

# AIA<sup>®</sup> Document B104<sup>™</sup> – 2017

## ***Standard Abbreviated Form of Agreement Between Owner and Architect***

**AGREEMENT** made as of the 8th day of December in the year 2020  
(In words, indicate day, month and year.)

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

City of Killeen  
101 N. College St.  
Killeen, TX 76541

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

Randall Scott Architects, Inc. (also referred to herein as RSA)  
2140 Lake Park Blvd, Suite 300  
Dallas, TX 75080  
Telephone Number: 972.664.9100

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

Killeen Community and Senior Center Renovations  
2201 E. Veterans Memorial Blvd  
Killeen, TX 76542

The Owner and Architect agree as follows.

### **ADDITIONS AND DELETIONS:**

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

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

## TABLE OF ARTICLES

1	INITIAL INFORMATION
2	ARCHITECT'S RESPONSIBILITIES
3	SCOPE OF ARCHITECT'S BASIC SERVICES
4	SUPPLEMENTAL AND ADDITIONAL SERVICES
5	OWNER'S RESPONSIBILITIES
6	COST OF THE WORK
7	COPYRIGHTS AND LICENSES
8	CLAIMS AND DISPUTES
9	TERMINATION OR SUSPENSION
10	MISCELLANEOUS PROVISIONS
11	COMPENSATION
12	SPECIAL TERMS AND CONDITIONS
13	SCOPE OF THE AGREEMENT

### ARTICLE 1 INITIAL INFORMATION

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

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

Refer to Architect's Fee Proposal attached hereto as Exhibit B.

§ 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 agree on any necessary adjustments to the schedule, the Architect's services and the Architect's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

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

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without the Architect's written permission shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

### ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

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

**§ 2.1.A** The Owner and Architect acknowledge that the Architect's standard of care is one of reasonable professional diligence and care of similarly situated architects performing the same or similar professional design services on similar project types in similar locations.

**§ 2.1.B** Except for remedial costs required to incorporate omitted work, the Architect or the Architect's consultants shall not be responsible for any cost or expense that is related to: an omission, provides a betterment, upgrade or enhancement of the Project, as these costs or expenses would have been part of the Project construction costs in the first place. These are part of the Owner's cost of the Project and shall be covered by the Owner's separate Project Contingencies.

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

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

- .1 General Liability  
\$1,000,000
- .2 Automobile Liability  
\$1,000,000
- .3 Workers' Compensation  
Per Statute
- .4 Professional Liability  
\$1,000,000
- .5 Umbrella Liability  
\$5,000,000

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

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

**§ 3.1.1** The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on (1) the accuracy and completeness of the services and information furnished by the Owner and (2) the Owner's approvals. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

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

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

## **§ 3.2 Design Phase Services**

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

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

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

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

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

## **§ 3.3 Construction Documents Phase Services**

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

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

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

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

## **§ 3.3.5 Competitive Bidding**

**§ 3.3.5.1** Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

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

- a** facilitating the distribution of digital versions (PDF's) of Bidding Documents to prospective bidders;
- b** organizing and conducting a pre-bid conference for prospective bidders;
- c** preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to the prospective bidders in the form of addenda; and,
- d** organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

**§ 3.3.5.3** If the Bidding Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.

## **§ 3.4 Construction Phase Services**

### **§ 3.4.1 General**

**§ 3.4.1.1** The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A104™-2017, Standard Abbreviated Form of Agreement Between Owner and

Contractor. If the Owner and Contractor modify AIA Document A104–2017, those modifications shall not affect the Architect’s services under this Agreement unless the Owner and the Architect amend this Agreement.

**§ 3.4.1.2** The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor’s failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect’s negligent acts or omissions, but shall not have control over or charge of and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

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

### **§ 3.4.2 Evaluations of the Work**

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

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

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

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

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

### **§ 3.4.3 Certificates for Payment to Contractor**

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

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

#### § 3.4.4 Submittals

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

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

§ 3.4.4.3 The Architect shall review and respond to written requests for information about the Contract Documents. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. The Architect will endeavor to provide an initial response to RFI's within 7 days, however, in certain circumstances it may not be possible to respond within that timeframe which would result in more time being required to provide an appropriate response.

#### § 3.4.5 Changes in the Work

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

#### § 3.4.6 Project Completion

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

### ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

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

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

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

§ 4.2.2 The Architect has included in Basic Services 30 (thirty) visits to the site by the Architect during construction. The Architect shall conduct site visits in excess of that amount as an Additional Service.

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

§ 4.2.4 If the services covered by this Agreement have not been completed within 24 (twenty-four) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

§ 4.2.5 The Architect's services for the following shall be deemed additional services:

1. Design services in regards to changes caused by existing physical conditions that could not be reasonably known or discovered prior to construction.
2. Review of substitution requests by the Contractor or Owner after 7 days prior to bid date.
3. Value engineering and design services required to offset increased construction market costs of labor and materials due to Acts of God such as, but not limited to, hurricanes, tornadoes or pandemics.

## ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 A written Needs Assessment and Conceptual Design setting forth the Owner's objectives, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements has been prepared by the Architect and presented to City Staff May 12, 2020 with a subsequent fly-around/fly-through virtual presentation being made to Staff on June 2, 2020.

§ 5.2 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs including an Owner's "Project Contingency" of not less than 15% of the Total Project Cost or Budget for the Project. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

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

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

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

- a. Construction materials testing inspections and reports.
- b. HVAC Test and Balancing and reports.
- c. Window testing, inspection and reports.
- d. Other tests, inspections and reports as required by the Construction Documents or requested by the Architect and his consultants.

- e. Hazardous materials survey of existing Community Center Building where connections and/or renovations have to be made to the Killeen Community Center and Senior Center Renovations.

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

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

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

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

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

## **ARTICLE 6 COST OF THE WORK**

**§ 6.1** For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

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

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

**§ 6.3.1** Evaluations of the Owner's budget for the Project and the preliminary estimate of the Cost of the Project prepared by the Architect represent the Architect's judgement as a design professional familiar with the construction industry. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials or equipment, over the Contractor's method of determining bid prices, or over competitive bidding, market or negotiation conditions. The Architect's evaluation of the Owner's budget and preliminary estimate of the Cost of the Work are made on the basis of the Architect's experience, qualifications, and best judgement of the current and future market conditions in the construction industry. Accordingly, the Architect cannot and does not warrant or represent that proposals, bids, negotiated prices, or actual construction costs will not vary from the Owner's budget for the Project or from any preliminary estimate of the Cost of the Work or evaluation prepared or agreed to by the Architect. The Architect shall compile his estimates of the Cost of the Work based on all or a portion of the following: design progress, utilizing historical data, material quotations, discussions with trade professionals, and experience with similar projects. Bids will not be solicited for the Architect's estimating purposes; therefor, competitive bidding



or lack thereof may affect the actual costs. The Owner shall acknowledge the following assumptions and cautions relative to the Architect's evaluations of the Owner's budget and preliminary estimate of the Cost of the Work:

1. The Opinions of the Cost of the Work will assume a competitive bidding process for the entire scope of Work, as defined by the plans and specifications. Competitive bidding process is defined as receiving responsive bids from a minimum of (3) General Contractors and (3) subcontractors per trade.
2. If the number of bids indicated in 6.3.1.1 above are not received by the General Contractor or Owner, the bids may deviate from the Architect's evaluation of the Owner's budget and/or the preliminary estimate of the Cost of the Work.
3. Due to unpredictable conditions in the construction and other industries causing unusual fluctuations, such as the influence of commodity trading markets, regional supply and demand, regional inflation, or natural disasters and Acts of God such as, but not limited to, hurricanes and tornadoes; costs and availability of products and labor may fluctuate causing the Architect's evaluation of the Owner's budget and preliminary estimate of the Cost of the Work to differ from actual bids.
4. The Architect shall not be responsible for value engineering services required due to construction market cost increases in labor and materials caused by Acts of God such as, but not limited to, hurricanes and tornadoes, or geo-global cost increases as these are beyond the Architect's control. Value engineering changes to the Project Scope if required due to Acts of God, shall be provided as an Additional Service by the Architect and his consultants.

**§ 6.4** If, through no fault of the Architect, construction procurement activities have not commenced within 60 days after the Architect submits the Construction Documents to the Owner the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

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

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

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

**§ 6.7** If the Owner chooses to proceed under Section 6.6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate including Acts of God or geo-global cost increases which are beyond the Architect's control, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise the Architect's services shall be without additional compensation. In any event, the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

## **ARTICLE 7 COPYRIGHTS AND LICENSES**

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

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

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

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

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

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

## ARTICLE 8 CLAIMS AND DISPUTES

### § 8.1 General

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

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

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

**§ 8.1.4 RISK ALLOCATION. IN RECOGNITION OF THE RELATIVE RISKS AND BENEFITS OF THE PROJECT TO BOTH THE OWNER AND THE ARCHITECT, THE OWNER AND ARCHITECT AGREE THAT THE LIMIT OF PROFESSIONAL LIABILITY OF THE ARCHITECT AND HIS CONSULTANTS SHALL BE LIMITED TO \$1,000,000 ON A CLAIMS MADE BASIS AND \$1,000,000 IN THE AGGREGATE FOR ALL CLAIMS MADE AGAINST THE ARCHITECT AND HIS CONSULTANTS.**

§ 8.1.5 Owner agrees to pay the Architect for all time and expenses incurred as a result of testifying, subpoenas, depositions, arbitration, trials and mediations between the Owner and Owner's Contractor/CM at Risk and/or the Owner's Contractor's

subcontractors as related to the Project. These services exclude proceedings in which the Architect is a party in the corresponding action.

## **§ 8.2 Mediation**

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

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

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

*(Check the appropriate box.)*

- ☐ Arbitration pursuant to Section 8.3 of this Agreement
- ☒ Litigation in a court of competent jurisdiction
- ☐ Other: *(Specify)*

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

## **§ 8.3 Arbitration (Deleted)**

*(Paragraphs deleted)*

### **§ 8.3.4 Consolidation or Joinder**

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

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

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

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

## **ARTICLE 9 TERMINATION OR SUSPENSION**

**§ 9.1** If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of

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

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

§ 9.3 If the Owner suspends the Project for more than 90 cumulative days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than 30 days' written notice.

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

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

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

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

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

.1 Termination Fee:

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

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

## ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the laws and jurisdiction of Texas. *Venue is proper in Bell County, Texas.*

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

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

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

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

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

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

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

## ARTICLE 11 COMPENSATION

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

- .1 Stipulated Sum  
(Insert amount)

Refer to Architect's Fee Proposal attached hereto labeled Exhibit B

- .2 Percentage Basis  
(Insert percentage value)

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

- .3 Other  
(Describe the method of compensation)

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

Refer to Architect's Fee Proposal attached hereto labeled Exhibit B for Architect's Hourly Rates

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

Refer to Architect's Fee Proposal attached hereto labeled Exhibit B for Architect's Hourly Rates

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

Refer to Architect's Fee Proposal attached hereto labeled Exhibit B for Architect's Markup on Consultant Additional Services

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

Schematic Design Phase	Twenty Five	percent (	25	%)
Design Development Phase	Twenty Five	percent (	25	%)
Construction Documents Phase	Twenty Five	percent (	25	%)
Bidding & Negotiation Phase	Five	percent (	5	%)
Construction Phase	Twenty	percent (	20	%)
<b>Total Basic Compensation</b>	<b>one hundred</b>	<b>percent (</b>	<b>100</b>	<b>%)</b>

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

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

**§ 11.7** The hourly billing rates for services of the Architect and the Architect's consultants, if any, are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices. *(If applicable, attach an exhibit of hourly billing rates or insert them below.)*

Refer to Architect's Fee Proposal attached hereto labeled Exhibit B for Architect's Hourly Rates

Employee or Category	Rate
----------------------	------

**§ 11.8 Compensation for Reimbursable Expenses**

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

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

§ 11.8.2 Reimbursable Expenses compensation is a lump sum amount included in the overall professional fee. Refer to Exhibit B.

## § 11.9 Payments to the Architect

### § 11.9.1 Initial Payment

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

### § 11.9.2 Progress Payments

§ 11.9.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid 30 ( thirty ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

*(Insert rate of monthly or annual interest agreed upon.)*

One point five % per month

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

§ 11.9.2.3 Records of Reimbursable Expenses and hourly services pertaining to Additional Services shall be documented in each invoice from the Architect.

## ARTICLE 12 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Agreement are as follows:

*(Include other terms and conditions applicable to this Agreement.)*

§ 12.1 The Texas Board of Architectural Examiners, 333 Guadalupe, Suite 2-350, Austin, TX 78701-3942, ph. 512.305.9000, has jurisdiction over individuals licensed under the Architects Registration Law, Article 249A, VTCS.

§ 12.2 By signing this contract, Architect hereby verifies that it does not boycott Israel and will not boycott Israel during the term of this contract. Boycotting Israel is defined in Texas Government Code section 808.001 to mean refusing to deal with, terminating business activities with, or taking any action that is intended to penalize, inflict economic harm on, or limit commercial relations specifically with Israel, or with a person or entity doing business in Israel or in an Israeli-controlled territory, but does not include an action made for ordinary business purposes.

## ARTICLE 13 SCOPE OF THE AGREEMENT

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

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

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

*(Paragraph deleted)*

- .3 Exhibits:

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

AIA A104-2017 Exhibit A

Exhibit B – Architect's Fee Proposal and Hourly Rates for Personnel

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

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

**CITY OF KILLEEN, TEXAS**

OWNER (Signature)

(Printed name and title)

**RANDALL SCOTT ARCHITECTS, INC.**

ARCHITECT (Signature)

*Randall B. Scott, AIA*

Randall B. Scott, AIA, Founding Principal

(Printed name, title, and license number, if required)

Init.



## Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Randall B. Scott, AIA, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 17:00:08 ET on 01/07/2021 under Order No. 3736888881 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B104™ – 2017, Standard Abbreviated Form of Agreement Between Owner and Architect, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

Randall B. Scott, AIA  
(Signed)

FOUNDING PRINCIPAL  
(Title)

1.7.21  
(Dated)

# **AIA**® Document A104™ – 2017 Exhibit A

## ***Determination of the Cost of the Work***

### **for the following PROJECT:**

*(Name, location and brief description)*

Killeen Community and Senior Center Renovations  
2201 E. Veterans Memorial Blvd  
Killeen, TX 76542

### **THE OWNER:**

*(Name, legal status, address and other information)*

City of Killeen  
101 N. College St  
Killeen, TX 76541

### **THE CONTRACTOR:**

*(Name, legal status, address and other information)*

### **THE ARCHITECT:**

*(Name, legal status, address and other information)*

Randall Scott Architects, Inc.  
2140 Lake Park Blvd., Suite 300  
Richardson, TX 75080  
972.664.9100

### **ADDITIONS AND DELETIONS:**

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

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

## **ARTICLE A.1 COSTS TO BE REIMBURSED**

### **§ A.1.1 Cost of the Work**

**§ A.1.1.1** The term Cost of the Work shall mean costs necessarily incurred by the Contractor in the proper performance of the Work. The Cost of the Work shall include only the items set forth in this Article A.1.

**§ A.1.1.2** Where, pursuant to the Contract Documents, any cost is subject to the Owner's prior approval, the Contractor shall obtain such approval in writing prior to incurring the cost.

### **§ A.1.2 Labor Costs**

**§ A.1.2.1** Wages or salaries of construction workers directly employed by the Contractor to perform the construction of the Work at the site or, with the Owner's prior approval, at off-site workshops.

§ A.1.2.2 Wages or salaries of the Contractor's supervisory and administrative personnel when stationed at the site and performing Work, with the Owner's prior approval.

§ A.1.2.2.1 Wages or salaries of the Contractor's supervisory and administrative personnel when performing Work and stationed at a location other than the site, but only for that portion of time required for the Work, and limited to the personnel and activities listed below:

*(Identify the personnel, the type of activity, and, if applicable, any agreed percentage of time to be devoted to the Work.)*

§ A.1.2.3 Wages or salaries of the Contractor's supervisory or administrative personnel engaged at factories, workshops or while traveling, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.

§ A.1.2.4 Costs paid or incurred by the Contractor, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits, and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations, and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Section A.1.2.

§ A.1.2.5 If agreed rates for labor costs, in lieu of actual costs, are provided in this Agreement, the rates shall remain unchanged throughout the duration of this Agreement, unless the parties execute a Modification.

#### § A.1.3 Subcontract Costs

Payments made by the Contractor to Subcontractors in accordance with the requirements of their subcontracts and this Agreement.

#### § A.1.4 Costs of Materials and Equipment Incorporated in the Completed Construction

§ A.1.4.1 Costs, including transportation and storage at the site, of materials and equipment incorporated or to be incorporated in the completed construction.

§ A.1.4.2 Costs of materials described in the preceding Section A.1.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Contractor. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

#### § A.1.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items

§ A.1.5.1 Costs of transportation, storage, installation, dismantling, maintenance, and removal of materials, supplies, temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Contractor at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment, and tools that are not fully consumed shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Contractor shall mean fair market value.

§ A.1.5.2 Rental charges for temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Contractor at the site, and costs of transportation, installation, dismantling, minor repairs, and removal of such temporary facilities, machinery, equipment, and hand tools. Rates and quantities of equipment owned by the Contractor, or a related party as defined in Section A.1.8.1, shall be subject to the Owner's prior approval. The total rental cost of any such equipment may not exceed the purchase price of any comparable item.

§ A.1.5.3 Costs of removal of debris from the site of the Work and its proper and legal disposal.

§ A.1.5.4 Costs of the Contractor's site office, including general office equipment and supplies.

**§ A.1.6 Miscellaneous Costs**

**§ A.1.6.1** Premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract.

**§ A.1.6.1.1** Costs of self-insurance for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior approval.

**§ A.1.6.1.2** Costs of insurance through a captive insurer owned or controlled by the Contractor, with the Owner's prior approval.

**§ A.1.6.2** Sales, use, or similar taxes, imposed by a governmental authority that are related to the Work and for which the Contractor is liable.

**§ A.1.6.3** Fees and assessments for the building permit and for other permits, licenses, and inspections for which the Contractor is required by the Contract Documents to pay.

**§ A.1.6.4** Fees of laboratories for tests required by the Contract Documents, except those related to defective or nonconforming Work for which reimbursement is excluded by Article 18 of the Agreement or by other provisions of the Contract Documents, and which do not fall within the scope of Section A.1.7.3.

**§ A.1.6.5** Royalties and license fees paid for the use of a particular design, process, or product required by the Contract Documents.

**§ A.1.6.5.1** The cost of defending suits or claims for infringement of patent rights arising from requirements of the Contract Documents, payments made in accordance with legal judgments against the Contractor resulting from such suits or claims, and payments of settlements made with the Owner's consent, unless the Contractor has reason to believe that the required design, process, or product was an infringement of a copyright or a patent, and the Contractor failed to promptly furnish such information to the Architect as required by Section 9.14 of this Agreement. The costs of legal defenses, judgments, and settlements, shall not be included in the Cost of the Work used to calculate the Contractor's Fee or subject to the Guaranteed Maximum Price.

**§ A.1.6.6** Costs for communications services, electronic equipment, and software directly related to the Work and located at the site, with the Owner's prior approval.

**§ A.1.6.7** Costs of document reproductions and delivery charges.

**§ A.1.6.8** Deposits lost for causes other than the Contractor's negligence or failure to fulfill a specific responsibility in the Contract Documents.

**§ A.1.6.9** Legal, mediation, and arbitration costs, including attorneys' fees, other than those arising from disputes between the Owner and Contractor, reasonably incurred by the Contractor after the execution of this Agreement in the performance of the Work and with the Owner's prior approval, which shall not be unreasonably withheld.

**§ A.1.6.10** Expenses incurred in accordance with the Contractor's standard written personnel policy for relocation and temporary living allowances of the Contractor's personnel required for the Work, with the Owner's prior approval.

**§ A.1.6.11** That portion of the reasonable expenses of the Contractor's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.

**§ A.1.7 Other Costs and Emergencies**

**§ A.1.7.1** Other costs incurred in the performance of the Work with the Owner's prior approval.

**§ A.1.7.2** Costs incurred in taking action to prevent threatened damage, injury or loss in case of an emergency affecting the safety of persons and property.

**§ A.1.7.3** Costs of repairing or correcting damaged or nonconforming Work executed by the Contractor, Subcontractors, or suppliers, provided that such damaged or nonconforming Work was not caused by the negligence

of, or failure to fulfill a specific responsibility by, the Contractor, and only to the extent that the cost of repair or correction is not recovered by the Contractor from insurance, sureties, Subcontractors, suppliers, or others.

#### **§ A.1.8 Related Party Transactions**

**§ A.1.8.1** For purposes of this Section A.1.8, the term "related party" shall mean (1) a parent, subsidiary, affiliate, or other entity having common ownership of, or sharing common management with the Contractor; (2) any entity in which any stockholder in, or management employee of, the Contractor holds any equity interest in excess of ten percent in the aggregate; (3) any entity which has the right to control the business or affairs of the Contractor; or (4) any person, or any member of the immediate family of any person, who has the right to control the business or affairs of the Contractor.

**§ A.1.8.2** If any of the costs to be reimbursed arise from a transaction between the Contractor and a related party, the Contractor shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction in writing, then the cost incurred shall be included as a cost to be reimbursed, and the Contractor shall procure the Work, equipment, goods or service from the related party, as a Subcontractor, according to the terms of Article A.4. If the Owner fails to authorize the transaction in writing, the Contractor shall procure the Work, equipment, goods, or service from some person or entity other than a related party according to the terms of Article A.4.

### **ARTICLE A.2 COSTS NOT TO BE REIMBURSED**

**§ A.2.1** The Cost of the Work shall not include the items listed below:

- .1 Salaries and other compensation of the Contractor's personnel stationed at the Contractor's principal office or offices other than the site office, except as specifically provided in Section A.1.2.2;
- .2 Bonuses, profit sharing, incentive compensation, and any other discretionary payments, paid to anyone hired by the Contractor or paid to any Subcontractor or vendor, unless the Owner has provided written approval before such costs are incurred;
- .3 Expenses of the Contractor's principal office and offices other than the site office;
- .4 Overhead and general expenses, except as may be expressly included in Article A.1;
- .5 The Contractor's capital expenses, including interest on the Contractor's capital employed for the Work;
- .6 Except as provided in Section A.1.7.3 of this Agreement, costs due to the negligence of, or failure to fulfill a specific responsibility of the Contract by, the Contractor, Subcontractors and suppliers, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable;
- .7 Any cost not specifically and expressly described in Article A.1; and
- .8 Where a Guaranteed Maximum Price is part of this Agreement, costs, other than costs included in Change Orders approved by the Owner, that would cause the Guaranteed Maximum Price to be exceeded.

### **ARTICLE A.3 DISCOUNTS, REBATES AND REFUNDS**

**§ A.3.1** Cash discounts obtained on payments made by the Contractor shall accrue to the Owner if (1) before making the payment, the Contractor included the amount to be paid, less such discount, in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Contractor with which to make payments; otherwise, cash discounts shall accrue to the Contractor. Trade discounts, rebates, refunds, and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Contractor shall make provisions so that they can be obtained.

**§ A.3.2** Amounts that accrue to the Owner in accordance with Section A.3.1 shall be credited to the Owner as a deduction from the Cost of the Work.

### **ARTICLE A.4 SUBCONTRACTS AND OTHER AGREEMENTS**

**§ A.4.1** Those portions of the Work that the Contractor does not customarily perform with the Contractor's own personnel shall be performed under subcontracts or other appropriate agreements with the Contractor. The Owner may designate specific persons from whom, or entities from which, the Contractor shall obtain bids. The Contractor shall obtain bids from Subcontractors and from suppliers of materials or equipment fabricated especially for the Work who are qualified to perform that portion of the Work in accordance with the requirements of the Contract Documents. The Contractor shall deliver such bids to the Architect and Owner with an indication as to which bids the Contractor intends to

accept. The Owner then has the right to review the Contractor's list of proposed subcontractors and suppliers and, in consultation with the Architect, object to any subcontractor or supplier. Any advice of the Architect, or approval or objection by the Owner, shall not relieve the Contractor of its responsibility to perform the Work in accordance with the Contract Documents. The Contractor shall not be required to contract with anyone to whom the Contractor has reasonable objection.

**§ A.4.2** When the Contractor has provided a Guaranteed Maximum Price, and a specific subcontractor or supplier (1) is recommended to the Owner by the Contractor; (2) is qualified to perform that portion of the Work; and (3) has submitted a bid that conforms to the requirements of the Contract Documents without reservations or exceptions, but the Owner requires that another bid be accepted, then the Contractor may require that a Change Order be issued to adjust the Guaranteed Maximum Price by the difference between the bid of the person or entity recommended to the Owner by the Contractor and the amount of the subcontract or other agreement actually signed with the person or entity designated by the Owner.

**§ A.4.3** Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the Owner's prior written approval. If a subcontract is awarded on the basis of cost-plus a fee, the Contractor shall provide in the subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Contractor in Article A.5.

#### **ARTICLE A.5 ACCOUNTING RECORDS**

**§ A.5.1** The Contractor shall keep full and detailed records and accounts related to the Cost of the Work and exercise such controls as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Contractor's records and accounts, including complete documentation supporting accounting entries, books, job cost reports, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, Subcontractor's invoices, purchase orders, vouchers, memoranda, and other data relating to this Contract. The Contractor shall preserve these records, for a period of three years after final payment, or for such longer period as may be required by law.

**§ A.5.2** When the Contractor believes that all the Work required by the Agreement has been fully performed, the Contractor shall deliver to the Owner's auditors a final accounting of the Cost of the Work.

**§ A.5.3** The Owner's auditors will review and report in writing on the Contractor's final accounting within 30 days after delivery of the final accounting to the Architect by the Contractor. Based upon such Cost of the Work as the Owner's auditors report to be substantiated by the Contractor's final accounting, and provided the other conditions of Section 4.2.1 of the Agreement have been met, the Architect will, within seven days after receipt of the written report of the Owner's auditors, either issue to the Owner a final Certificate for Payment with a copy to the Contractor, or notify the Contractor and Owner in writing of the Architect's reasons for withholding a certificate as provided in Section 15.4.3 of the Agreement. The Architect is not responsible for verifying the accuracy of the Contractor's final accounting.

**§ A.5.4** If the Owner's auditors' report concludes that the Cost of the Work as substantiated by the Contractor's final accounting is less than claimed by the Contractor, the Contractor shall be entitled to request mediation of the dispute without a further decision of the Architect. A request for mediation shall be made by the Contractor within 30 days after the Contractor's receipt of a copy of the Architect's final Certificate for Payment. If the Contractor fails to request mediation within this 30-day period, the substantiated amount reported by the Owner's auditors shall become binding on the Contractor. Pending a final resolution of the disputed amount, the Owner shall pay the Contractor the amount, if any, determined by the Owner's auditors to be due the Contractor.

**§ A.5.5** If, subsequent to final payment and at the Owner's request, the Contractor incurs costs in connection with the correction of defective or non-conforming work as described in Article A.1, Costs to be Reimbursed, and not excluded by Article A.2, Costs Not to be Reimbursed, the Owner shall reimburse the Contractor such costs and the Contractor's Fee applicable thereto on the same basis as if such costs had been incurred prior to final payment, but not in excess of the Guaranteed Maximum Price, if any. If the Contractor has participated in savings, the amount of such savings shall be recalculated and appropriate credit given to the Owner in determining the net amount to be paid by the Owner to the Contractor.



**EXHIBIT 'B' TO THE  
OWNER ARCHITECT AGREEMENT**

**Revised December 8, 2020**

Mr. Kent Cagle  
City Manager  
City of Killeen  
101 N. College Street  
Killeen, Texas 76541

**RE: PROPOSAL TO PROVIDE ARCHITECTURAL/ENGINEERING SERVICES FOR KILLEEN COMMUNITY  
AND SENIOR CENTER RENOVATIONS**

**I. PROJECT SCOPE**

This proposal is submitted by Randall Scott Architects, Inc. (hereinafter referred to as RSA or Architect) to the City of Killeen (herein after referred to as the City, Owner or Client) to provide Architectural/Engineering Design Services for the Killeen Community and Senior Center Renovations.

**A. PROJECT CRITERIA**

**1. OVERVIEW**

- a. The project scope is based upon a Needs Assessment and Conceptual Design prepared by Randall Scott Architects for the Killeen Community and Senior Center Renovation as presented to Staff May 12, 2020 (Floor and Site Plan) and June 2, 2020 (Fly-around/Fly-through).
- b. Construction Only Cost (COC) for the project excluding a new gym is anticipated to be approximately \$4.3M.
- c. The Total Project Cost (TPC) is estimated to be approximately \$5.5M. Total Project Cost includes the Construction Only Cost, A/E fees, contingencies, surveying, third party materials testing services, FF&E and other non-construction related project costs.
- d. The general project scope includes renovating the existing Killeen Community Center and adding Senior Center functions to it with a separate entrance for seniors.
- e. RSA assumes the City will use either Competitive Sealed Proposal or CMAR delivery method for construction.

**II. PRE-DESIGN PHASE SERVICES**

**A. PROGRAM OF REQUIREMENTS**

1. The Pre-Design services for this project have been completed by RSA including the Needs Assessment, Visioning Session, the Conceptual Design and Preliminary Construction Only Cost Estimate.

### III. BASIC SERVICES

#### A. SCHEMATIC DESIGN PHASE (25% COMPLETE)

Schematic Design Phase services provided by RSA and our Consultants for this project shall consist of the following:

1. Perform a detailed code and zoning review for the proposed projects and consult with the City on any changes that impact the design.
2. **Workshop # 1** – Within 30 days after receiving notice to proceed, **RSA will meet with the Stakeholders** to review their comments on the Conceptual Design proposed in the Needs Assessment.
3. **Attend a Town Hall meeting** with Staff, Council and Senior Citizens to present basic information about the proposed design and gather final input.
4. Prepare **final Schematic Design site plans, floor plans and renderings** of RSA's proposed design incorporating final review comments **and submit for the City's review** in electronic format. City Staff shall review and respond to RSA with review comments within 14 days of receipt of the SD package electronic files.
5. Prepare a Project Schedule for the project.
6. Coordinate the MEP, structural, civil, IT/AV and landscape architecture consultants' Schematic Design services and drawings.
7. Prepare a preliminary Technical Specifications Table of Contents.
8. Confirm ADA, general power and fire protection requirements for the project.
9. Prepare an updated Schematic Design Cost Estimate with 20% contingency. **Note: RSA's original cost estimate in the Needs Assessment did not include a 20% contingency in it. This will increase the cost of the project.**
10. Collaborate with the City in reconciling the project scope, budget and estimated construction cost.
11. Prepare a PowerPoint presentation of the Final Schematic Design Drawings, Project Schedule and SD Cost Estimate and assist Staff in presenting to Council for approval if requested.
12. Prepare and distribute meeting notes documenting the basic issues, resolutions and action items agreed to during this phase.

#### B. DESIGN DEVELOPMENT PHASE (50% COMPLETE)

Based on the approved Schematic Design documents and reconciled SD Cost Estimates, the Design Team will prepare the following Design Development documents:

1. Cover Page
2. General Notes
3. Architectural site plan illustrating the current site and proposed building improvements
4. Architectural floor plan with dimensions
5. Roof Plan
6. Partition types
7. Proposed room finish & door schedules
8. Exterior building elevations
9. Wall sections
10. Preliminary section details
11. Reflected ceiling plan
12. Millwork elevations
13. Interior elevations



14. Preliminary interior finishes plans
15. Unedited technical specifications for all trades (CSI Divisions 1-33)
16. 50% complete mechanical, electrical and plumbing drawings and details
17. 50% complete structural plans and details
18. 50% complete civil site plans and details
19. 50% complete AV/IT (low voltage systems) plans and details on separate sheets
20. Incorporate Center's IT point-to-point 50 MG Link connection with Central Fire Station upgrade.  
**Note: RSA was unaware of this requirement during the Needs Assessment. This additional scope may cause the cost of the project to increase over the budget established by the Needs Assessment.**
21. Preliminary landscape architecture plans and site details
22. Prepare a DD Cost Estimate with 15% contingency, or provide documents to the CMAR if CMAR delivery is chosen, and collaborate with the Owner to adjust the Design Development scopes of work to reconcile with the City's budget. **Note: RSA did not include this large of a contingency in the Needs Assessment. Using this large of a contingency may cause the cost of the project to increase.**
23. Submit the Design Development drawings and specifications documents to City Staff for review in electronic format. City Staff shall review and respond to RSA with review comments within 14 days of receipt of the DD documents electronic files.
24. Prepare and distribute meeting notes documenting the basic issues, resolutions and action items agreed to during this phase.
25. **Attend meetings with City Staff** to review the Design Development documents, DD cost estimate and status of the Project Schedule.

**C. CONSTRUCTION DOCUMENTS PHASE (75% & 100% SIGNED AND SEALED DOCUMENTS)**

Based on the approved Design Development documents and reconciled DD Cost Estimate, the Design Team will prepare 75% complete Construction Documents and 100% complete (signed and sealed) Construction Documents inclusive of the City of Killeen's front end Project Manual documents. A copy of the 100% Construction Documents shall be printed and delivered to City of Killeen's Purchasing/Finance department. An updated 100% CD estimate will be provided with the final Construction Documents (unless CMAR delivery is utilized in which case this estimate will be provided by the CMAR). At both the 75% and 95% CD completion stages, these documents will be submitted to City Staff for review. Staff shall review and provide response comments to RSA within 14 days of receipt of the documents to the City.

The Construction Documents will include a base bid scope of work and add alternates which the Design Team will agree upon with the City to assist in managing the project costs. The Design Team will work with the Owner, and CMAR if CMAR delivery is chosen, to make final adjustments to the project scope and construction documents to reconcile the scope and cost estimate with the City's budget. Once the scope and estimate are reconciled with the budget including a 10% contingency, the Design Team will issue the final CD's for bidding. **Note: a 10% contingency is very large. We would recommend 7.5%-8% contingency for this type/size of project.** Such a large contingency would cause the cost of the project to be over the \$4.3M estimate prepared by RSA in the Needs Assessment.

The Construction Documents Phase includes attendance by the Design Team at **meetings with the Owner and other entities** to coordinate the Construction Documents and pricing. Services during this phase include the preparation and distribution of project meeting notes documenting the basic issues, resolutions and action items agreed to during this phase.

#### **D. BIDDING & NEGOTIATION PHASE**

Once the final Construction Documents are approved by the Owner, the Design Team will provide the following services during the Bidding and Negotiation Phase:

1. Coordinate with the City of Killeen Purchasing Dept. to distribute electronic PDF files of the bidding documents plans and specifications to interested general Contractors. The printing of these documents for bidding and construction shall be at the Contractor's expense. RSA does not provide printed sets of plans and specs for bidders' use.
2. Attend a Pre-Bid Conference at the project site or a location designated by the Owner if requested.
3. Coordinate with the City of Killeen Purchasing Dept. to answer Contractor questions during the bidding phase about the construction documents and intended design.
4. Review substitution requests from bidders up until 7 days prior to bid date. Coordinate with the City of Killeen Purchasing Dept. to issue addenda documenting any approved substitution requests 3 days prior to bid date.
5. Prepare addenda and coordinate with City of Killeen Purchasing Dept. to issue them to Contractors clarifying questions on the drawings and specifications.
6. Prepare and distribute project meeting notes documenting the basic issues, resolutions and action items agreed to in meetings attended by the Architect during this phase.
7. The Owner's maximum Construction Only Cost for this project as of the time of this proposal is \$4.3M. Architect's final opinion of probable cost will be provided for cost comparison with bids.
8. Coordinate with City of Killeen in developing the Owner/Contractor Agreement.
9. Reconcile bids and provide recommendation on best value Contractor.

#### **E. CONTRACT ADMINISTRATION PHASE**

During the Construction Administration Phase, the Design Team will provide the following Services:

1. Conduct a Pre-Construction Meeting to discuss the issues of coordination, points of contact for each entity and protocol to be followed during the Construction Phase of the project.
2. **Visit the site twice monthly** to review construction in an effort to determine in general whether or not, when the Project is completed, it will be constructed in substantial accordance with the Contract Documents. While on site, the Architect will **attend OAC Meetings** with the Owner and Contractor to review the project status, previous set of construction meeting notes, submittal logs, ASI logs, RFI logs and construction schedule status along with coordination issues that need resolution by the group. Architect will attend virtual on-line OAC meetings during the weeks between on-site visits.
3. Review substitution requests from the Contractor only for materials and products which become unavailable during the Construction Phase due to circumstances beyond the Contractor's control.
4. Review submittals and shop drawings required by the Contract Documents and provide direction to the Contractor on how to proceed (No Exceptions Taken, Revise and Resubmit, etc.).

5. Review the Contractor's Requests for Information (RFI's) and respond as deemed appropriate by the Architect.
6. Prepare Architect's Supplemental Instructions (ASI's) when deemed necessary by the Architect and issue them to the Contractor.
7. Review the Contractor's Cost Proposal Requests (CPR's), make recommendations to the Owner and process change orders.
8. Review Contractor's Applications for Payment and transmit to the City for payment with any recommended adjustments from the Design Team.
9. Prepare a punch list for each discipline and perform a final walk-through for verification that punch list items have been completed.
10. Establish dates of Substantial and Final Completion and prepare certificates for same.
11. Coordinate project close out, receipt of warranty & maintenance binders from the Contractor.
12. Coordinate the preparation of as-built documents and deliver them to the Owner.

#### **IV. ADDITIONAL SERVICES**

Additional Services are all services not explicitly listed under Section III *Basic Services* of this Proposal. Additional Services shall be provided when requested by the City on an hourly or negotiated fee basis in addition to the fees charged for the services outlined in Section III above. Prior to beginning Additional Services work, RSA shall submit an Additional Services Proposal (ASP) to the City outlining the proposed scope of services and request approval from the City in writing if it believes that Additional Services are warranted or have been requested by the City. Additional Services include, but are not limited to, the following:

- A. Revisions requested by the City to the Architect's Work resulting in changes in the design, scope and/or quality. Revisions to the Architect's Work or documents due to changes in the information provided to the Architect by the City.
- B. Preparing Design alternatives (other than those listed in Section III above) and redesign services for the project including, but not limited to, redesign services required due to the City making changes to the project scope.
- C. Meetings with citizen groups (outside of the one listed under the Basic Services portion of this Proposal and normal Council presentations) to present information about the project. RSA will assist staff in presenting our work to Council during regular Council Meetings as a Basic Service if requested.
- D. Field verification of existing conditions necessary to complete the design team's work not indicated on as-built documents provided to the Architect by the City.
- E. Consulting services required to complete the project which are not specifically listed under the Professional Fee Sections VI.A *Basic Services*.
- F. Design of structural foundations such as carton form or pier and beam with crawl space foundation systems.
- G. Design of off-site utilities beyond the property line of the project site being designed by RSA under this agreement.
- H. Platting or rezoning services.
- I. Surveying services (shall be provided to RSA by the Owner).
- J. Geotechnical engineering services and reports (shall be provided to RSA by the Owner).
- K. Coordination services associated with environmental, archeological and historic building assessments including, but not limited to: 1) historic building evaluations of the property required by governing agencies, 2) archeological evaluations of the property required by governing

agencies; 3) evaluation of the presence and potential impact of special conditions or sensitive receptors present on the property such as wetlands, endangered species and native trees required by governing agencies.

- L. Preparation of change orders not the fault of the architect or his consultants.
- M. All work associated with the location and modifications to the floodplain and creek areas adjacent to the project.
- N. Development of artwork packages for the building.
- O. Design services regarding repurposing of the site currently occupied by the existing Bob Gilmore Sr. Center into a garden area or other functions. The cost of repurposing this area is not within the budget estimate provided on this project by RSA.

## V. PRELIMINARY PROJECT SCHEDULE

The schedule for this project will be determined as part of the scope of services provided by RSA.

## VI. PROFESSIONAL FEES

### A. BASIC SERVICES

1. The minimum fee for <i>Basic Services</i> inclusive of the Architectural, Structural and MEP engineering services outlined in Section III Basic Services of this Proposal for the Community Center/Senior Center Expansion/Renovation shall be provided based on a fee percentage of 8.5% times the \$4.3M Construction Only Cost Est.	<b>\$355,500</b>
2. Field Verification of Community Center existing conditions	<b>\$13,350</b>
3. Civil Engineering Services	<b>\$18,275</b>
4. Audio Visual & Acoustical Consultant	<b>\$12,450</b>
5. Technology Consultant (IT Services)	<b>\$15,650</b>
6. Landscape Architecture and Irrigation Design	<b>\$20,375</b>
7. Newforma Project Management Software License for Project	<b>\$1,500</b>
8. Registered Accessibility Specialist	<b>\$3,200</b>
9. FF&E Design Services	<b>\$27,250</b>
10. Detailed Cost Estimating Services	<b>\$20,175</b>
11. Envelope Consultant Services	<b>\$12,250</b>
12. Lump Sum for Reimbursable Expenses	<b>\$32,750</b>
<b>Total Basic Services Fees</b>	<b>\$532,725</b>

1. **Note: The above fees are based on the Community/Senior Center Facilities and associated site work at a budgeted Construction Only Cost (COC) of \$4.3M with a Total Project Cost (TPC) of approximately \$5.5M. Should the Construction Only Cost (COC) or Owner's Construction Budget be increased during the course of this project to exceed \$4.3M, RSA's fees shall at that time be increased at a fee percentage of 8.5% times the amount exceeding the \$4.3M COC at the time the City increases their budget or the COC. A final**

**adjustment to RSA's fees will be made at the end of the construction phase of the Project once the final construction cost is known.**

**B. OPTIONAL ADDITIONAL SERVICES**

1. Optional Additional Services for the project shall be provided for the following lump sum fees when requested/agreed to by the Client.
  - a. Structural Foundation (pier and beam or carton form foundation) \$5,750
  - b. Artwork and accessories design package \$5,350

**C. ADDITIONAL SERVICES**

1. Additional Services for the project shall be provided at the following hourly rates or negotiated on a lump sum basis at the time they are required:

Founding Principal	\$300.00/hr.
Principal	\$275.00/hr.
Sr. Vice President	\$250.00/hr.
Vice President/PM	\$225.00/hr.
Project Architect	\$200.00/hr.
Staff Architect	\$185.00/hr.
Visualization Renderer	\$185.00/hr.
Interior Designer	\$185.00/hr.
Administrative	\$105.00/hr.
Consultants	Cost + 10%

**VII. PROFESSIONAL REGISTRATION**

The Texas Board of Architectural Examiners, 333 Guadalupe, Suite 2-350, Austin, Texas 78701-3942, phone: 512.305.9000, has jurisdiction over individuals licensed under the Architects' Registration Law, Article 249A, VTCS.

**VIII. TERMS AND CONDITIONS**

- A. This Proposal is valid for 90 days from the date at the top of the first page of this document unless included as an attachment to a fully executed purchase order and a fully executed AIA B104 2017 Owner Architect Agreement prior to that date.
- B. The City shall provide, and the Architect shall be entitled to rely upon the accuracy of: **1)** a detailed boundary and topographic survey of the site with grades at 1 foot intervals; spot grades for top and bottom of curbs at 5' intervals, trees (caliper at 3' above grade, canopy size and species); above and below ground utilities locations including flow line elevations and capacities; surrounding streets and full width of ROW locations; 2 benchmarks tied to USGS surveys; and the location of all improvements on and adjacent to the site including the existing Senior Center and adjacent parking areas; **2)** a geotechnical report with shallow and deep borings and recommendations for the design of the new slab, foundation and paving designs; and **3)** reasonably accurate as-built construction documents of the existing Killeen Community Building RSA will be working on.
- C. The Owner acknowledges that all projects such as the one being contemplated are required by law to be submitted to the Texas Department of Licensing & Regulation for handicap accessibility review. The Architect will submit plans for the proposed project to TDLR for review. The Owner acknowledges that the construction documents are not complete until TDLR has approved them

and any comments they require are incorporated even though construction may have begun and even be completed before comments are received. The Architect and his Consultants shall not be held financially responsible for changes to the project required by TDLR.

- D. The Owner acknowledges that RSA has no responsibility for the discovery of nor remediation of hazardous materials including, but not limited to, asbestos, PCP's, lead, etc. and that these are the responsibility of the Owner.

#### **IX. EXCLUSIONS**

The following items are specifically excluded from the Design Team's scope of work and this proposal:

- A. Geotechnical engineering services.
- B. Environmental, archaeological and historical assessment services required for the project.
- C. Site surveying (topographic and boundary with utilities information)
- D. Off-site paving, utilities and storm drainage system design services.

**Randall Scott Architects appreciates the opportunity to submit the above Proposal and looks forward to continuing our design services with the City of Killeen on this important Project!**

Thank you,

RANDALL SCOTT ARCHITECTS, INC.

*Randall B. Scott, AIA*

Randall B. Scott, AIA  
President & CEO



Existing City of Killeen  
Community/Senior Center