating Tex. Local Gov’t. Code §271.904(d)), to wit: (i) with the professional skill and care ordinarily provided by design professionals practicing under the same or similar circumstances and professional license, and (ii) as expeditiously as is prudent considering the ordinary professional skill and care of a competent design professional.

3.17. Subconsultant. A “Subconsultant” means the person or entity retained by Consultant to provide professional design or engineering services under a direct contract with the Consultant and are listed in Section II.B of the Service Order. “Subconsultant” is referred to throughout Master Agreement Documents as if singular in number. Subconsultants shall be lawfully licensed to provide the particular professional services for which they have been contracted. General duties and deliverables of the Subconsultants are provided in the particular agreement between the Consultant and the Subconsultant. The Owner shall be identified as a third-party beneficiary in all agreements between Consultant and its Subconsultants.

4. CONSULTANT’S SERVICES AND RESPONSIBILITIES

4.1. Basic Services. Consultant shall perform the Basic Services specified in each Service Order and shall be paid the Compensation provided therein for said Basic Services.

4.2. Additional Services. Additional Services shall be provided only if authorized in writing, in advance, by the Owner. Additional Services shall be paid for in addition to the Compensation paid for Basic Services and shall be paid based upon Consultant’s hourly rates (plus reimbursable expenses) set forth in each Service Order, or the rates otherwise mutually agreed upon by the Parties prior to the performance of any Additional Services. Under no circumstances will the Owner be obligated to compensate the Consultant or others for fees and expenses related to Additional Services unless the Owner has authorized the performance of such Additional Services in writing in advance.

4.3. Compliance with the Standard of Care and Applicable Laws. Consultant and its Subconsultants shall perform all Services in full compliance with all Applicable Laws and the Standard of Care. Consultant shall be responsible for the completeness and accuracy of all drawings, plans, and specifications prepared by Consultant and its Subconsultants and for their compliance with all Applicable Laws.

Consultant shall be responsible for the Consultant’s negligent acts and omissions and for the negligent acts and omissions of its Subconsultants, their agents, and their employees in the performance of Services pursuant to this Master Agreement and each Service Order. Nothing in this Master Agreement shall relieve Consultant or its Subconsultants of liability for the consequences of their failure to perform Services in accordance with the requisite Standard of Care.

4.4. Key Personnel. Consultant will identify, in each Service Order, all key personnel who will be utilized by Consultant in carrying out the Services thereunder. Consultant shall not assign or retain on the Project any person or entity to whom Owner reasonably objects. Once designated, the key personnel will not be changed unless such person becomes unable to perform any required duties due to death, injury, transfer, or termination of employment with Consultant.

4.5. Coordination with Others. Consultant agrees to consult with Owner, Project Manager, and, where applicable, other consultants, and the Contractor to ensure that all Services performed by Consultant under each Service Order are performed in a timely manner and that completion of such Services will not delay the activities of Owner, Owner’s other consultants, or the Contractor.

4.6. License and Authorization. Consultant represents and warrants that it is duly licensed and/or legally authorized to perform the Services contemplated by this Master Agreement and each Service Order, and that any Subconsultants utilized by Consultant in connection with the Services will be duly licensed and/or legally authorized under Applicable Laws to perform the Services or applicable related activities.

4.7. Correction of Services. Owner shall have the right to reject any Services it considers defective. Consultant shall promptly correct any such defect at Consultant’s expense. Should any portion of the Contractor’s work be damaged or defective due to an error or omission in Consultant’s deliverables or Services, including errors or omissions in any plans, drawings, specifications, and other documents or materials prepared or furnished by Consultant, Subconsultants or any other professional service provider, Consultant shall promptly correct any such damage or defect at no additional cost to the Owner. If Consultant is unable to carry out any such reperformance or correction, Owner shall have the right to hire another consultant to carry out such reperformance or correction. In such instance, Owner shall be entitled to charge the cost of the reperformance or correction to Consultant and/or Consultant shall otherwise reimburse the Owner for all costs associated therewith.

4.7.1 If the Consultant becomes aware of any error, omission, or inconsistency in the Services or information provided by Consultant or any Subconsultant, within **three (3) Days** of discovering the error, omission, or inconsistency, Consultant shall notify Owner.

4.8. Responsibilities for Safety Measures. The Parties understand and agree that Consultant is responsible for supervision and Site safety measures for its employees and Subconsultants and will observe and provide all such measures in compliance with Applicable Laws. Consultant will exclude any and all individuals from a Project Site to the extent said individuals are noncompliant with respect to health and safety precautions.

4.9. Badging/Credentialing/Access Requirements. Consultant shall be responsible for compliance with Owner’s badging and credentialing process for all of Consultant’s employees, agents,

representatives, and Subconsultants who will be accessing the Project Site at any time. Owner's badging and credentialing requirements can be found in **Exhibit B**. No Consultant employee, agent, representative, or Subconsultant shall be allowed access to the Project Site until the Consultant has demonstrated to Owner that said individual has successfully completed the requirements set forth in this Section 4.9. Consultant will issue a monthly report to Owner that lists all employees, agents, representatives, and Subconsultants who have met the requirements of this Section 4.9. In the event access by any Consultant employee, agent, representative, or Subconsultant is revoked, restricted or downgraded, or said individual is not provided "clear" status after a background check, Consultant will immediately notify Owner in writing. If required by Owner, all employees, agents, representatives, and Subconsultants shall be required to display a credentialed badge at all times and must sign in with the Owner's security personnel at designated locations to gain access to the Project Site.

4.10. Special Terms and Conditions. Consultant and its Subconsultants shall fully comply with the Owner's Special Terms and Conditions attached hereto as **Exhibit B**.

5. OWNER'S RESPONSIBILITIES

5.1. Owner shall provide the Consultant with information regarding Owner's requirements for all Services including, to the extent applicable:

- (a) Permission to enter Project premises;
- (b) Names of other consultants on the Project team; and their participation in the coordination and development of the plans;
- (c) Executed copy of this Master Agreement;
- (d) Owner's Construction, Renovation and Maintenance Activity Safety Policy dated;
- (e) Owner's Rules and Regulations for Construction;
- (f) Owner's HIPAA information; and
- (g) Tax Exempt Certification.

5.2. To the extent required by Consultant to complete its Services, Owner shall furnish to Consultant those documents prepared by other consultants that are required in connection with the completion of the Services. Consultant shall promptly report to Owner any error, inconsistency or omission that Consultant discovers in any such documents.

5.3. No Warranties by Owner. Consultant acknowledges that any and all tests, maps, reports, and drawings in the possession of Owner that reflect or depict Site boundaries, recorded easements, topography, utility locations, and other Site conditions and/or restrictions which may impact the design and/or construction of the particular Project were prepared solely for Owner's benefit and for information only purposes, and that Consultant shall have no right to rely upon such and that any reliance thereon shall be at Consultant's own risk. OWNER HEREBY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTIES AS TO THE ACCURACY OR COMPLETENESS OF THE ABOVE-MENTIONED REPORTS, TESTS, MAPS AND DRAWINGS.

6. OWNERSHIP AND USE OF PROJECT DOCUMENTS

6.1. Subject to payment of all amounts due Consultant, all drawings and other documents prepared by Consultant in furtherance of the Services are and shall remain the Owner's property upon creation (collectively, "Instruments of Service"). To this end, Consultant agrees that it has been hired to create all such Instruments of Service and agrees and does hereby assign, grant, transfer and convey to the Owner, its successors and assigns, Consultant's entire right, title, interest and ownership in and to such Instruments of Service, including, without limitation, the right to secure copyright registration and the right to submit patent applications and all associated intellectual property rights, including without limitation the right to use, reproduce, distribute (whether by sale, rental, lease or lending, or by other transfer of ownership), to perform publicly, and to display, all such Instruments of Service, whether or not such Instruments of Service constitute a "work made for hire" as defined in 17 U.S.C. Section 201(b). Consultant shall obtain assignments, confirmations and licenses substantially similar to the provisions of this Article 6 from all Subconsultants. Consultant shall promptly furnish Owner with originals of all Instruments of Service. Consultant may retain one (1) set of reproducible copies thereof for information and reference purposes only.

6.2. Future Use and/or Modification of Drawings. Owner agrees to release Consultant from any claims, demands, causes of action, suits, damages or losses, arising from or attributable to any improper modification to or reuse for other projects by the Owner of the drawings or other documents prepared by Consultant.

6.3. Electronic Files. In the case of any defects in the electronic files or any discrepancies between them and the hard copy version prepared by Consultant, the hard copy shall govern.

7. TERMS OF PAYMENT

7.1. Compensation for Services. In consideration for proper performance of the Services, Owner shall pay Consultant as set forth in each Service Order based on the hourly rates set forth in Attachment 2 to each Service Order (the "Compensation"). The Compensation shall be paid monthly as described in Section 7.3 below, except as otherwise designated in a Service Order. Except for the payment to Consultant of reimbursable expenses described in Section 7.2 below, the Compensation shall be Consultant's sole and total compensation for all costs, overheads and profit, including all federal, state, and local statutory benefit taxes, income taxes and sales, use and excise taxes which relate to the performance of Services by Consultant or by any employee, agent, representative or Subconsultant of Consultant. For the term of this Agreement, the hourly rates of Consultant which shall set forth in Attachment 2 to each Service Order shall be the same as set forth in and approved by Owner in Consultant's response to request for qualifications. No increases in hourly rates will be permitted.

7.2. Reimbursable Expenses. Reimbursable expenses approved by Owner, as identified in each Service Order, shall be paid monthly in Consultant's monthly invoice, or as otherwise designated in the particular Service Order.

7.3. Monthly Payments. Invoices for Services and reimbursable expenses shall be presented monthly to Owner, in a form approved by Owner, which shall include the Service Order issued by Owner, and shall be paid monthly unless otherwise designated in the particular

Service Order. With each invoice, Consultant shall provide a duly executed Conditional Waiver and Release on Progress Payment waiving and releasing all liens or claims for payment for the Services covered by the invoice submitted. Unless otherwise set forth in the applicable Service Order, within **thirty (30) Days** after receipt of Consultant's monthly invoice, Owner shall pay the amounts approved in accordance with this Article 7 which shall include the percentage of the Compensation for Services performed that month based on each Service Order and reimbursable expenses during the month, if any.

7.3.1 Payments to Subconsultants. Consultant shall make payment to its Subconsultants, if any, within **ten (10) Days** after receipt of payment from Owner. Should it become necessary, in the sole discretion of Owner, and after **five (5) Days'** notice to Consultant, Owner may issue joint checks to Consultant and Subconsultants.

7.4. Final Payment. Final payment shall be made within **thirty (30) Days** after the satisfactory completion of Consultant's Services under the particular Service Order and delivery by Consultant of a Conditional Waiver and Release on Final Payment document acceptable to Owner. Owner may require an Unconditional Waiver and Release on Final Payment upon receipt by Consultant of funds in hand. Acceptance of final payment for a particular Project by Consultant will constitute a release of any and all claims or causes of action Consultant may have against Owner arising out of this Master Agreement, including, but not limited to, all claims for Services provided by Consultant for the particular Project.

7.5. Taxes. Owner is a hospital district and political subdivision of the State of Texas. Materials and services utilized in the design and construction of the Project may be exempt from state and local sales and use taxes pursuant to Tex. Tax Code § 151.309(5). Consultant is responsible for compliance with all tax exemptions applicable to the Project. Owner will process all invoices submitted by Consultant to ensure the invoices comply with Owner's tax-exempt status.

7.6. Right to Withhold. Owner shall have the right, but not the obligation, to withhold from any invoiced amount an appropriate amount based upon:

- (i) performance of defective or non-conforming Services by Consultant as determined in the reasonable judgment of Owner or Project Manager;
- (ii) third-party claims filed as a result of Consultant's failure to comply with the Standard of Care;
- (iii) failure of Consultant to pay any of its employees or Subconsultants;
- (iv) provided that Owner is not in breach of its payment obligations hereunder, Owner's receipt of an intent to file a lien for any Services provided under this Master Agreement or any Service Order by a Subconsultant of Consultant;
- (v) failure of Consultant to submit proper invoices with all required attachments and supporting documentation; or
- (vi) failure of Consultant to comply with any provision of this Master Agreement or a particular Service Order after **five (5) business days'** written notice of such

noncompliance and the failure to cure or commence and diligently pursue a cure thereof by Consultant.

8. CONTRACT TIME

Consultant acknowledges that time is of the essence in the performance of its Services. Consultant shall perform its Services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project. If the Services are delayed at any time by (1) natural disasters; (2) adverse weather; (3) an act or neglect of the Owner, Project Manager, or third parties retained by the Owner; (4) epidemics, pandemics, or related issues; or (5) other causes beyond the Consultant's control, then Consultant shall not be deemed to be in breach of this Master Agreement for such delay. Notwithstanding the foregoing, Consultant shall remain liable for any such delay if (a) the delay is due, in whole or in part, to the negligence, inattention or fault of Consultant or any of its Subconsultants; or (b) Consultant has failed to provide Owner and Project Manager with written notice of the delay within **forty-eight (48) hours** of the occurrence of the delay.

9. TERMINATION, CANCELLATION AND SUSPENSION

9.1. Suspension for Cause by Consultant. Consultant may suspend this Master Agreement in accordance with Tex. Gov't. Code § 2251.051 in the event that Owner fails to pay any undisputed amounts due to Consultant in accordance with the requirements of this Master Agreement and/or a particular Service Order, and Owner does not cure such failure within **ten (10) Days** after receipt of written notice thereof.

9.2. Termination for Cause by Owner. Owner may terminate this Master Agreement and/or any Service Order in the event that Consultant fails to perform in accordance with the requirements of this Master Agreement or any Service Order, and Consultant does not cure such failure within **ten (10) Days** after receipt of written notice thereof. If the Owner terminates this Master Agreement and/or any Service Order for cause pursuant to this Section 9.2, Consultant shall not be entitled to payment for any sums except for amounts owed for undisputed Services provided by Consultant up until the date of Owner's notice of termination for cause. Furthermore, all Instruments of Service shall be delivered immediately to Owner upon Owner's request.

9.3. Insolvency of Consultant. Owner may terminate this Master Agreement and/or any Service Order, at its sole discretion, if Owner deems that Consultant is insolvent or if Consultant makes an assignment for the benefit of creditors or is a party to a voluntary or involuntary bankruptcy proceeding. If the Owner terminates this Master Agreement and/or any Service Order pursuant to this Section 9.3, all Instruments of Service shall be delivered immediately to Owner.

9.4. Termination or Suspension for Convenience. Owner has the right, at any time upon written notice to the Consultant, to terminate or suspend all or part of the Consultant's right to perform Services, any Service Order, or this Master Agreement in its entirety for Owner's convenience. In the event of a termination under this Section 9.4, the Consultant shall deliver to Owner all Instruments of Service and thereupon Owner shall pay the Consultant any unpaid balance for properly performed Services rendered to the date of such termination. No other compensation shall be due Consultant or paid by Owner.

10. INDEMNIFICATION BY CONSULTANT

10.1. INDEMNIFICATION – GENERAL. TO THE FULLEST EXTENT PERMITTED BY LAW, CONSULTANT SHALL INDEMNIFY AND HOLD HARMLESS OWNER, ITS DIRECTORS, EMPLOYEES, AGENTS, ASSIGNEES, DESIGNEES AND REPRESENTATIVES (HEREINAFTER REFERRED TO INDIVIDUALLY AS AN "INDEMNITEE" AND COLLECTIVELY AS THE "INDEMNITEES") FROM AND AGAINST ALL CLAIMS, DAMAGES, LOSSES, LIABILITIES, COSTS, AND EXPENSES, INCLUDING BUT NOT LIMITED TO REASONABLE ATTORNEYS' FEES AND COSTS, INCURRED BY OWNER AND ANY INDEMNITEE THAT:

(1) ARE DUE TO THE INTENTIONAL OR NEGLIGENT VIOLATION OF ANY ORDINANCE, REGULATION, STATUTE, OR OTHER LEGAL REQUIREMENT IN THE PERFORMANCE OF THIS MASTER AGREEMENT OR ANY SERVICE ORDER, BY CONSULTANT, ITS AGENT, ANY SUBCONSULTANT UNDER CONTRACT WITH CONSULTANT, OR ANY OTHER ENTITY OVER WHICH THE CONSULTANT EXERCISES CONTROL;

(2) ARE CAUSED BY OR RESULT FROM ANY NEGLIGENT OR INTENTIONAL TORT, ACT, OR OMISSION IN VIOLATION OF CONSULTANT'S STANDARD OF CARE, BY THE CONSULTANT, ITS AGENT, ANY SUBCONSULTANT UNDER CONTRACT WITH CONSULTANT, OR ANY OTHER ENTITY OVER WHICH THE CONSULTANT EXERCISES CONTROL;

(3) ARE CAUSED BY OR RESULT FROM ANY CLAIM ASSERTING INFRINGEMENT OR ALLEGED INFRINGEMENT OF A PATENT, TRADEMARK, COPYRIGHT, OR OTHER INTELLECTUAL PROPERTY RIGHT IN CONNECTION WITH THE INFORMATION FURNISHED BY OR THROUGH CONSULTANT, ITS AGENT, ANY SUBCONSULTANT UNDER CONTRACT WITH CONSULTANT, OR ANY OTHER ENTITY OVER WHICH THE CONSULTANT EXERCISES CONTROL;

(4) ARE DUE TO THE FAILURE OF CONSULTANT, ITS AGENT, ANY SUBCONSULTANT UNDER CONTRACT WITH CONSULTANT, OR ANY OTHER ENTITY OVER WHICH THE CONSULTANT EXERCISES CONTROL TO PAY SUBCONSULTANTS AMOUNTS DUE FOR SERVICES PROVIDED IN CONNECTION WITH A PARTICULAR PROJECT;

(5) ARE DUE TO THE FAILURE OF CONSULTANT, ITS AGENT, ANY SUBCONSULTANT UNDER CONTRACT WITH CONSULTANT, OR ANY OTHER ENTITY OVER WHICH THE CONSULTANT EXERCISES CONTROL TO PAY ANY TAXES, TAX LIABILITY, UNEMPLOYMENT INSURANCE AND/OR WORKERS' COMPENSATION ARISING OUT OF THE PERFORMANCE OF THE SERVICES UNDER THIS MASTER AGREEMENT OR ANY SERVICE ORDER; OR

(6) OTHERWISE ARISE OUT OF OR RESULT FROM THE PERFORMANCE OF THE SERVICES UNDER THIS MASTER AGREEMENT OR ANY SERVICE ORDER, INCLUDING SUCH CLAIMS, DAMAGES, LIABILITIES, LOSSES, COSTS, AND/OR EXPENSES ATTRIBUTABLE TO BODILY INJURY, SICKNESS, DISEASE OR DEATH, OR TO INJURY TO OR DESTRUCTION OF TANGIBLE PROPERTY, INCLUDING LOSS OF USE RESULTING THEREFROM, BUT ONLY TO THE EXTENT SUCH CLAIMS, DAMAGES, LOSSES, COSTS AND EXPENSES ARE CAUSED BY

OR RESULT FROM ANY NEGLIGENT OR INTENTIONAL ACTS OR OMISSIONS OF THE CONSULTANT, ITS AGENT, ANY SUBCONSULTANT UNDER CONTRACT WITH THE CONSULTANT, OR ANY OTHER ENTITY OVER WHICH THE CONSULTANT EXERCISES CONTROL.

NOTHING CONTAINED IN THIS SECTION 10.1 SHOULD BE CONSTRUED TO REQUIRE CONSULTANT TO INDEMNIFY OR HOLD HARMLESS OWNER OR ANY INDEMNITEE FROM ANY CLAIMS OR LIABILITIES RESULTING FROM THE NEGLIGENT ACTS OR OMISSIONS OF OWNER OR THE INDEMNITEES (TEX. GOV'T. CODE § 2254.0031).

10.2. Reimbursement of Governmental Entity's Fees in and Coordination of Defense of Claims. To the extent Owner and/or any Indemnatee incurs attorneys' fees in defense of any claim asserted against Owner and/or any Indemnatee which arises or results from the alleged acts or omissions of the Consultant described in Section 10.1 above, Consultant shall reimburse Owner and Indemnitees their reasonable attorneys' fees in proportion to the Consultant's liability found after a final adjudication of liability. Any defense shall be coordinated by Consultant with the Owner's general counsel. Consultant and Owner agree to furnish timely written notice to each other of any such claim.

10.3. The indemnification obligation assumed under this Article shall not be limited by a limitation on amount or type of damages, compensation, or benefits payable by or for the Consultant or any other employer under workers' compensation acts, disability benefit acts, or other similar employee benefit acts.

10.4. It is agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of the indemnification obligations under Article 10 or the Additional Insured requirements under **Exhibit C**, such legal limitations are made a part of the contractual obligations and shall operate to amend the obligations to the minimum extent necessary to bring the provision into conformity with the requirements of such limitations, and as so modified, the obligations shall continue in full force and effect. Any endorsement to Consultant's general liability policy prohibiting or limiting the coverages required herein shall be modified such that the policy will respond to the obligations of the Consultant as set forth in this Article to the full extent allowed under Texas law. Should any provision or any part of any provision of this Master Agreement be held invalid, unenforceable or contrary to public policy, law, statute or ordinance, then the remainder of the provision, paragraph, Section and/or Master Agreement shall not be affected thereby and shall remain valid and fully enforceable.

10.5. The obligations contained in this Article 10 shall survive the expiration, completion, abandonment and/or termination of the Master Agreement and final completion of the Services and any other services to be provided pursuant to this Master Agreement to the extent and for the time periods allowed under Texas law.

11. INSURANCE. Consultant shall obtain and maintain at its expense, and shall cause its Subconsultants to obtain and maintain at their expense, the insurance coverages set forth in **Exhibit C**.

12. OWNER'S AUDIT RIGHTS

12.1. Audits, Books and Records. Consultant shall keep and maintain under generally accepted accounting principles full, true and complete records, as are necessary to fully disclose to Owner or the

United States Government, or their authorized representatives, upon audits or reviews, sufficient information to determine compliance with the terms and conditions of this Master Agreement, all Service Orders, and all Applicable Laws.

12.2. Inspections and Audits. Consultant agrees that all relevant records related to this Master Agreement, any Service Order, and any work product under this Master Agreement or any Service Order, including practices of its Subconsultants, shall be subject, at any reasonable time, to inspection, examination, review, audit, and copying by Owner or any of its outside auditors (as identified by Owner in writing in advance of any audit) at any office or location of Consultant where such records may be found upon reasonable notice.

12.3. Records Retention. All records relevant to this Master Agreement and any Service Order shall be retained for a minimum of **seven (7)** years. This retention period runs from the date of full and final payment for the relevant goods or Services by Owner, or from the date of termination of this Master Agreement, whichever is later. Retention time shall be extended when an audit is scheduled or in progress for a period reasonably necessary to complete an audit and/or to complete any administrative proceeding or litigation which may ensue.

13. MISCELLANEOUS TERMS AND CONDITIONS

13.1. Independent Contractor. Consultant shall at all times be an independent contractor and have sole responsibility for and control over all means, methods, techniques, sequences and procedures for coordinating and scheduling its Services to achieve the requirements of this Master Agreement and each Service Order. Nothing in this Master Agreement or any Service Order shall be deemed to imply or represent that the Consultant, its representatives, agents, employees or its Subconsultants of any tier are the agents, representatives or employees of Owner or any Indemnitee. Consultant shall be solely responsible for compliance with all applicable withholding taxes, social security taxes, unemployment taxes, and workers' compensation, and for providing all compensation and benefits to its employees performing any of the Services or work on the Project. Consultant shall not have the authority to enter into agreements on behalf of or to otherwise bind Owner nor shall Consultant represent to any person that it has the authority to do so. Furthermore, under no circumstances shall Consultant have the authority to: (a) amend or modify (including, but not limited to, change orders affecting price or time requirements) any other agreement related to the Project without the Owner's prior written approval or (b) resolve disputes between Owner and any other party involved with the Project.

13.2. Governing Law. This Master Agreement and all Service Orders, and any disputes arising out of, connected with or relating to such documents, shall be governed by the laws of the State of Texas, without regard to any conflict of law principles.

13.3. Binding Effect; No Third-Party Beneficiaries. This Master Agreement shall inure to the benefit of and shall be binding upon the Parties hereto and their respective successors and permitted assigns. Except as specifically provided herein, this Master Agreement is not intended to, and shall not create any rights in any person or entity whatsoever except Owner and Consultant.

13.4. Assignment. The Consultant shall not assign this Master Agreement or any Service Order without the written consent of the Owner. The Owner may, without consent of the Consultant, assign

this Master Agreement and any Service Order to any assignee, including an institutional lender, so long as the assignee is financially capable of paying for the Consultant's Services or Owner shall remain responsible for the obligations under this Master Agreement and/or the particular Service Order. The Consultant shall execute all consents reasonably required to facilitate such assignment.

13.5. Texas Board of Architectural Examiners. The Texas Board of Architectural Examiners, 333 Guadalupe, Suite 2-350, Austin, Texas 78701, Phone (512) 305-9000, has jurisdiction over individuals licensed under the Regulation of the Practice of Architecture Law, Tex. Occ. Code §1051. The Texas Board of Registration for Professional Engineers, 1917 IH35 South, Austin, Texas 78741, Phone (512) 440-7723, has jurisdiction over individuals licensed under the Texas Engineering Registration Law, Tex. Occ. Code §1001.

14. ENTIRE AGREEMENT; MODIFICATION

This Master Agreement together with each Service Order contains the full and complete understanding of the Parties pertaining to the Services and supersedes any and all prior and contemporaneous representations, negotiations, agreements or understandings between the Parties, whether written or oral. This Master Agreement may be modified only in writing, signed by all Parties.

15. NOTICES

All notices, statements or other communications required or permitted between Owner and Consultant shall be in writing and shall be considered as having been given if delivered by mail, courier, hand delivery, or facsimile to the other party at the designated physical address, or facsimile number. Date of service by mail, courier or hand delivery is the date on which such notice is received by the addressee; provided, however, if such date received is not a Business Day, then the date of service shall be considered to be the next date that is a Business Day. Date of service by facsimile is the date sent (evidenced by the sender's fax machine-generated confirmation of transmission); provided, however, if an email or facsimile is sent after 5:00 p.m. local time, then the date of service shall be considered to be the next date that is a Business Day. "Business Day" as used in this Article 15 means any day which is not a Saturday, Sunday or legal holiday recognized by the federal government of the United States of America. Notices shall be delivered as follows, provided however, that notices for changes in Services shall be directed to the Project Manager:

Owner: **Jill Farrell**
JPS Health Network

1500 South Main Street
Fort Worth, Texas 76104
Telephone: 817.702.9998
Email: jill.farrell@jpshealth.org

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

Consultant: [Redacted]
[Redacted]
[Redacted]
[Redacted]

The Parties may change the address where or the individual to whom notice is to be given by providing notice of such change pursuant to this Article 15. Nothing contained in this Article 15 shall be construed to restrict the transmission of routine communications between representatives of the Owner and the Consultant.

16. HAZARDOUS MATERIALS

Unless otherwise required in this Master Agreement or in a Service Order, the Consultant 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, except to the extent that such Hazardous Substances were knowingly introduced to the Project Site by Consultant or its Subconsultants, or knowingly specified by the Consultant's plans, drawings, specifications, or other documents, in which case the Consultant shall be responsible. In the event the Consultant or any other party encounters asbestos or hazardous or toxic materials at the Project Site, or becomes aware that such materials are present at the Project Site or in any adjacent areas that affect the performance of the Consultant's Services, Consultant may suspend performance of Services on the affected Project until the Owner retains appropriate consultants or contractors to identify, abate, and/or remove the asbestos, hazardous, or toxic materials and ensure that the Project Site is in full compliance with Applicable Laws and regulations. Consultant shall give written notice to the Owner of the discovery of Hazardous Materials before the Consultant suspends performance of Services on the affected Project.

17. DISPUTE RESOLUTION

17.1. All disputes relating to this Master Agreement, any Service Order, or the Services shall be resolved by litigation in a court of

competent jurisdiction in accordance with Tex. Local Gov't. Code §262.007.

17.2. All claims and causes of action arising out of or related to this Master Agreement or any Service Order shall only be brought in accordance with Tex. Local Gov't. Code § 271.153. This Section does not waive a defense or a limitation on damages available to a party to a contract, other than a bar against suit based on sovereign immunity. Nothing in this Master Agreement or any Service Order shall be construed as a waiver of sovereign immunity; nor constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to Owner. The failure to enforce, or any delay in the enforcement, of any privileges, rights, defenses, remedies, or immunities available to the Owner under this Master Agreement or any Service Order or under Applicable Law, shall not constitute a waiver of such privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel.

17.3. If any action at law or in equity is necessary to enforce or interpret the terms of this Master Agreement or any Service Order, the Court shall determine the prevailing party and award to such prevailing party, in addition to any other relief to which such party is entitled to recover, its reasonable attorneys' fees, expert witness fees, costs, and other reasonable expenses incurred in such proceeding, but only insofar as allowed under Applicable Law.

17.4. During the pendency of any dispute under this Master Agreement or any Service Order, Consultant shall continue working (unless this Master Agreement or the applicable Service Order has been terminated by Owner) and will proceed with performance of any disputed items of Services without waiving its claims. The Owner shall continue to make payments to the Consultant in accordance with this Master Agreement and Applicable Law; provided, however, Owner shall be under no obligation to make payments on or against any matter wherein a bona fide dispute exists. Partial payments shall be made to the extent a bona fide dispute does not dictate otherwise.

IN WITNESS WHEREOF, the Parties hereto have executed this Master Consultant Services Agreement upon the date first set forth above.

OWNER:

**TARRANT COUNTY HOSPITAL DISTRICT D/B/A
JPS HEALTH NETWORK**

By: _____
Name: _____
Title: _____

CONSULTANT:

[Redacted]

By: _____
Name: _____
Title: _____

EXHIBIT A – SERVICE ORDER TEMPLATE

SERVICE ORDER NO. [REDACTED]

THIS SERVICE ORDER is made as of [REDACTED] [REDACTED], [202 [REDACTED]], between TARRANT COUNTY HOSPITAL DISTRICT D/B/A JPS HEALTH NETWORK (“Owner”) and [REDACTED] (“Consultant”). This Service Order defines, among other things, the scope of Services (“Scope of Services”) Consultant shall perform under that certain Master Consultant Services Agreement (“Master Agreement”) entered into by Owner and Consultant effective [REDACTED] [REDACTED], [202 [REDACTED]], the terms of which are incorporated herein as if fully set forth. Except to the extent otherwise explicitly specified herein, the terms in this Service Order shall have the same meaning as those defined in the Master Agreement. To the extent any inconsistency, ambiguity, or discrepancy is found between the Master Agreement and this Service Order, the Master Agreement shall control.

The Owner and Consultant hereby agree to the following terms and conditions with regard to the Services to be provided:

I. PROJECT INFORMATION:

A. Project Name, Address, and Description:

B. Consultant’s Representative(s) and Key Personnel:

C. Owner’s Representative(s):

D. Project Manager:

E. Contract Time. Consultant shall complete each phase of the Services within the time periods provided below:

Phase of Services:	Completion Date:
1. [REDACTED]	[REDACTED]
2. [REDACTED]	[REDACTED]
3. [REDACTED]	[REDACTED]
4. [REDACTED]	[REDACTED]

II. SCOPE OF SERVICES/COMPENSATION:

A. Basic Services. Consultant will provide the Basic Services generally described below, and as further described in **Attachment 1** hereto:

B. Subconsultants. Consultant will utilize the following Subconsultants in the performance of the Basic Services:

Subconsultant:	Scope of Services:	Certificate of Insurance (attached)
1. []	[]	[]
2. []	[]	[]
3. []	[]	[]
4. []	[]	[]

C. Compensation. Consultant’s total Compensation for the proper performance of all Basic Services pursuant to this Service Order shall be as follows (*check one*):

Compensation Method:	Total Compensation:
<input type="checkbox"/> Hourly	[\$] based on the rates provided in Attachment 2 .
<input type="checkbox"/> Hourly, Not-To-Exceed	[\$] based on the rates provided in Attachment 2 .
<input type="checkbox"/> Lump Sum	[\$]
<input type="checkbox"/> Percentage of Construction Costs	[\$] or [%]
<input type="checkbox"/> Based on Square Footage	[\$] per square foot]

D. Additional Services. If the need for Additional Services arises, Consultant will contact the Owner prior to proceeding with any additional work that will incur additional expenses not included in the Compensation for the Basic Services identified in Subsection II.C above. Notwithstanding the foregoing, the Consultant has provided the pricing for the following Additional Services, which shall be provided by Consultant if approved, in advance, in writing by Owner:

Proposed Additional Service:	Amount:
1. []	[\$]
2. []	[\$]
3. []	[\$]

Compensation for any other Additional Services shall be based on the rates set forth in **Attachment 2**, if any, on a cost-not-to-exceed basis, or otherwise at the rates mutually agreed upon by the Parties prior to the performance of any such Additional Services.

E. Insurance. Consultant and its Subconsultants shall maintain insurance as set forth in Article 11 and **Exhibit C** of the Master Agreement. Certificates of Insurance are provided by Consultant and all Subconsultants as identified in Column 3 of Paragraph B above.

F. Reimbursable Expenses. All charges for reimbursable expenses relating to the materials provided under Basic Services shall be billed at actual cost. The following is a list of reimbursable expenses for this Project:

1. []
2. []
3. []
4. []

5. [REDACTED]

Reimbursable expenses incurred by Subconsultants hired by Consultant shall be billed at actual cost.

III. MISCELLANEOUS:

Project-Specific Nature of Service Order Changes. Any modifications made to the Master Agreement in this Service Order are made for purposes of this Project and only the Services described herein. The modifications to the Master Agreement are set forth below:

- 1. [REDACTED]
- 2. [REDACTED]
- 3. [REDACTED]
- 4. [REDACTED]
- 5. [REDACTED]

[Insert any Project-specific changes to the Master Agreement, including any insurance modifications]

This Service Order, together with the Master Agreement, contain the full and complete understanding of the Parties pertaining to the Scope of Services described herein and supersedes any and all prior and contemporaneous representations, negotiations, agreements or understandings between the Parties, whether written or oral. This Service Order may be modified only in writing, signed by both Parties.

The Parties have caused their respective duly authorized representatives to execute this Service Order as of the date first set forth above.

OWNER:

CONSULTANT:

TARRANT COUNTY HOSPITAL DISTRICT D/B/A JPS HEALTH NETWORK

[REDACTED]

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Owner's Address:

1500 South Main Street
Fort Worth, Texas 76104
Attn: [REDACTED]

Consultant's Address:

[REDACTED]
[REDACTED]
Attn: [REDACTED]

Telephone: [REDACTED]

Telephone: [REDACTED]

ATTACHMENT 1 to SERVICE ORDER

SCOPE OF SERVICES

(TO BE ATTACHED)

ATTACHMENT 2 TO SERVICE ORDER

HOURLY RATES

(HOURLY RATES SET FORTH IN AND APPROVED BY OWNER IN SUBMITTAL RESPONSE TO BE ATTACHED)

EXHIBIT B – OWNER’S SPECIAL TERMS AND CONDITIONS

Capitalized terms as used herein such as “Owner”, “Consultant”, “Subconsultant”, “Contractor”, “Project”, and “Master Agreement” are used as defined in the Master Agreement and shall each have the meanings set forth in the Master Agreement. Definitions set forth in Article 3 of the Master Agreement are hereby fully incorporated into this **Exhibit B** as if copied verbatim herein.

1. Confidentiality

- 1.1 Protection of Confidential Information. Consultant 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 Consultant; 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 Consultant in accordance with the Master Agreement. Failure to mark any information "Confidential" shall not affect the confidential nature of such information.
- 1.2 Confidential Information. Confidential Information includes the information set forth in Section 3.6 of the Master Agreement and includes the following:
 - 1.2.1 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.
 - 1.2.2 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.
 - 1.2.3 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).
 - 1.2.4 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.
 - 1.2.5 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.
- 1.3 Covenants. As a consequence of Consultant’s acquisition or anticipated acquisition of Confidential Information, Consultant 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, Consultant agrees that it is reasonable and necessary that it make the following covenants:
 - 1.3.1 Both during and forever after the performance of any due diligence investigation, Consultant 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 Consultant will take all reasonable precautions to prevent inadvertent disclosure of such Confidential Information. This prohibition against Consultant’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 Consultant understands that such similarity does not excuse Consultant from abiding by its covenant or other obligations pursuant to the Master Agreement.
 - 1.3.2 Both during and after the conduct of its due diligence investigation, Consultant 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 Consultant’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.

- 1.4 Use. Consultant 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 Master Agreement, without the prior written consent of Owner, which consent may be withheld or granted in Owner's sole and absolute discretion. Consultant 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.
- 1.5 Open Records Request or Similar Requests for Information. In the event that Consultant 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, Consultant 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 Consultant; (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.
- 1.6 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 Consultant to the extent that such information is stamped "Confidential Information" or otherwise determined to be confidential by Applicable Laws.
- 1.7 Public Records. Notwithstanding any provisions of the Master Agreement to the contrary, Consultant understands that Owner will comply with the Texas Public Information Act, Tex. Gov't. Code Ch. 552. If contacted by Owner, Consultant will cooperate with Owner in the production of documents responsive to the request. Consultant agrees to provide the documents responsive to the request in the format and within the time frame specified by Owner. Consultant 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, Consultant 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 Master Agreement and/or any amendment to the Master Agreement. The Master Agreement and/or any amendment to the Master Agreement and all data and other information generated or otherwise obtained in its performance is subject to the Texas Public Information Act. Consultant agrees to maintain the confidentiality of information received from Owner during the performance of the Master Agreement, including information which discloses confidential personal information particularly, but not limited to, social security numbers. Furthermore, Consultant is required to make any information created or exchanged with the State pursuant to the Master 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. Consultant, on behalf of itself and its employees, agents, representatives, Subconsultants and contractors, represents that as of the date of, and at all times during the Term of, the Master Agreement, the following shall be true, complete, and correct:

- 2.1 Consultant 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;
- 2.2 Consultant is not a target or subject of a federal or state criminal, civil, or administrative investigation;
- 2.3 Consultant 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;
- 2.4 Consultant has not been convicted of any crime relating to any federal and/or state program; and
- 2.5 Consultant 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 Master Agreement, Consultant shall immediately give Owner written notice if Consultant 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 Master Agreement effective immediately upon written notice to Consultant.

3. **Historically Underutilized Businesses.** Consultant 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 a particular Project.
4. **Equal Opportunity.** Consultant shall not discriminate against any employee or applicant for employment because of race, color, religion, sex, age, or national origin. Consultant 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. Consultant shall post in conspicuous places, available to employees or applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination Section. Consultant shall include this Section in all subcontract agreements pertaining to the Services to be provided under the Master Agreement and any Service Order.
5. **Nondiscrimination.** In their execution of the Master 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 Master Agreement.
6. **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. Consultant shall not place any employee of Consultant at a worksite, nor shall Consultant permit any employee, contractor or Subconsultant, 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. Consultant states that Consultant: (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 Consultant's senior management; and (iv) is without knowledge of any fact that would render any employee, any Subconsultant, or any contractor ineligible to legally work in the United States. Consultant further acknowledges, agrees, and states that it: (i) has complied, and shall at all times during the Term of the Master 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 Master 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 Consultant's employees; and (iii) has responded, and shall at all times during the Term of the Master Agreement respond, in a timely fashion to any inspection requests related to such I-9 Forms. During the Term of the Master Agreement, Consultant 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 Consultant or any of its employees. Consultant acknowledges, agrees, and represents all Subconsultants and contractors permitted by it to perform services under the Master Agreement and any Service Order will be required to agree to these same terms as a condition to being awarded a contract for the performance of such services.
7. **E-Verify.** By entering into the Master Agreement, Consultant certifies and ensures that it utilizes and will continue to utilize, for the Term of the Master 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 Master Agreement; and (ii) all persons (including the Consultant and all Subconsultants and contractors) assigned by the Consultant to perform services pursuant to the Master Agreement or any Service Order, within the United States of America. Consultant 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 Consultant, and its Subconsultants and contractors, as proof that this provision is being followed. If this certification is falsely made, the Master Agreement may be immediately terminated, at the discretion of Owner, and at no fault to Owner, with no prior notification. Consultant shall also be responsible for the costs of any re-solicitation that Owner must undertake to replace the terminated Master Agreement. For persons not eligible for E-Verify screening, Consultant (along with all Subconsultants and contractors) shall provide, upon request by Owner, another form of documentation of proof of eligibility to work in the United States of America.
8. **Entities that Boycott Israel.** Pursuant to *Tex. Gov't. Code §2271.002*, Consultant 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 Master Agreement. Consultant shall state any facts that make it exempt from the boycott.
9. **Entities that Boycott Energy Companies.** Pursuant to *Tex. Gov't. Code §2274.002*, Consultant 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 Master Agreement. "Boycott Energy Company" has the meaning provided in *Tex. Gov't. Code §809.001*. Consultant shall state any facts that make it exempt from verification.

10. **Entities that Discriminate against Firearms Entities or Trade Associations.** Pursuant to *Tex. Gov't. Code §2274.002*, Consultant 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 Master Agreement against a firearm entity or firearm trade association. Consultant shall state any facts that make it exempt from verification.
11. **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 Consultant is on the above-referenced list, the Master Agreement and any Service Orders will be considered void or voidable and Owner will not be responsible to pay Consultant for any Services performed.
12. **Excluded Parties.** Consultant certifies that it is not listed on the federal government's terrorism watch list as described in Executive Order 13224.
13. **No Conflicts.** Consultant represents that Consultant has no actual or potential conflicts of interest in providing Services to Owner under the Master Agreement and that Consultant's provision of Services under the Master Agreement would not reasonably create an appearance of impropriety.
14. **Deceptive Trade Practices Act; Unfair Business Practices Disclosures.** Consultant 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. Consultant 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 Consultant or any of Consultant's officers have occurred or are currently pending in an administrative proceeding or in a lawsuit filed with any court, then Consultant 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.
15. **Disclosure of Interested Parties.** Consultant certifies that, if the value of the Master Agreement or the anticipated value of the Master 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 Consultant.
16. **General and Criminal Background Checks**
 - 16.1 Consultant represents that Consultant and Consultant'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, Consultant has fully advised Owner as to the facts and circumstances surrounding the conviction.
 - 16.2 Consultant, and all of its employees, Subconsultants, 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 Consultant.
 - 16.3 All criminal background check forms for the Consultant and all of Consultant's employees, Subconsultants, 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 Consultant. All criminal background checks must be completed before the Consultant or any employee, Subconsultant, or contractor performs any services at the Project Site.
 - 16.4 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 Consultant and Consultant's employees, Subconsultants, 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 under this Master Agreement or any Service Order.

- 17. Use of Owner Property.** Consultant is prohibited from using Owner Property for any purpose other than performing Services authorized under the Master Agreement and any Service Order. “**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. Consultant shall not remove Owner Property from the Owner’s campus. Consultant may not use any computing device to access Owner’s network or e-mail. Consultant shall not perform any maintenance services on Owner’s Property unless the Master Agreement or any Service Order expressly authorizes such services. During the time that Owner Property is in the possession of Consultant, Consultant 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 Consultant’s use of Owner Property that exceeds the scope of the Master Agreement and/or any Service Order. Consultant shall fully reimburse such charges to Owner within **ten (10)** Days of Consultant’s receipt of Owner’s notice of amount due. Use of Owner Property for a purpose not authorized by the Master Agreement and/or any Service Order shall constitute breach of the Master Agreement and may result in termination of the Master Agreement and/or any Service Order, and the pursuit of other remedies available to Owner under contract, at law, or in equity.
- 18. Drug-Free Work Place.** Consultant, Consultant’s employees, Subconsultants, 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 Consultant, Consultant’s employees, Subconsultants, and contractors shall comply with the relevant provisions thereof, including any amendments to the final rule that may hereafter be issued.
- 19. No Smoking.** All facilities where work is to be performed or Services rendered are nonsmoking buildings. Consultant, Subconsultants, and contractors, and all of their employees are prohibited from smoking in all areas except in areas designated for smoking.
- 20. Signage.** Neither the Consultant, nor any Subconsultant 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.

EXHIBIT C – INSURANCE REQUIREMENTS

Consultant shall maintain in effect, and shall require its Subconsultants to maintain in effect, at all times during the full Term of the Master Agreement, insurance policies providing the minimum coverages and policy limits specified in this **Exhibit C**. Consultant will comply and will require its Subconsultants to comply fully with all requirements of this **Exhibit C** prior to commencing any Services for any particular Project. The policy limits specified for Subconsultants below may be adjusted in accordance with the nature of each Subconsultant's operations but, if such adjustment is requested, it must be submitted to Owner for approval before the Subconsultant enters into an agreement or any Services commence under the agreement in question.

A.1 Insurance Required of Consultant and Subconsultants.

Policy	Consultant - Policy Limits	Subconsultants - Policy Limits
Professional Liability	\$10,000,000 each claim \$10,000,000 annual aggregate	\$5,000,000 each claim \$5,000,000 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)	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	\$1,000,000 each occurrence \$2,000,000 annual general aggregate \$2,000,000 products-completed operations aggregate
Automobile Liability	\$1,000,000 each accident	\$1,000,000 each accident
Excess Liability	\$10,000,000 each occurrence \$10,000,000 aggregate	\$5,000,000 each occurrence \$5,000,000 aggregate
Environmental/Pollution Liability	\$5,000,000 each occurrence \$5,000,000 aggregate	\$3,000,000 each occurrence \$3,000,000 aggregate
Cyber/Privacy Liability	\$10,000,000 per claim \$10,000,000 aggregate	\$5,000,000 per claim \$5,000,000 aggregate

A.1.1 Professional Liability Insurance. Professional liability coverage shall insure from and against all negligent acts, errors, and omissions of Consultant, its employees, and all Subconsultants that arise out of the Master Agreement or the Services performed under the Master Agreement and any Service Order. 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. Consultant and its Subconsultants shall keep such insurance in force at all times during the course of the Master Agreement and until all claims arising out of the Services are barred by the applicable statutes of limitation or repose provided under Texas law.

A.1.2 Workers' Compensation and Employers' Liability Insurance. Consultant and its Subconsultants shall provide workers' compensation and employers' liability insurance for all employees performing Services on each Project with limits as set forth herein.

A.1.2.1 Consultant shall require each Subconsultant to certify in writing to the Consultant that said Subconsultant provides, and will provide on the particular Project, workers' compensation and employers' liability insurance for all of Subconsultant's employees employed on the Project. Owner shall be entitled, upon request and without expense, to receive copies of Consultant's and all Subconsultants' written certifications of insurance.

A.1.2.2 The policy must include an Other States Endorsement to include the State of Texas if Consultant's or Subconsultants' businesses are domiciled outside the State of Texas.

A.1.2.3 All policies shall be endorsed to include a waiver of subrogation in favor of Owner.

A.1.3 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 each Project and Consultant and Subconsultants 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 Consultant 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 Consultant 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 Master Agreement and until all claims arising out of the Services are barred by the applicable statutes of limitation or repose provided under Texas law.

A.1.4 Automobile Liability Insurance. An automobile liability insurance policy shall be provided by Consultant and all Subconsultants. 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.

A.1.5 Excess Liability Insurance. An excess or umbrella liability insurance policy shall be provided by Consultant and all Subconsultants 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 Master Agreement and until all claims arising out of the Services are barred by the applicable statutes of limitation or repose provided under Texas law.

A.1.6 Environmental/Pollution Liability Insurance. An environmental/pollution liability policy shall be procured by Consultant and all Subconsultants. This policy shall cover a pollution event or release on the Project Site resulting from the Consultant’s activities under and during the Term of the Master Agreement, including any activities of Subconsultants. The annual aggregate shall apply separately to each Project. Consultant’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 Consultant or its Subconsultants. This policy shall remain in effect at all times during the course of the Master 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.

A.1.7 **Cyber/Privacy Liability Coverage.** Cyber/privacy liability insurance shall be provided by Consultant and all Subconsultants 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.

A.2 **General Requirements for All Insurance Policies (including those provided by Subconsultants).** 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 Master 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 Consultant. 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.

A.3 **Additional Insured Status.** Owner and Indemnitees and their officers, directors, agents, and employees shall be included as additional insureds on all policies procured by Consultant and its Subconsultants, 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. Consultant 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.

A.4 **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, Consultant waives any and all rights of recovery or subrogation against Owner and its Indemnitees and their officers, directors, agents, and employees.

A.5 **Evidence/Proof of Insurance/Endorsements.** Evidence of the insurance coverage required of Consultant and Subconsultants must be furnished to Owner before commencement of the Consultant's Services (or, with respect to Subconsultants, before such Subconsultant 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.

A.6 **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:

Jill Farrell
VP, Chief Facilities Management Officer
JPS Health Network
1500 South Main Street
Fort Worth, Texas 76104
Telephone: 817-702-9998
Email: Jill.Farrell@jpshealth.org

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

A.7 **Deductibles, Retentions & Exclusions.** Insurance deductibles and premiums shall be paid by Consultant or its Subconsultants 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 Master Agreement to the extent applicable, shall be assumed by, for the account of and at the sole risk of Consultant and Subconsultants. 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.

A.8 **No Commencement of Services.** Consultant shall not, nor allow any Subconsultant(s) to, commence the performance of Services under the Master Agreement or any Service Order 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 Consultant hereunder.

A.9 **Duty to Review/Cancellation.** Consultant 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 C** and the Master Agreement, and further acknowledges a continuing obligation to ensure its insurance policies remain compliant herewith. Within 48 hours of a written request by Owner, Consultant shall submit true and complete copies of Consultant'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 Consultant'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 Consultant's insurance policies contain deficiencies that cause such policies to fail to comply with the insurance requirements of this **Exhibit C** and the Master Agreement, Consultant agrees to reimburse Owner for all costs and fees incurred in attempting to resolve such policy deficiencies by modification or special endorsement thereof. Consultant shall not cause or permit any required insurance to cancel or lapse prior to the expiration of all warranty periods. Consultant must update all expired policies prior to submission of any invoice.

A.10 **Right to Review.** Owner reserves the right to review these insurance requirements during the effective period of the Master 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 Consultant, provided however, such modifications must be commercially available to Consultant. Owner shall make an equitable adjustment to the Consultant's compensation for any additional costs resulting therefrom.

A.11 **Failure to Obtain or Maintain.** Failure to timely obtain and maintain the insurance coverages as required under this **Exhibit C** and the Master Agreement may subject Consultant to disqualification from eligibility to participate in any other or future projects with Owner and/or suspension of the Consultant's Services. Consultant shall provide Owner **thirty (30) Days'** written notice of erosion of any aggregate limits below the minimum amounts required by this **Exhibit C** and the Master Agreement. In the event Consultant or its Subconsultants 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 Consultant under the Master Agreement, any Service Order, or under any other contract between Owner and Consultant. Owner may withhold any payments due to Consultant from a particular Project or any other Owner project until satisfaction is achieved.

A.12 **Enforceability of Requirements.** None of the requirements contained herein as to types, limits, or Owner's approval of insurance coverage to be maintained by Consultant is intended to and shall not in any manner limit, qualify, or quantify the liabilities and obligations assumed by Consultant under the Master Agreement or otherwise provided by law. All insurance coverages required by this **Exhibit C** and the Master 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 Master Agreement and all Service Orders. If coverages and/or specified endorsements are not available due to a change in Texas law, Consultant and its Subconsultants 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.

A.13 **Losses Paid by Consultant.** Actual losses not covered by insurance as required by this **Exhibit C** and the Master Agreement shall be paid by Consultant. Consultant hereby waives all rights of recovery and releases, and shall cause its Subconsultants to release Owner from any and all claims or causes of action whatsoever which Consultant and/or its Subconsultants 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 Consultant and/or its Subconsultants pursuant to this **Exhibit C** and the Master Agreement.

A.14 **Owner a Third-Party Beneficiary.** It is hereby acknowledged and agreed that Owner is a third-party beneficiary of any agreement(s) between Consultant and any and all Subconsultants and/or persons who procure, or cause to be procured any policy of insurance required hereunder.

A.15 **Required Insurance Coverages No Effect On Indemnification.** The insurance and insurance limits required herein shall not be deemed as a limitation on Consultant's liability under the indemnifications granted to Owner under the Master Agreement.

A.16 **No Warranty That Insurance Limits Will Be Adequate to Fully Protect Consultant.** 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 Consultant.