

**AGREEMENT BETWEEN OWNER AND ARCHITECT**

**AGREEMENT** Made this \_\_\_\_ day of \_\_\_\_ in the year 2025.

**BETWEEN**

The Owner:

CITY OF KELLER

1100 Bear Creek Pkwy

Keller, TX 76248

The Architect:

BRINKLEY SARGENT WIGINTON ARCHITECTS, INC.

4851 LBJ Freeway, Suite 800

Dallas, TX 75244

For the following project:

Renovations to two banks of public toilet rooms, two banks of staff toilets, two staff single toilets and the City Manager's toilet in Keller City Hall located at 1100 Bear Creek Pkwy Keller, TX 76248. The extent of renovation is limited to the following and is intended to match the renovations performed to four public toilets done in phase I:

New tile, faucets, countertops and toilet partitions (where needed). Existing toilets, urinals, sinks, grab bars, mirrors (if appropriate) and dispensers (including soap, toilet paper and paper towels).

**ARTICLE 1 INITIAL INFORMATION**

**§ 1.1** This Agreement is based on the Initial Information set forth in this Article 1:

Renovation of two banks of public toilet rooms, two banks of staff toilets, two staff single toilets and the City Manager's toilet in Keller City Hall based upon a construction budget as shown on Exhibit A4.

**§ 1.2** The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the project schedule.

**ARTICLE 2 ARCHITECT'S RESPONSIBILITIES**

**§ 2.1** The Architect shall provide the professional services as set forth in this Agreement.

**§ 2.2** The Architect and Architect's Consultants shall perform its services in accordance with laws, codes, rules, and regulations applicable for the location of the Project consistent with the professional skill and care ordinarily provided by architects and other consultants practicing in the same or similar locality under the same or similar circumstances. Neither the law nor the ordinary and reasonable standard of care places the burden of perfect performance of professional services on the Architect or Architect's Consultants. The Owner acknowledges that this design effort is a unique one-time creative endeavor that does not have the benefit of testing, that some level of imperfection must be expected, that the construction documents may contain errors and omissions, and that the missing and corrective information shall be developed during the construction process. When an error or omission is discovered, the Architect or Architect's Consultants shall provide all necessary design services and documentation for corrective action at no cost to the Owner. The Architect and Consultants shall perform services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project. The Architect makes no warranties, either express or implied, with respect to services provided under this Agreement.

**§ 2.3** The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project.

**§ 2.4** Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project.

**ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES**

**§ 3.1** The Architect's Basic Services consist of those described in Article. Services not set forth in this Article 3 are Additional Services.

**§ 3.1.1** The Architect shall manage the Architect's services, consult with the Owner, research applicable design criteria, attend Project meetings, and report progress to the Owner.

**§ 3.1.2** The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission or inconsistency in such services or information.

**§ 3.1.3** Not used

**§ 3.1.4** The Architect shall not be responsible for an Owner's directive or substitution made without the Architect's approval.

**§ 3.1.5** The Architect shall, at appropriate times, contact the governmental authorities required to approve the Construction. In designing the Project, the Architect shall respond to applicable design requirements imposed by such governmental authorities and by such entities providing utility services.

**§ 3.1.6** The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project. Cost of said filings shall be paid by the Owner.

**§ 3.2 SCHEMATIC DESIGN PHASE SERVICES**

**§ 3.2.1** Schematic design services are not required as part of this scope.

**§ 3.3 DESIGN DEVELOPMENT PHASE SERVICES**

**§ 3.3.1** Design development shall be limited to selection of new finish materials as those requested by the Owner are no longer in production in or available for use on this project, and adapting the Owner's direction to match the previous renovations to the different conditions that are part of the scope of this project.

**§ 3.3.2** Design development documents will consist of plans and interior elevations of each toilet to be renovated.

**§ 3.4 CONSTRUCTION DOCUMENTS PHASE SERVICES**

**§ 3.4.1** Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels of materials and systems and other requirements for the construction of the Work. These Documents may contain inconsistencies and omissions inherent to the Design and Construction Process. The Owner and Architect acknowledge that in order to construct the Work the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

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

**§ 3.4.3** The Architect shall submit the Construction Documents to the Owner and request the Owner's approval. The Architect will provide to the Owner one set of printed documents, an electronic (PDF) set of documents and a CAD set.

**§ 3.5 BIDDING OR NEGOTIATION PHASE SERVICES**

**§ 3.5.1 GENERAL**

Provide documents for use in competitive bidding of the project and assist the City in the bidding process.

**§ 3.5.2 COMPETITIVE BIDDING**

**§ 3.5.2.1** Bidding Documents shall consist of bidding requirements and proposed Contract Documents or as required by City Purchasing Department.

**§ 3.5.2.2** The Architect shall assist the Owner in bidding the Project by

- .1 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to all prospective bidders in the form of addenda (which shall be issued via electronic PDF); and

**§ 3.5.2.3** The Architect shall consider requests for substitutions, if the Bidding Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective bidders.

**§ 3.6 CONSTRUCTION PHASE SERVICES**

**§ 3.6.1 GENERAL**

**§ 3.6.1.1** The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™–2017, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201–2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

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

Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work. The Architect and his Engineers shall not be required to furnish or pay for Construction Materials and Labor not contained within the Construction Documents whether these items were an omission or added during Construction.

**§ 3.6.1.3** Subject to Section 4.3, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

**§ 3.6.2 EVALUATIONS OF THE WORK**

**§ 3.6.2.1** The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.3.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work.

**§ 3.6.2.2** The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work.

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

**§ 3.6.2.4** Interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

**§ 3.6.2.5** Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

**§ 3.6.3 CERTIFICATES FOR PAYMENT TO CONTRACTOR**

**§ 3.6.3.1** The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the Architect.

**§ 3.6.3.2** The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction

means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

**§ 3.6.3.3** The Architect shall maintain a record of the Applications and Certificates for Payment.

**§ 3.6.4 SUBMITTALS**

**§ 3.6.4.1** The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review.

**§ 3.6.4.2** In accordance with the Architect-approved submittal schedule, the Architect shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

**§ 3.6.4.3** If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review shop drawings and other submittals related to the Work designed or certified by the design professional retained by the Contractor that bear such professional's seal and signature when submitted to the Architect. The Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals.

**§ 3.6.4.4** The Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth in the Contract Documents the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to requests for information.

**§ 3.6.4.5** The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

**§ 3.6.4.6** All submissions and responses shall be via electronic correspondence.

**§ 3.6.5 CHANGES IN THE WORK**

**§ 3.6.5.1** The Architect may authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to the provisions of Section 4.3, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

**§ 3.6.5.2** The Architect shall maintain records relative to changes in the Work.

**§ 3.6.6 PROJECT COMPLETION**

**§ 3.6.6.1** The Architect shall visit the site conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; receive from the Contractor and forward to the Owner, for the Owner's review and records, written warranties and related documents

## City of Keller City Hall Toilets Renovations Phase II

required by the Contract Documents and assembled by the Contractor; and issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents.

**§ 3.6.6.2** The Architect's site visit shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

**§ 3.6.6.3** When the Work is found to be substantially complete, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

**§ 3.6.6.4** The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

**§ 3.6.6.5** Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

### **ARTICLE 4 ADDITIONAL SERVICES**

**§ 4.1** Additional Services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Additional Services only if specifically designated in the table below as the Architect's responsibility.

## City of Keller City Hall Toilets Renovations Phase II

Additional Services		Responsibility (Architect, Owner or Not Provided)	Location of Service Description
§ 4.1.1	Programming	Not Provided	
§ 4.1.2	Multiple preliminary designs	Not Provided	
§ 4.1.3	Measured drawings	Not Provided	
§ 4.1.4	Existing facilities surveys	Not Provided	
§ 4.1.5	Site Evaluation and Planning	Not Provided	
§ 4.1.6	Building information modeling	Architect	4.2.1
§ 4.1.7	Civil engineering	Not Provided	
§ 4.1.8	Landscape design	Not Provided	
§ 4.1.9	Architectural Interior Design	Architect	
§ 4.1.10	Value Analysis	Not Provided	
§ 4.1.11	Detailed cost estimating	Not Provided	
§ 4.1.12	On-site project representation	Not Provided	
§ 4.1.13	Conformed construction documents	Not Provided	
§ 4.1.14	As-Designed Record drawings	Not Provided	
§ 4.1.15	As-Constructed Record drawings	Not Provided	
§ 4.1.16	Post occupancy evaluation	Not Provided	
§ 4.1.17	Facility Support Services	Not Provided	
§ 4.1.18	Tenant-related services	Not Provided	
§ 4.1.19	Coordination of Owner's consultants	Not Provided	
§ 4.1.20	Telecommunications/data design	Not Provided	
§ 4.1.21	Security Evaluation and Planning	Not Provided	
§ 4.1.22	Commissioning	Not Provided	
§ 4.1.23	Extensive environmentally responsible design	Not Provided	
§ 4.1.24	LEED® Certification	Not Provided	
§ 4.1.25	Fast-track design services	Not Provided	
§ 4.1.26	Historic Preservation	Not Provided	
§ 4.1.27	Furniture, Furnishings, and Equipment Design	Not Provided	
§ 4.1.28	Topographic Survey Services	Not Provided	
§ 4.1.29	Platting Services	Not Provided	
§ 4.1.30	Geotechnical Investigation	Not Provided	
§ 4.1.31	TAS Review / Inspection	Architect	Exhibit C1
§ 4.1.32	ICC 500-2014 Third Party Review	Not Provided	

§ 4.2 Description of each Additional Service designated in Section 4.1 as the Architect's responsibility:

**§ 4.2.1 – Building Information Modeling:** The Architect may, at their sole discretion, utilize BIM while fulfilling their scope of services. No extra fee will be charged for this use of BIM.

§ 4.3 Additional Services may be provided after execution of this Agreement, without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.3 shall entitle the Architect to compensation and an appropriate adjustment in the Architect's schedule.

§ 4.3.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following services until the Architect receives the Owner's written authorization:

- .1 Services necessitated by the Owner's request for extensive environmentally responsible design alternatives, such as unique system designs, in-depth material research, energy modeling, or LEED® certification;
- .2 Changing or editing previously prepared Instruments of Service necessitated by the enactment or revision of codes, laws or regulations or official interpretations;

- .3 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .4 Preparation of design and documentation for alternate bid or proposal requests not included in the final design development construction budget and Architect's fee proposed by the Owner;
- .5 Not used
- .6 Preparation for, and attendance at a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .7 Evaluation of the qualifications of subcontractor bids or persons providing subcontractor proposals;
- .8 Consultation concerning replacement of Work resulting from fire or other cause during construction.

**ARTICLE 5 OWNER'S RESPONSIBILITIES**

**§ 5.1** Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements. Within 15 working days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of or enforce lien rights.

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

**§ 5.3** The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

**§ 5.4** Not Used

**§ 5.5** Not Used

**§ 5.6** Not Used

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

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

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

**§ 5.10** Except as otherwise provided in this Agreement, or when direct communications have been specially authorized, the Owner shall endeavor to communicate with the Contractor and the Architect's consultants through the Architect about matters arising out of or relating to the Contract Documents. The Owner shall promptly notify the Architect of any direct communications that may affect the Architect's services.

**§ 5.11** Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

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



**ARTICLE 6 COST OF THE WORK**

**§ 6.1** For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect prior to or after bidding and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work does not include the compensation of the Architect, the costs of the land, rights-of-way, financing, contingencies for changes in the Work or other costs that are the responsibility of the Owner.

**§ 6.2** If after bidding, the lowest bona fide bid or negotiated proposal exceeds the Owner's budget, the Architect, with additional compensation, shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced. If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

**§ 6.2.1** give written approval of an increase in the budget for the Cost of the Work;

**§ 6.2.2** authorize rebidding or renegotiating of the Project within a reasonable time;

**§ 6.2.3** terminate in accordance with Section 9.5;

**§ 6.2.4** in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or

**§ 6.2.5** implement any other mutually acceptable alternative.

**§ 6.3** If the Owner chooses to proceed under Section 6.2.4, the Architect, with additional compensation, shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under section 6.2.1. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

**ARTICLE 7 SPECIAL TERMS AND CONDITIONS**

Special terms and conditions that modify this Agreement are included in Exhibit B

**ARTICLE 8: SCOPE OF AGREEMENT**

8.1 This agreement is comprised of the following additional documents.

Exhibit A: Initial Information

Exhibit B: Special Terms and Conditions

Exhibit C: Services and Compensation

Exhibit D: Insurance Certificates

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

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**Owner** (Signature)

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(Printed name and title)

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**Architect** (Signature)

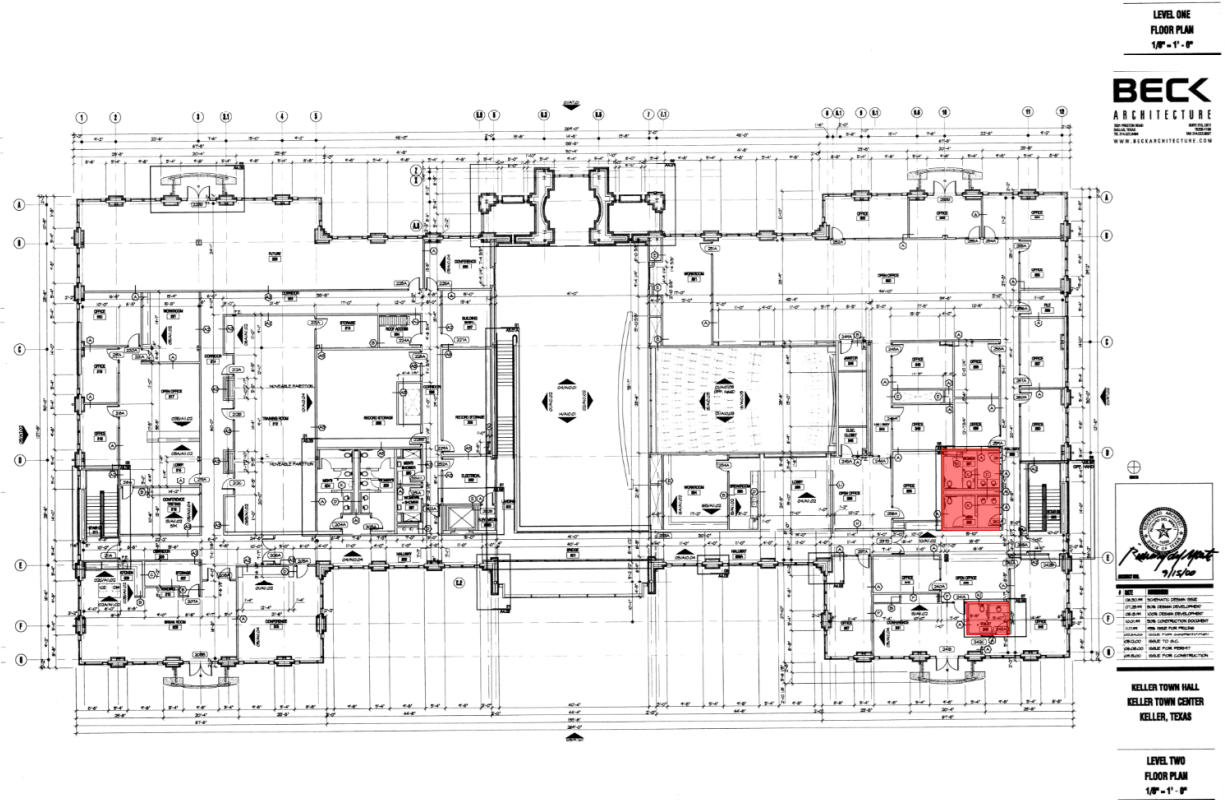
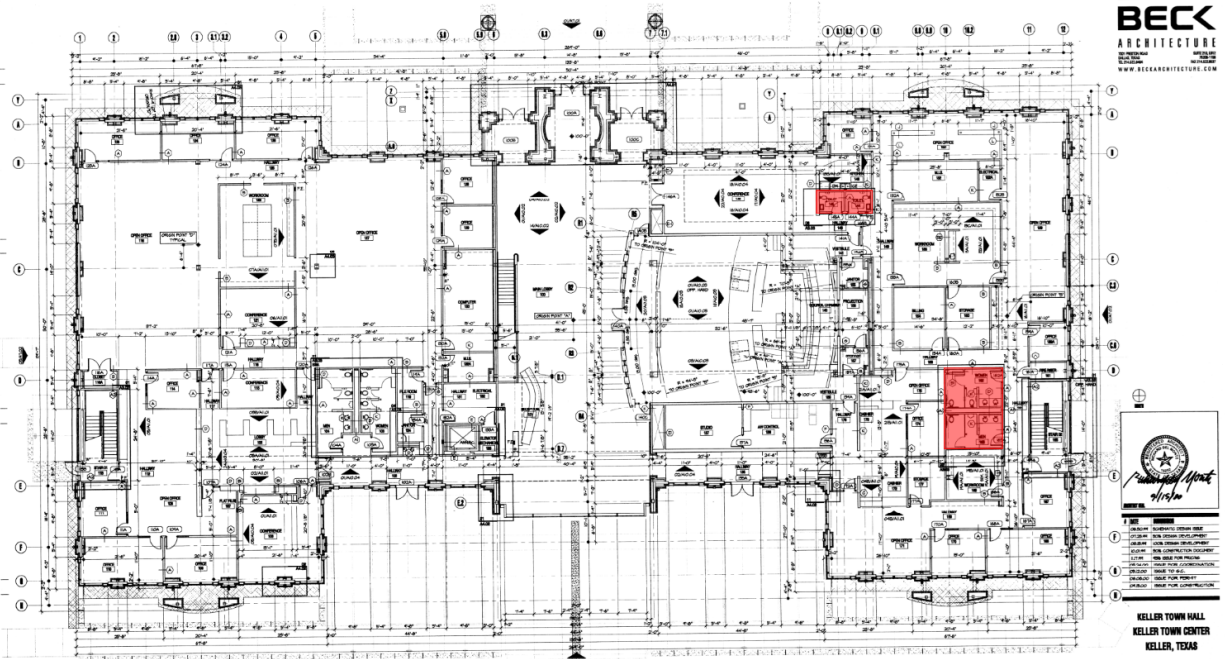
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(Printed name and title)

EXHIBIT A

INITIAL PROJECT INFORMATION

EXHIBIT A1 SCOPE EXTENT PLANS





## TERMS & CONDITIONS

### 1. INSURANCE REQUIREMENTS

Except as otherwise specified in this contract, the contractor and his subcontractors of any tier will be required at their own expense, to maintain in effect at all times during the performance of the work, insurance coverage with limits not less than those set forth below, with insurers and under forms of policies satisfactory to the City of Keller. It shall be the responsibility of the contractor and subcontractors to maintain adequate insurance coverage and to assure that all subcontractors are adequately insured at all times. Failure of the contractor and his subcontractors to maintain adequate coverage shall not relieve him of any contractual responsibility or obligation. Deductibles, of any type, are the responsibility of the vendor/contractor.

### 2. CERTIFICATES OF INSURANCE

At the time of the execution of this contract and each subcontract, but in any event, prior to commencing work at the job site, the contractor and his subcontractors shall furnish the City with certificates of insurance with an Endorsement naming the City of Keller as additional insured as evidence that the policies providing the required coverage and limits of insurance are in full force and effect. Contracts less than \$4,999.99 do not require an Insurance Endorsement; however, a **Certificate of Insurance** is required naming the City of Keller as additional insured. Contracts exceeding \$5,000.00 shall be required to provide a copy of the Certificate of Insurance and the Insurance Endorsement naming the City of Keller as additional insured. The certificates of insurance provide that any company issuing an insurance policy for the work under this contract shall provide not less than 30 days advance notice in writing of cancellation, non-renewable, or material change in the policy of insurance. In addition, the contractor shall provide written notice to the City of Keller upon receipt of notice of cancellation of any insurance policy. All certificates of insurance shall clearly state that all applicable requirements have been satisfied including certification that the policies are of the “occurrence” type. Certificates of insurance and Endorsements for contractor and subcontractor, terminations, or alterations of such policies shall be mailed to Karla Parker, Purchasing Agent, Finance Department, P O. Box 770, Keller, TX 76244.

### 3. COMPREHENSIVE GENERAL LIABILITY

This insurance shall be an occurrence type policy written in comprehensive form and shall protect the contractor and his subcontractors and the Additional Insured against all claims arising from bodily injury, sickness, disease, or death of any person other than the contractor’s employees or damage to property of the City of Keller and Keller Town Center Property Owner Association or others arising out of the act or omission of the contractor or his subcontractors or their agents, employees, or subcontractors. This policy shall also

include protection against claims insured by usual personal injury liability coverage, a (protective liability) endorsed to insure the contractual liability assumed by the contractor and his subcontractors under the article entitled indemnification and completed operations, products liability, contractual liability, broad form property coverage, premises/operations, and independent contractors.

Bodily Injury and Property Damage - \$500,000 per person

1. \$1,000,000 per occurrence

#### **4. COMPREHENSIVE AUTOMOBILE LIABILITY**

This insurance shall be written in the comprehensive form and shall protect the contractor and his subcontractors and the additional insured against all claims for injuries to members of the public and damage to property of others arising from the use of motor vehicles, and shall cover operation on and off the site of all motor vehicles licensed for highway use, whether they were owned, non-owned, or hired, the liability shall not be less than:

Bodily Injury and Property Damage - \$500,000 per person

- i. \$1,000,000 per occurrence

#### **5. WORKERS' COMPENSATION AND EMPLOYERS' LIABILITY**

The contractor shall provide all workers' compensation insurance for its employees as required by law.

#### **6. INDEMNIFICATION**

For consideration included in the BID price, contractor and his subcontractors shall pay, indemnify, and hold harmless, the City and Keller Town Center Property Owners Association, its agents, guests, consultants, invites, and employees, from all suits, actions, claims, demands, losses, expenses, including attorney's fees, costs and judgments of every kind and description to which the City of Keller and Keller Town Center Property Owners Association, its agents, guests, consultants, invites, or employees may be subjected to by reason of injury to persons or death or property damage, resulting from or growing out of any act of commission, omission, negligence, or fault of the contractor and his subcontractors, their agents or employees, committed in connection with this contract, contractor's performance hereof, or of any work performed hereunder.

The Contractor agrees to and shall indemnify and hold harmless the City of Keller and Keller Town Center Property Owners Association against any and all liens and encumbrances for all labor, goods and services which may be provided under the City's request, by seller or seller's vendor(s), and if the City requests, a proper release of all liens or satisfactory evidence of freedom from liens shall be delivered to the City.

Contractor and his subcontractors shall indemnify and hold harmless the City of Keller and Keller Town Center Property Owners Association, its agents, or employees and consultants

from and against all claims, demands, actions, suits, damages, losses, expenses, costs including attorney's fees, and judgments of every kind and description arising from, based upon, or growing out of the violation of any Federal, state, county, or city law, bylaw, ordinance, or regulation by the contractor, its agents, trainees, invites, servants, and employees.

## **7. WAIVER OF SUBROGATION**

The contractor and his subcontractors shall require their insurance carrier, with respect to all insurance policies, to waive all rights of subrogation against the City of Keller and the Keller Town Center Property Owners Association, its commissioners, partners, officials, agents, and employees and against all other contractors and subcontractors.

## **8. DEBARMENT**

By submitting a BID, the bidder certifies that it is not currently debarred from receiving contracts from any political subdivision or agency of the State of Texas and that it is not an agent of a person or entity that is currently debarred from receiving contracts from any political subdivision or agency of the State of Texas.

## **9. BANKRUPTCY**

If seller becomes bankrupt or insolvent, or if a petition in bankruptcy or insolvency is filed by or against Seller, or if a receiver, trustee or assignee for the benefit of creditors is appointed for Seller, the City shall have the right, at its sole discretion, to treat such occurrence as a breach thereof.

## **10. CONTRACT WITH PERSON INDEBTED TO MUNICIPALITY**

A municipality by ordinance may establish regulations permitting the municipality to refuse to enter into a contract or other transaction with a person indebted to the municipality.

## **11. PRE-ESTABLISHED CONTRACTS**

The City has access to "Pre-Established Contracts" such as US Communities, State contracts and local purchasing agreements. The City will evaluate the bid amount with what is offered through these contracts and determine which is the most advantageous to the City.

## **12. GOVERNING LAW**

This solicitation and any resulting contract(s) shall be construed in accordance with the laws of the State of Texas. Any action regarding a dispute arising from this agreement shall be brought in federal or state courts within the State of Texas and the parties consent to the exclusive personal jurisdiction of such courts in the event of a dispute.

### **13. CONFLICT OF INTEREST QUESTIONNAIRE**

Effective January 1, 2006, House Bill 914 requires any vendor that wishes to conduct business or to be considered for business with any political subdivision, to complete a “conflict of interest” questionnaire (attached). Please complete the attached questionnaire and return with the bid specifications. Additional information regarding this requirement may be obtained at [www.ethics.state.tx.us](http://www.ethics.state.tx.us).

H.B. 491 changed Section 176.006 to read as follows: “(a) A person described by Section 176.002(a) shall file a completed conflict of interest questionnaire if the person has a business relationship with a local governmental entity and: (1) has an employment or other business relationship with an officer of that local governmental entity, or a family member of the officer, described by Section 176.003(a)(2)(B), excluding any gift described by Section 176.003(a-1).”

### **14. CERTIFICATE OF INTERESTED PARTIES (FORM 1295)**

In 2015, the Texas Legislature adopted House Bill 1295, which added section 2252.908 of the Government Code. The law states that a governmental entity or state agency may not enter into certain contracts with a business entity unless the business entity submits a disclosure of interested parties to the governmental entity or state agency at the time the business entity submits the signed contract to the governmental entity or state agency. The law applies only to a contract of a governmental entity or state agency that either (1) requires an action or vote by the governing body of the entity or agency before the contract may be signed or (2) has a value of at least \$1 million. The disclosure requirement applies to a contract entered into on or after January 1, 2016.

The Texas Ethics Commission was required to adopt rules necessary to implement that law, prescribe the disclosure of interested parties form, and post a copy of the form on the commission’s website. The commission adopted the Certificate of Interested Parties form (Form 1295) on October 5, 2015. The commission also adopted new rules (Chapter 46) on November 30, 2015 to implement the law.

#### **Filing Process:**

On January 1, 2016, the commission made available on its website a new filing application that must be used to file Form 1295. A business entity must use the application to enter the required information on Form 1295 and print a copy of the completed form, which will include a certification of filing that will contain a unique certification number. An authorized agent of the business entity must sign the printed copy of the form and have the form notarized. The completed Form 1295 with the certification of filing must be returned with this BID documentation.

Information regarding how to use the filing application is available at <https://www.ethics.state.tx.us/tec/1295-Info.htm>. Please follow instructional Video for Business Entities.

## **15. LOCAL GOVERNMENT CODE TITLE 10 SUBTITLE CHAPTER 2252 & 2270**

Vendor shall submit HB89 Verification form prior to award of contract.

## **16. HOUSE BILL 89/793 VERIFICATION**

This verification only applies to:

- A. Contracts Valued at \$100,000.00 or more,
- B. Companies with 10 or more full-time employees,

This verification exempts sole proprietorships from this requirement.

## **17. COMPLIANCE WITH APPLICABLE LAW**

Bidder agrees that the contract will be subject to, and bidder will strictly comply with, all applicable federal, state, and local laws, ordinances, rules and regulations.



## EXHIBIT C

### KELLER TOWN HALL RENOVATIONS PHASE II

#### SERVICES AND COMPENSATION

#### BASIC AND SUPPLEMENTAL SERVICES INCLUDED IN THE CONTRACT SCOPE OF WORK

##### City Hall Renovations Basic Services: FEE \$50,000

All basic services and compensation are for Keller Town Hall. Fees to be billed monthly by percent complete of each phase as follows:

Design Development	30%
Construction Document Phase	30%
Bidding Phase	5%
Construction Administration Phase	<u>35%</u>
Total	100%

##### City Hall Renovations Supplemental Services: FEE \$1,755

Supplemental services for this project are limited to review and inspection of the project in relation to Texas Accessibility Standards by Access by Design. Refer to attached C1.

##### City Hall Renovations Reimbursable Expenses: Budget Estimate \$5,000

Project related expenses will be billed at cost plus 10%. Budget includes some cost items over which architect has minimal control and therefore the budget is an estimate and may be adjusted with Owner approval. Budget assumes subcontractor bidding documents will be electronic and no paper reproduction costs are included herein.

##### Fee Summary

A. Basic Services	\$50,000
B. Supplemental Services	\$ 1,755
C. Reimbursable Budget	\$ 5,000
<b>Total Contract</b>	<b>\$56,755</b>

# EXHIBIT C1

A G R E E M E N T



ACCESS by DESIGN

ACCESSIBILITY CONSULTANTS Access by Design Inc. 12720 Hillcrest Road Suite 1040 Dallas, Texas 75230 Tel 214 348 7758 www.abyd.com

TABS# (if known): 2025018501

Project Name: Keller Town Hall Renovations

Building/Facility Name: Keller Town Hall

Street Address: 1100 Bear Creek Parkway

City: Keller County: Tarrant Zip: 76248 Estimated Cost: 200,000


Architect/Project Contact: Greg Read / BSW Architects Email: gread@bsw-architects.com

Requested Service(s)	Fee
TAS Plan Review (including one revisions review)	\$ 790
TAS Inspection (single site visit)	\$ 790
Travel Fee (outside D/FW area – see Travel Fee Chart)	
TDLR Filing Fee - \$175 (if registered by AbyD)	\$ 175
<input type="checkbox"/> This will be a fast-track project with multiple submissions (additional fees apply)	<b>TOTAL: \$ 1,755</b>

I request and authorize Access by Design Inc. to perform the state required TAS plan review and inspection services indicated above, and I agree to payment of applicable fees prior to services being rendered. I agree that Access by Design Inc. assumes none of the responsibilities of the architect or design professional and that Access by Design Inc. liability shall be limited to the fees earned (not including TDLR filing fees collected as a reimbursement for project registration). I understand that the plan review fees listed below include one revisions review and that additional revisions reviews will incur an additional charge. I further understand that the inspection fees listed below include a single site visit and that additional site visits will incur an additional charge. I understand that inspections occurring outside of Dallas and Tarrant Counties will incur a travel fee for each site visit, as set forth in the published Travel Fee Chart.

Name: Greg Read Company: Brinkley Sargent Wiginton Architects

☐ Owner ☐ Designated Owner Agent \* (form required) ☒ Design Professional

Signature:  Date: 5/7/2025 Email: gread@bsw-architects.com

✓	Project Construction Cost	Plan Review	Inspection	Plan Review + Inspection
<input type="checkbox"/>	Less than \$50,000	\$ 550	\$ 550	\$1,100
<input type="checkbox"/>	\$50,000 - \$199,999	\$ 740	\$ 740	\$1,480
<input checked="" type="checkbox"/>	\$200,000 - \$499,999	\$ 790	\$ 790	\$1,580
<input type="checkbox"/>	\$500,000 - \$999,999	\$ 850	\$ 850	\$1,700
<input type="checkbox"/>	\$1,000,000 - \$4,999,999	\$ 980	\$ 980	\$1,960
<input type="checkbox"/>	\$5,000,000 - \$9,999,999	\$1,170	\$1,170	\$2,340
<input type="checkbox"/>	\$10,000,000 - \$14,999,999	\$1,400	\$1,400	\$2,800
<input type="checkbox"/>	\$15,000,000 - \$24,999,999	\$1,670	\$1,670	\$3,340
<input type="checkbox"/>	\$25,000,000 - \$49,999,999	\$2,010	\$2,010	\$4,020
<input type="checkbox"/>	\$50,000,000 - \$74,999,999	\$2,400	\$2,400	\$4,800
<input type="checkbox"/>	\$75,000,000 and up	Contact Access by Design for proposal		

## Plan Review Submittals:

- ☐ Combined PDF set of permit drawings, all disciplines
- ☐ Signed Proof of Submission Form (EAB242N)
- ☐ \*Signed Owner Agent Designation Form (if applicable) (EAB243N)
- ☐ TABS Registration Receipt\*\* or Project Registration Form
- ☐ Plan review fees and TDLR filing fee if applicable (check payable to "Access by Design Inc.")

## Inspection Requests:

- ☐ Signed Request for Inspection Form (EAB241N)
- ☐ \*Signed Owner Agent Designation Form (if applicable) (EAB243N)
- ☐ Inspection fees and travel fees if applicable (check payable to "Access by Design Inc.")
- ☐ \*Please confirm that all construction is complete. (Full inspection and travel fees will be applied for each site visit.)