
DATE:	November 27, 2023		
PROJECT:	Aggieland HS Portables College Station, TX	PNa PROJECT #:	23-019
CONSULTANT TEAM:			
CIVIL ENGINEER:	Kimley Horn		
LANDSCAPE:	Kimley Horn		
MEP Engineer:	JFTE		

PROJECT DESCRIPTION:

Scope of this project includes the addition of 1 portable classroom unit that include 2 classrooms. These are intended to be dry units and students will use the restrooms inside the new school. Accessible access will be provided by the classroom manufacturer and installer. Portable units to be located per the civil drawings.

PROJECT SCOPE:

- Site plan showing site improvements, layout, and utilities.
- Utility models, plans and reports showing proper analysis for review by the authority having jurisdiction and construction.
- Specifications for construction of utility connections.
- Topographic and utility survey within the location boundary of the portable units will be completed.
- Site visits as required to complete the work.

EXCLUSIONS:

- ADA/TAS compliance review and additional permitting
- Platting, re-platting
- Zoning, re-zoning
- Traffic impact analysis
- Main utility line extensions
- Detention design
- Construction staking
- Accessible ramp and stair design and documentation.
- Foundation design and documentation.
- Design of portable units.

DELIVERABLES:

- Agency review application and drawing submittal to the City of College Station for plan review.
- Construction documents for bidding and construction.



PROPOSED FEE:

The following proposed fee includes Architectural Design assistance, Civil Engineering and necessary landscape adjustments required to submit for permitting, execution of the work and to facilitate bidding.

Survey	Fee Per KH proposal attached
Civil Engineering	Fee Per KH proposal attached
JFTE Engineers	Fee Per JFTE proposal attached
Architectural Assistance and Support *Hourly Time and Materials Estimate	Fee \$8,000

*Based on Pivot North architecture 2023 Rates

Please review the attached Contract Terms and Conditions. If this scope and terms are agreeable, please sign and return a copy for my records. We look forward to working with you on this project.



Clint Sievers, AIA
Principal
Pivot North architecture, PLLC

International Leadership of Texas

CONTRACT TERMS AND CONDITIONS

1. CONTRACT. These Contract Terms and Conditions and the Provisions and the accompanying Proposal or Scope of Services (collectively "Scope") constitute the full and complete Agreement between Consultant and Client (the "Agreement") and supersede all prior negotiations, representations or agreements, either written or oral. The Agreement shall not be amended, waived, or superseded in whole or in part except in a writing signed by all parties. These Contract Terms and Conditions shall control over any inconsistency between them and any writing relating to the transactions between Consultant and Client arising under the Agreement.

2. PAYMENT. Unless the Scope provides otherwise, Client shall pay Consultant as stated herein. Client shall pay Consultant monthly for services rendered and reimbursable expenses. Client shall issue payment of all undisputed amounts within 30 calendar days of receiving Consultant's invoice. If Client does not pay an invoice within 30 days of receiving it, Consultant may, upon written notice to Client, suspend further work until payments are brought current. Client agrees to indemnify and hold Consultant harmless from any claim or liability resulting from such suspension. Client shall pay Consultant a service fee of 1.5% per month on invoiced amounts not paid after 30 calendar days.

Within 15 calendar days of receiving an invoice, Client shall notify Consultant in writing of any dispute over the invoice amount or invoiced services, and waives its rights to all disputes regarding an invoice if it does not so notify Consultant. If Client and Consultant do not resolve the dispute within 25 calendar days after Client's notice to Consultant, the dispute must be resolved in accordance with the Dispute Resolution provisions of this Agreement. Client shall not withhold any payment amount for contractual penalties, contract damages, liquidated damages, or any other set off, unless Consultant is adjudged liable for that amount prior to the date the payment is due. Consultant has the right to all legal remedies to obtain payment. Client shall pay Consultant's costs and attorney fees, incurred in seeking payment of invoices not paid when due.

3. REIMBURSABLE EXPENSES. Reimbursable Expenses will be billed at Consultant's cost plus 15%. Reimbursable Expenses are Consultant's actual expenses incurred directly or indirectly in connection with the services provided, which may include but are not limited to, travel costs, materials, supplies, document reproduction, municipal fees and taxes, delivery and courier services; and costs responding to subpoenas or other legal process regarding the Agreement or Scope.

4. DOCUMENTS. All reports, notes, drawings, specifications, data, calculations, and other documents, including those in electronic form, prepared by Consultant are instruments of Consultant's service and shall remain Consultant's property ("Instruments of Service"). Unless otherwise stated in the Scope, Consultant retains all rights to the Instruments of Service except that Client has a non-exclusive license to use and reproduce the Instruments of Service for the project that is the subject of the Scope. No other licenses are granted or implied. If this agreement is terminated for any reason before Consultant completes and is paid in full for its services, Client's non-exclusive license to use the Instruments of Service terminates on the date the contract is terminated. Any reuse or distribution of Instruments of Service to third parties without Consultant's written consent is prohibited and shall be at Client's sole risk and without liability to Consultant. Client shall defend, indemnify, and hold harmless Consultant from and against all costs, expenses, fees, losses, claims, demands, liabilities, suits, actions, and damages whatsoever arising out of or relating to Client's unauthorized reuse or distribution of Instruments of Service.

5. STANDARD OF CARE. Consultant shall perform services under this Agreement, including but not limited to efforts to comply with applicable codes, regulations, laws, rules, ordinances, in accordance with the standard of care for similar professionals rendering similar services under similar circumstances in the area of the project.

6. SCHEDULE AND DELAY. Except as to Client's payment obligations, the failure of a party to perform an obligation hereunder shall not be a default of the Agreement to the extent a cause beyond the reasonable control of the party with the obligation prevented the performance.

7. WAIVER OF CERTAIN DAMAGES. Consultant and Client mutually and irrevocably waive all claims for and rights to delay damages, productivity loss damages, indirect damages, consequential damages, and, to the extent not encompassed by the foregoing, damages related to loss of use, loss of profits, loss of income, loss of reputation, unrealized savings, and diminution of property value arising out of or relating to Consultant's and its subconsultants' services, performance, or breach of the Agreement.

8. LIABILITY. Client agrees the limit of Consultant's—and its officers, directors, employees, agents, and subconsultants—liability for any claims, including but not limited to negligent acts, errors, omissions, or breach of contractual obligations relating to or arising out of Consultant's—and its officers, directors, employees,

agents, and subconsultants—services shall not exceed the greater of \$_____ (If no amount is stated herein, Consultant's total compensation under the Agreement shall be the liability limit.) or Consultant's total compensation under the Agreement. This limitation applies to Client and Client's contractors and subcontractors on the project. Client agrees to require its contractors and subcontractors to execute an agreement limiting liability in accordance with this paragraph.

9. INDEMNIFICATION. Client shall defend, indemnify and hold harmless Consultant—and its officers, directors, employees, agents, and subconsultants—from and against all claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of Client's or Client's other consultants', contractors', and subcontractors' services performed, negligent acts, errors or omissions, or other conduct relating to the project.

10. RIGHT OF ENTRY. Client shall obtain or provide the legal right of Consultant—and those assisting it in performing the work—to enter all property necessary to perform the Scope.

11. HAZARDOUS MATERIALS. Unless the Scope provides otherwise, Consultant's services under the Agreement do not include any obligation to investigate, detect, or remediate hazardous materials, as defined by Federal, State, and local laws or regulations, and Consultant shall have no responsibility for the discovery, presence, handling, removal, remediation, or disposal of, or exposure of persons to, hazardous materials in any form at project.

12. DISPOSAL OF SAMPLES. Unless the Scope provides, Consultant has the right to discard all samples of any kind relating to the project upon completing the Scope.

13. FAIR HOUSING. Client acknowledges that the requirements of Americans with Disabilities Act ("ADA") and the Fair Housing Act (as well as all state and local laws, codes, or ordinances, that apply to the same subject matter) may be subject to various and possibly contradictory interpretations. Consultant will endeavor to use reasonable professional efforts to interpret applicable requirements that apply to its services. Consultant cannot and does not promise, warrant, or guarantee that the services performed under the Agreement services will comply with interpretations of those requirements as they apply currently or in the future. In addition, the Consultant shall be entitled to rely reasonably on written interpretations and specific approvals regarding the disability requirements given by government officials with responsibility for enforcing such requirements.

14. CONSTRUCTION PHASE SERVICES. Unless the Scope provides otherwise, if Consultant provides services during the project's construction phase, Consultant has no duty, and shall be deemed to not have assumed a duty, to supervise, direct, control, or inspect the work of contractors or subcontractors, shall not have authority over or responsibility for the construction means, methods, techniques, sequences or procedures or for safety precautions and programs in connection with the work of contractors or subcontractors, and shall have no liability or responsibility for the contractors' or subcontractors' performance of their work in accordance with the Instruments of Service or any other document issued by Consultant.

15. OPINION OF COSTS. Consultant's opinions of probable cost, financial evaluations, feasibility studies, economic analyses of alternate solutions, and utilitarian considerations of operations and maintenance costs, if provided by Consultant, will be based on Consultant's experience and qualifications and will represent Consultant's judgment, but shall not be construed as a guarantee of the accuracy of such estimates. Client recognizes that Consultant does not have control over the costs of labor, material, equipment, or services furnished by others or over market conditions or contractors' methods of determining prices or performing the work and agrees that Consultant shall have no liability or responsibility arising from or related to the use of Consultant's opinions.

16. SUSPENSION OF WORK. If Client suspends Consultant's work for any reason, Client shall remain liable to, and shall pay within 30 days, Consultant for all services rendered to the date Client suspends the work, plus suspension charges, which shall include the cost of assembling documents, personnel and equipment, rescheduling or reassignment, and commitments made to others on Client's behalf.

17. CHANGES TO CONSULTANT'S FEE AND SCHEDULE COMMITMENTS. Unless the Scope provides otherwise, the proposed fee, costs and schedule commitments therein are Consultant's estimate to perform the contracted services. Consultant's fee, costs, and schedule commitments shall be renegotiated if Client, Client's contractors' or Client's subcontractor's fail to provide specified facilities, direction, or information, or if any cause beyond Consultant's reasonable control impairs Consultant's ability to perform its services within its proposed fee, costs and schedule commitments.

18. CONFLICTS OF INTEREST. Consultant may have current or past relationships with clients whose interests are adverse to Client or the project. Consultant's practice is to make reasonable attempts to identify such relationships prior to accepting a professional assignment, but Consultant cannot assure that conflicts or



perceived conflicts will not arise and shall incur no liability or responsibility for such occurrences.

19. GOVERNING LAW. The laws of the state of Idaho shall govern the validity and interpretation of this Agreement. In the event and only to the extent that Idaho law is held inapplicable for any reason, the laws of the state in which the project is located shall govern the validity and interpretation of this Agreement.

20. SEVERABILITY AND SURVIVAL. In the event any part of these Contract Provisions is found to be illegal or otherwise unenforceable, the unenforceable part shall be stricken while having no effect on the enforceability of the remaining Contract Provisions and those remaining Contract Provisions shall continue in full force and effect as if the unenforceable part was never included in the Agreement. Limitations of liability and indemnities shall survive termination of this Agreement for any cause.

21. DISPUTE RESOLUTION. Client and Consultant agree to submit all claims and disputes arising out of this Agreement to non-binding mediation before initiating legal proceedings. This provision shall survive completion or termination of this Agreement. However, neither party shall seek mediation of any claim or dispute arising out of this Agreement beyond the period of time that would bar the initiation of legal proceedings to litigate such claim or dispute under the applicable law. The mediation shall follow the Construction Industry Mediation Rules of the American Arbitration Association.

22. CONSULTANT RELIANCE. Consultant is entitled to rely on the accuracy and completeness of information provided by Client and Client's consultants and contractors, and information from public records, without independently verifying such information, and shall incur no responsibility or liability arising from the inaccuracy or incompleteness of such information.


23. CERTIFICATIONS. Unless the Scope provides otherwise, Consultant is not required to sign any certifications. Further, Consultant shall not be required to sign any documents, no matter by whom requested, that would require Consultant to certify, guaranty, or warrant the existence or non-existence of conditions Consultant cannot reasonably ascertain or require affirmation of facts outside of the scope of this agreement.

24. THIRD PARTIES. There are no third party beneficiaries to this Agreement. Nothing in this Agreement shall be construed as creating a contractual relationship with, or a cause of action in favor of, a third party against Client or Consultant.

25. NONWAIVER. Either party's waiver or failure to enforce this Agreement regarding an event constituting a breach by the other party shall not operate as or be construed as a waiver of either party's rights as to any other event constituting a breach.

Agreed to on _____
(Date)

Client: _____
(Signature)

Consultant:  _____
(Signature)





2023 Standard Hourly Rate Table*

Principal	\$185.00
Senior Project Manager	\$160.00
Project Manager	\$155.00
Project Architect	\$145.00
BIM Manager	\$150.00
QA/QC	\$155.00
Senior Project Designer	\$160.00
Project Designer III	\$120.00
Project Designer II	\$115.00
Project Designer I	\$110.00
Senior Interior Designer	\$130.00
Interior Designer	\$110.00
Administrative	\$90.00

In-House Reimbursable Costs

Rate

In-House Reimbursable Costs	Rate
Printing & Reproduction:	
Color print/copy (8.5" x 11", 11"x17")	\$1.00
Black & White print/copy (8.5" x 11", 11"x17")	\$0.08
CD/DVD Duplication	\$20.00
USB Drive Duplication (less than 2GB)	\$10.00
Mileage (per mile and consistent with current IRS rates)	\$0.655
Postage	Cost

Out-of-house reimbursable costs will include a 10% administrative mark-up over actual cost and may include but will not be limited to the following items:

- Reproductions, prints, plots & mounting
- Plan review and application fees
- Meals and approved travel expenses
- Renderings and models
- Outside professional services approved by the client

Copies of all out-of-house reimbursable expense invoices will be included with Pivot North's invoice to the client. *Rates be re and may be adjusted per annum



October 30, 2023

Mr. Clint Sievers, AIA, NCARB
Pivot North Architecture
1101 W. Grove Street
Boise, Idaho 83702

**RE: Professional Services
IL Texas Aggieldand High School – Temporary Portable Buildings
College Station, Texas**

Dear Mr. Sievers:

Kimley-Horn and Associates, Inc. (“Kimley-Horn” or “the Consultant”) is pleased to submit a project understanding, scope of services, and fee summary to Pivot North Architecture (“Client”) for the above referenced project.

PROJECT UNDERSTANDING

Kimley Horn understands that International Leadership of Texas (“Owner”) would like to install a temporary portable building on a property they lease at the intersection of Texas Ave and King Cole Drive. The Client wishes to engage Kimley Horn to preform survey, site planning, and city permitting.

The following Scope of Services consists of the services anticipated to meet the Owner’s current needs for the proposed development.

SCOPE OF SERVICES

Task 1 - Topographic Survey

Through a subconsultant, KH will prepare a topographic survey for the site to be used for site planning and civil engineering design purposes. The topographic survey is to be used in-house and will not be issued as a stand-alone survey document. The survey will consist of: Elevations around the immediate perimeter of the site; Contour lines representing the surface of the existing ground at one foot intervals based on a survey grid system and tied to existing control points; Observed (only if clearly visible from the surface) locations of existing water, sewer, storm drain, and franchised utility facility appurtenances; Dig Test markings of subsurface utilities that are in place at the time our field work is being done; and two benchmarks established with the survey.

Task 2 Minor Site Plan

Kimley-Horn will visit the site to visually observe the existing conditions. KH will prepare a “minor site plan” modification for submittal to the City of College Station. The plan will include the following items.

- Demolition Locations
- Proposed Paving Locations
- Proposed Pavement Markings and Signage
- Construction Details

Task 3 City Permitting

Civil Plans will be submitted to City and the Client for concurrent review and comment. This task includes up to two (2) submittals and response to agency comments.

Kimley-Horn will rely on the completeness and accuracy of the information provided by the Client and project team when making submittals to Agencies.

This task does not include permitting or submittal fees (to be paid by Client). *If additional effort is requested by Client or reviewing agency, including, but not limited to meetings or additional review rounds, it will be billed as an additional service, in excess of the budget amount estimated herein.*

Task 4 Bidding Phase Services

The scope of services listed below may or may not be performed as part of our construction phase services. The Consultant's role during bidding is limited and services are only provided upon request of the Architect. Because the extent of the bidding period is unknown at this time, we have projected our effort at five (5) hours based on our experience. If additional effort is required by the client or reviewing agency, it will be billed as an additional service, in excess of the budget amount estimated below.

- Attend pre-bid conference
- Respond to contractor requests for information

Task 5 Construction Phase Services

The scope of services listed below may or may not be performed as part of our construction phase services. The Consultant's role during construction is limited and services are only provided upon request of the Architect. Because the construction period is unknown at this time, we have projected our effort at fifteen (15) hours based on our experience. If additional effort is required by the client or reviewing agency, it will be billed as an additional service, in excess of the budget amount estimated below.

- Attend pre-construction conference
- Respond to contractor requests for information
- Review and respond to contractor material submittals
- Perform up to 2 site visits during construction and prepare and transmit an electronic site observation report of the civil activities observed while on site.
- Perform a final walk through of the project.
- Prepare record documents based on contractor provided markups of the plans.

Construction Phase Services are also specifically defined and subject to the statements below.

Visits to Site and Observation of Construction. Consultant will make visits at intervals as directed by Architect in order to observe the progress of the Work. Such visits and observations by Consultant are not



intended to be exhaustive or to extend to every aspect of Contractor's work in progress. Observations are to be limited to spot checking, selective measurement, and similar methods of general observation of the Work based on Consultant's exercise of professional judgment. Based on information obtained during such visits and such observations, Consultant will evaluate whether Contractor's work is generally proceeding in accordance with the Contract Documents, and Consultant will keep Architect informed of the general progress of the Work.

The purpose of Consultant's site visits will be to enable Consultant to better carry out the duties and responsibilities specifically assigned in this Agreement to Consultant, and to provide Architect a greater degree of confidence that the completed Work will conform in general to the Contract Documents. Consultant shall not, during such visits or as a result of such observations of Contractor's work in progress, supervise, direct, or have control over Contractor's work, nor shall the Consultant have authority over or responsibility for the means, methods, techniques, equipment choice and usage, sequences, schedules, or procedures of construction selected by Contractor, for safety precautions and programs incident to Contractor's work, nor for any failure of Contractor to comply with laws and regulations applicable to Contractor's furnishing and performing the Work. Accordingly, Consultant neither guarantees the performance of any Contractor nor assumes responsibility for any Contractor's failure to furnish and perform its work in accordance with the Contract Documents. The Consultant is not responsible for any duties assigned to the design professional in any construction contract that are not expressly provided for in this Agreement.

Recommendations with Respect to Defective Work. Consultant will recommend to Architect that Contractor's work be disapproved and rejected while it is in progress if, on the basis of such observations, Consultant believes that such work will not produce a completed Project that conforms generally to Contract Documents.

Clarifications and Interpretations. Consultant will respond to reasonable and appropriate Contractor requests for information and issue necessary clarifications and interpretations of the Contract Documents to Architect as appropriate to the orderly completion of Contractor's work. Any orders authorizing variations from the Contract Documents will be made by Architect.

Change Orders. Consultant may recommend Change Orders to Architect, and will review and make recommendations related to Change Orders submitted or proposed by the Contractor.

Shop Drawings and Samples. Consultant will review and approve or take other appropriate action in respect to Shop Drawings and Samples and other data which Contractor is required to submit, but only for conformance with the information given in the Contract Documents. Such review and approvals or other action will not extend to means, methods, techniques, equipment choice and usage, sequences, schedules, or procedures of construction or to related safety precautions and programs.

Substitutes and "or-equal." Evaluate and determine the acceptability of substitute or "or-equal" materials and equipment proposed by Contractor in accordance with the Contract Documents, but subject to the provisions of applicable standards of state or local government entities.
INFORMATION PROVIDED BY OWNER

We shall be entitled to rely on the completeness and accuracy of all information provided by the Owner or the Owner's consultants or representatives. The Owner shall provide all information requested by Kimley-Horn during the project, including but not limited to the following:

- Access to Property;
- Executed Copy of this Agreement;
- The property owner contact information;
- If applicable, reason for significant reduction in purchase price of the subject property;
- All environmental reports available for the property, and
- Commonly known or reasonably ascertainable information that the Owner is aware of relevant to RECs associated with the property.

within 30 days after the Client is paid by the Owner. The Client shall exert reasonable and diligent efforts to collect prompt payment from the Owner.

FEE AND EXPENSE

For all tasks, direct reimbursable expenses such as delivery services, air travel, mileage, in-house reproduction, and other direct expenses will be billed at 1.15 times cost. Fees and expenses will be invoiced monthly, as applicable, upon the percentage of services completed or actual services performed and expenses incurred. Payment will be due ~~within 25 days of your receipt of the invoices.~~
 ~~issued upon receipt of funds from the client.~~

msj
DH

The table below lists the fees for the services described above. All tasks herein will be performed at a Lump Sum rate.

Task		Fee	Fee Type
Task 1	Topographic Survey	\$4,500	Lump Sum
Task 2	Minor Site Plan	\$7,500	Lump Sum
Task 3	City Permitting	\$4,500	Lump Sum
Task 4	Bidding Phase Services	\$825	Lump Sum
Task 5	Construction Phase Services	\$2,500	Lump Sum
TOTAL SERVICES		\$19,825	Lump Sum

Please be advised that the Consultant is not a Contingent Partner in this project. As such the Consultant will be paid in full for all Professional Services rendered. ~~As stated above, payment of invoices will be due within 25 days of receipt. The Consultant reserves the right to suspend services if payment has not been received within 30 days of receipt of the invoice.~~

msj
DH

Closure

In addition to the matters set forth herein, our Agreement shall include and be subject to, and only to, the attached Standard Provisions, which are incorporated by reference. As used in the Standard Provisions, "Consultant" shall refer to Kimley-Horn and Associates, Inc., and "Client" shall refer to Pivot North Architecture.

If you concur in all the foregoing and wish to direct us to proceed with the services, please have authorized persons execute this agreement. Fees stated in this Agreement are valid for sixty (60) days after the date of this letter.

We appreciate the opportunity to provide these services to you. Please contact me if you have any questions.

Sincerely,

KIMLEY-HORN AND ASSOCIATES, INC.



J. Chris Harris, P.E.
Vice President



Annie Briscoe, P.E.
Project Manager

Attachments: Standard Provisions

Pivot North Architecture.

Agreed to this 1st day of November, 2023

By:  Clint Sievers

Title: Principal

Attest: _____

Title: _____

KIMLEY-HORN AND ASSOCIATES, INC. STANDARD PROVISIONS

(1) **Consultant's Scope of Services and Additional Services.** The Consultant will perform only the services specifically described in this Agreement. If requested by the Client and agreed to by the Consultant, the Consultant will perform Additional Services, which shall be governed by these provisions. Unless otherwise agreed to in writing, the Client shall pay the Consultant for any Additional Services an amount based upon the Consultant's then-current hourly rates plus an amount to cover certain direct expenses including telecommunications, in-house reproduction, postage, supplies, project related computer time, and local mileage. Other direct expenses will be billed at 1.15 times cost.

(2) **Client's Responsibilities.** In addition to other responsibilities herein or imposed by law, the Client shall:

- (a) Designate in writing a person to act as its representative, such person having complete authority to transmit instructions, receive information, and make or interpret the Client's decisions.
- (b) Provide all information and criteria as to the Client's requirements, objectives, and expectations for the project and all standards of development, design, or construction.
- (c) Provide the Consultant all available studies, plans, or other documents pertaining to the project, such as surveys, engineering data, environmental information, etc., all of which the Consultant may rely upon.
- (d) Arrange for access to the site and other property as required for the Consultant to provide its services.
- (e) Review all documents or reports presented by the Consultant and communicate decisions pertaining thereto within a reasonable time so as not to delay the Consultant.
- (f) Furnish approvals and permits from governmental authorities having jurisdiction over the project and approvals and consents from other parties as may be necessary.
- (g) Obtain any independent accounting, legal, insurance, cost estimating, and feasibility services required by Client.
- (h) Give prompt written notice to the Consultant whenever the Client becomes aware of any development that affects the Consultant's services or any defect or noncompliance in any aspect of the project.

(3) **Period of Services.** Unless otherwise stated herein, the Consultant will begin work after receipt of a properly executed copy of this Agreement. This Agreement assumes conditions permitting continuous and orderly progress through completion of the services. Times for performance shall be extended as necessary for delays or suspensions due to circumstances that the Consultant does not control. If such delay or suspension extends for more than six months, Consultant's compensation shall be renegotiated.

(4) **Method of Payment.** Client shall pay Consultant as follows:

(a) ~~Invoices will be submitted periodically for services performed and expenses incurred. Payment of each invoice will be due within 25 days of receipt. The Client shall also pay any applicable sales tax. All retainers will be held by the Consultant and applied against the final invoice. Interest will be added to accounts not paid within 25 days at the rate of 12% per year beginning on the 25th day. If the Client fails to make any payment due under this or any other agreement within 30 days after the Consultant's transmittal of its invoice, the Consultant may, after giving notice to the Client, suspend services and withhold deliverables until all amounts due are paid.~~

within 30 days after the Client is paid by the Owner. The Client shall exert reasonable and diligent efforts to collect prompt payment from the Owner.

(b) If the Client relies on payment or proceeds from a third party to pay Consultant and Client does not pay Consultant's invoice within 60 days of receipt, Consultant may communicate directly with such third party to secure payment.

(c) If the Client objects to an invoice, it must advise the Consultant in writing giving its reasons within 14 days of receipt of the invoice or the Client's objections will be waived, and the invoice shall conclusively be deemed due and owing. If the Client objects to only a portion of the invoice, payment for all other portions remains due.

(d) If the Consultant initiates legal proceedings to collect payment, it may recover, in addition to all amounts due, its reasonable attorneys' fees, reasonable experts' fees, and other expenses related to the proceedings. Such expenses shall include the cost, at the Consultant's normal hourly billing rates, of the time devoted to such proceedings by its employees.

(e) The Client agrees that the payment to the Consultant is not subject to any contingency or condition. The Consultant may negotiate payment of any check tendered by the Client, even if the words "in full satisfaction" or words intended to have similar effect appear on the check without such negotiation being an accord and satisfaction of any disputed debt and without prejudicing any right of the Consultant to collect additional amounts from the Client.

mf DH
If the Client fails to make any payment due under this agreement within 90 days after the Consultant's transmittal of its invoice, the Consultant may, after giving notice to the Client, suspend services and withhold deliverables until all amounts due are paid.

(5) **Use of Documents.** All documents and data prepared by the Consultant are related exclusively to the services described in this Agreement and may be used only if the Client has satisfied all of its obligations under this Agreement. They are not intended or represented to be suitable for use or reuse by the Client or others on extensions of this project or on any other project. Any modifications by the Client to any of the Consultant's documents, or any reuse of the

documents without written authorization by the Consultant will be at the Client's sole risk and without liability to the Consultant, and the Client shall indemnify, defend and hold the Consultant harmless from all claims, damages, losses and expenses, including but not limited to attorneys' fees, resulting therefrom. The Consultant's electronic files and source code remain the property of the Consultant and shall be provided to the Client only if expressly provided for in this Agreement. Any electronic files not containing an electronic seal are provided only for the convenience of the Client and use of them is at the Client's sole risk. In the case of any defects in the electronic files or any discrepancies between them and the hardcopy of the documents prepared by the Consultant, the hardcopy shall govern.

(6) **Opinions of Cost.** Because the Consultant does not control the cost of labor, materials, equipment or services furnished by others, methods of determining prices, or competitive bidding or market conditions, any opinions rendered as to costs, including but not limited to the costs of construction and materials, are made solely based on its judgment as a professional familiar with the industry. The Consultant cannot and does not guarantee that proposals, bids, or actual costs will not vary from its opinions of cost. If the Client wishes greater assurance as to the amount of any cost, it shall employ an independent cost estimator. Consultant's services required to bring costs within any limitation established by the Client will be paid for as Additional Services.

(7) **Termination.** The obligation to provide further services under this Agreement may be terminated by either party upon seven days' written notice in the event of substantial failure by the other party to perform in accordance with the terms hereof, or upon thirty days' written notice for the convenience of the terminating party. The Consultant shall be paid for all services rendered and expenses incurred to the effective date of termination, and other reasonable expenses incurred by the Consultant as a result of such termination.

(8) **Standard of Care.** The standard of care applicable to Consultant's services will be the degree of care and skill ordinarily exercised by consultants performing the same or similar services in the same locality at the time the services are provided. No warranty, express or implied, is made or intended by the Consultant's performance of services, and it is agreed that the Consultant is not a fiduciary with respect to the Client.

(9) **LIMITATION OF LIABILITY.** IN RECOGNITION OF THE RELATIVE RISKS AND BENEFITS OF THE PROJECT TO THE CLIENT AND THE CONSULTANT, THE RISKS ARE ALLOCATED SUCH THAT, TO THE FULLEST EXTENT ALLOWED BY LAW, AND NOTWITHSTANDING ANY OTHER PROVISIONS OF THIS AGREEMENT OR THE EXISTENCE OF APPLICABLE INSURANCE COVERAGE, THAT THE TOTAL LIABILITY, IN THE AGGREGATE, OF THE CONSULTANT AND THE CONSULTANT'S OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AND SUBCONSULTANTS TO THE CLIENT OR TO ANYONE CLAIMING BY, THROUGH OR UNDER THE CLIENT, FOR ANY AND ALL CLAIMS, LOSSES, COSTS OR DAMAGES WHATSOEVER ARISING OUT OF OR IN ANY WAY RELATED TO THE SERVICES UNDER THIS AGREEMENT FROM ANY CAUSES, INCLUDING BUT NOT LIMITED TO, THE NEGLIGENCE, PROFESSIONAL ERRORS OR OMISSIONS, STRICT LIABILITY OR BREACH OF CONTRACT OR ANY WARRANTY, EXPRESS OR IMPLIED, OF THE CONSULTANT OR THE CONSULTANT'S OFFICERS, DIRECTORS, EMPLOYEES, AGENTS, AND SUBCONSULTANTS, SHALL NOT EXCEED TWICE THE TOTAL COMPENSATION RECEIVED BY THE CONSULTANT UNDER THIS AGREEMENT OR \$50,000, WHICHEVER IS GREATER. HIGHER LIMITS OF LIABILITY MAY BE NEGOTIATED FOR ADDITIONAL FEE. THIS SECTION 9 IS INTENDED SOLELY TO LIMIT THE REMEDIES AVAILABLE TO THE CLIENT OR THOSE CLAIMING BY OR THROUGH THE CLIENT, AND NOTHING IN THIS SECTION 9 SHALL REQUIRE THE CLIENT TO INDEMNIFY THE CONSULTANT.

(10) **Mutual Waiver of Consequential Damages.** In no event shall either party be liable to the other for any consequential, incidental, punitive, or indirect damages including but not limited to loss of income or loss of profits.

(11) **Construction Costs.** Under no circumstances shall the Consultant be liable for extra costs or other consequences due to unknown conditions or related to the failure of contractors to perform work in accordance with the plans and specifications. Consultant shall have no liability whatsoever for any costs arising out of the Client's decision to obtain bids or proceed with construction before the Consultant has issued final, fully-approved plans and specifications. The Client acknowledges that all preliminary plans are subject to substantial revision until plans are fully approved and all permits obtained.

(12) **Certifications.** All requests for the Consultant to execute certificates, lender consents, or other third-party reliance letters must be submitted to the Consultant at least 14 days prior to the requested date of execution. The Consultant shall not be required to execute certificates, consents, or third-party reliance letters that are inaccurate, that relate to facts of which the Consultant does not have actual knowledge, or that would cause the Consultant to violate applicable

rules of professional responsibility.

(13) **Dispute Resolution.** All claims by the Client arising out of this Agreement or its breach shall be submitted first to mediation in accordance with the American Arbitration Association as a condition precedent to litigation. Any mediation or civil action by Client must be commenced within two years of the accrual of the cause of action asserted but in no event later than allowed by applicable statutes.

(14) **Hazardous Substances and Conditions.** Consultant shall not be a custodian, transporter, handler, arranger, contractor, or remediator with respect to hazardous substances and conditions. Consultant's services will be limited to analysis, recommendations, and reporting, including, when agreed to, plans and specifications for isolation, removal, or remediation. The Consultant will notify the Client of unanticipated hazardous substances or conditions of which the Consultant actually becomes aware. The Consultant may stop affected portions of its services until the hazardous substance or condition is eliminated.

(15) **Construction Phase Services.**

(a) If the Consultant prepares construction documents and the Consultant is not retained to make periodic site visits, the Client assumes all responsibility for interpretation of the documents and for construction observation, and the Client waives any claims against the Consultant in any way connected thereto.

(b) The Consultant shall have no responsibility for any contractor's means, methods, techniques, equipment choice and usage, sequence, schedule, safety programs, or safety practices, nor shall Consultant have any authority or responsibility to stop or direct the work of any contractor. The Consultant's visits will be for the purpose of endeavoring to provide the Client a greater degree of confidence that the completed work of its contractors will generally conform to the construction documents prepared by the Consultant. Consultant neither guarantees the performance of contractors, nor assumes responsibility for any contractor's failure to perform its work in accordance with the contract documents.

(c) The Consultant is not responsible for any duties assigned to it in the construction contract that are not expressly provided for in this Agreement. The Client agrees that each contract with any contractor shall state that the contractor shall be solely responsible for job site safety and its means and methods; that the contractor shall indemnify the Client and the Consultant for all claims and liability arising out of job site accidents; and that the Client and the Consultant shall be made additional insureds under the contractor's general liability insurance policy.

(16) **No Third-Party Beneficiaries; Assignment and Subcontracting.** This Agreement gives no rights or benefits to anyone other than the Client and the Consultant, and all duties and responsibilities undertaken pursuant to this Agreement will be for the sole benefit of the Client and the Consultant. The Client shall not assign or transfer any rights under or interest in this Agreement, or any claim arising out of the performance of services by Consultant, without the written consent of the Consultant. The Consultant reserves the right to augment its staff with subconsultants as it deems appropriate due to project logistics, schedules, or market conditions. If the Consultant exercises this right, the Consultant will maintain the agreed-upon billing rates for services identified in the contract, regardless of whether the services are provided by in-house employees, contract employees, or independent subconsultants.

(17) **Confidentiality.** The Client consents to the use and dissemination by the Consultant of photographs of the project and to the use by the Consultant of facts, data and information obtained by the Consultant in the performance of its services. If, however, any facts, data or information are specifically identified in writing by the Client as confidential, the Consultant shall use reasonable care to maintain the confidentiality of that material.

(18) **Miscellaneous Provisions.** This Agreement is to be governed by the law of the State of Texas. This Agreement contains the entire and fully integrated agreement between the parties and supersedes all prior and contemporaneous negotiations, representations, agreements or understandings, whether written or oral. Except as provided in Section 1, this Agreement can be supplemented or amended only by a written document executed by both parties. Any conflicting or additional terms on any purchase order issued by the Client shall be void and are hereby expressly rejected by the Consultant. Any provision in this Agreement that is unenforceable shall be ineffective to the extent of such unenforceability without invalidating the remaining provisions. The non-enforcement of any provision by either party shall not constitute a waiver of that provision nor shall it affect the enforceability of that provision or of the remainder of this Agreement.



James F. Turner Engineers, L.P.

Consulting Engineers

Proposal: 23-8640
November 21, 2023

Pivot North Architecture

116 South 6th Street
Boise, ID 83702

Attn: Daniel Horrigan

Re: Electrical Engineering
International Leadership of Texas
Modular Buildings at Aggieland
College Station, TX

Daniel,

JAMES F. TURNER ENGINEERS would be pleased to provide electrical engineering services for the project, adding a new modular building.

SCOPE

Design Phase Services:

1. Design electrical connections and coordinate site utility extensions.

FEES

<u>Electrical Design</u>	<u>\$4,600.00</u>
Total – Engineering Services	\$4,600.00

SCHEDULE

To be determined.

PAYMENT

Our terms are net 30 days.

CONDITIONS & QUALIFICATIONS

This proposal is presented contingent upon the following:

1. The project will not be LEED certified.
2. Modular building drawings to be provided by others.
3. This project will be completed in AutoCAD or Revit. CAD floor plans or an architectural model for backgrounds to be provided by others.



- 4. Though JFTE is sensitive to budgetary limitations and will make every reasonable effort to design appropriate systems for the project, JFTE takes no direct responsibility for overall project costs. Redesign for budgetary reasons is not included in base fee.
- 5. Though JFTE is sensitive to the volatility of material and delivery challenges in the current building industry and will make every effort to specify and design for systems that are available at the time, redesign for varying product availability is not included in base fee.
- 6. Though JFTE is sensitive to the volatility of equipment and delivery challenges in the current building industry and will make every effort to specify and design systems that are available at the time of design, re-review of submittal items for varying product availability or pricing is not included in base CA fee. This review will be billed hourly at the rates below.

ADDITIONS

Design charges for work not specifically included in this proposal would be invoiced at the following rates:

Principal Engineer.....	227.00
Project Engineer	156.00
Design Engineer	142.00
Designer	121.00

or as negotiated. Additional services would not be incurred without prior approval of Architect.

MISCELLANEOUS

Reimbursable Expenses

Reimbursable expenses such as long-distance travel, courier services, reproduction services, and computer plotting for delivery are not included in our fees and would be billed at cost.

This proposal is valid for acceptance within forty-five (45) days. Thank you for the opportunity to propose our services on this project.

Sincerely,
JAMES F. TURNER ENGINEERS, LP
Nicholas Polcari
Nicholas Polcari, PE
Partner

Accepted: _____

Date: _____

Texas Accessibility Solutions
3333 Melton Rd
Sanger, TX 76266
JustinkWalton@gmail.com

Proposal 2024004749

ADDRESS

Pivot North Architecture
1101 W Grove Street
Boise, ID 83702 USA

DATE 11/09/2023	TOTAL \$1,175.00	
--------------------	---------------------	--

QTY	ACTIVITY	RATE	AMOUNT
1	TDLR State Filing Fee TDLR State Filing Fees	175.00	175.00
1	TAS/ADA Plan Review and Inspection Plan Review and Inspection	1,000.00	1,000.00

Aggieland Portables

TOTAL	\$1,175.00
--------------	-------------------

THANK YOU.

Accepted By



Accepted Date

11/10/2023