

MEP ENGINEERING SUBCONSULTANT CONTRACT

(G-PISD Family Resource Center, Maintenance and Transportation Facility Project)

The Gregory-Portland Independent School District ("District") and DBR Engineering Consultants ("Engineer" or "MEP engineer") hereby agree as follows:

1. SERVICES TO BE PERFORMED. Engineer hereby agrees at his own expense to perform, or cause to be performed by Texas registered engineers acceptable to the District, all mechanical, electrical and plumbing ("MEP") engineering services necessary to properly design and develop the MEP-related contract documents, and assist the District and the District's designated Project Architect (DBR Engineering) in administering the MEP-related elements of the construction contract for the following project:

Gregory-Portland ISD – Family Resource Center,
Maintenance and Transportation Facility Project
(hereafter called "project").

A. In the performance of such services the Engineer shall provide or cause to be provided the following:

1.1 Review material furnished by the District and the Project Architect to ascertain the requirements of the MEP elements of the project and review Engineer's understanding of such requirements with the District and the Project Architect. Engineer shall consult, coordinate with and report to the District and the District's Project Architect throughout the design and construction phases of this project, and insure that Engineer's preparation of MEP-related documents and performance of the services required by this contract is timely and does not impair the prompt and continuous design and construction of this project.

1.2 Provide a preliminary evaluation of the project budget requirements for MEP-related elements of the project, subject to the limitations set forth in paragraph 2.

1.3 Prepare, or cause to be prepared, preliminary plans, sketches and studies of the MEP-related elements of the project, and statement of probable cost of MEP-related elements which meet the general design requirements of the District and District's Project Architect; the design requirements of any state or federal law or municipal ordinance; and, the requirements of any municipal, state or federal agency having authority with respect thereto. Without limiting the foregoing, Engineer specifically is required to provide to Owner the certification required in 19 TAC 61.1033 or 61.1036 et seq., if applicable to the MEP-related elements of the project.

1.4 Attend conferences with representatives of the District and Project Architect, and make such changes in the preliminary plans, studies and sketches of the MEP-related elements of the project as may be required to meet the budgeted cost requirements of the District and Project Architect as set forth in paragraph 2 below (hereafter called "budgeted amount" or "budgeted cost").

1.5 Prepare, or cause to be prepared, all MEP-related contract documents including plans, specifications, detailed drawings, and all alterations of the drawings, plans and specifications required to construct and complete the MEP-related elements of the project in accord with the design requirements set forth in paragraph 1.A.1.3 above and within the budgeted amount. Attend all conferences with the representatives of the District and District's Project Architect which are necessary to bring the final cost of MEP-related construction within the budgeted amount.

1.6 Review those MEP-related contract documents promulgated by the District and prepared by the Architect for letting of a contract on the project. This review will be limited to that which is MEP code related and that which is directly related to technical MEP design. If, however, Engineer determines that such contract documents should be modified to more completely or accurately reflect the unique character of the MEP-related elements of the project, Engineer shall furnish District and Project Architect with Engineer's suggestions in sufficient time to permit such suggested modifications to be incorporated into the final contract documents.

1.7 Assist District and Project Architect in evaluating MEP-related elements of contractor bids or proposals, responding to bidder questions relating to MEP-related elements, reviewing bid-phase MEP-related substitution requests, and preparing any MEP-related addenda.

1.8 Ensure that all necessary MEP-related submissions are made and determine that all permits and prerequisites required for actual construction of the MEP-related elements of the project by any governmental authority are timely obtained. These shall include (but are not limited to) the Texas Department of Licensing and Regulation, the City of Portland or City of Gregory Fire Department, the City of Portland or City of Gregory Building Division, and State Board of Insurance.

1.9 Make such reasonable modifications in the drawings, plans and specifications for MEP-related elements as may be required to meet any unanticipated condition or problem encountered during the course of construction. No change in or revision of any document shall be made without the consent of the District and Project Architect.

1.10 Advise the District and assist Project Architect in performing, or causing to be performed, all MEP-related services required of the project professional by the contract relating to the project.

1.11 Approve MEP-related portions of certificates of payment, keep accounts, and be responsible for the general administration and monitoring of the MEP-related work within the scope of the project. The approval of an MEP-related portion of a certificate for payment shall constitute a representation by the Engineer to the District and the Project Architect, based on the Engineer's observation at the site and of the data comprising the contractor's application for payment, that the MEP-related work has progressed to the point indicated; that, to the best of the Engineer's knowledge, information and belief, the quality of the MEP-related work is in accord with the MEP-related contract documents (subject to an evaluation of the work for conformance with the contract documents upon substantial completion, to the results of any subsequent tests required by or performed under the contract documents, to minor deviations from the contract documents correctable prior to completion, and to any specific qualifications stated in the certificate for payment); and that the contractor is entitled to payment for the MEP-related work in the amount certified. However, the issuance of a

certificate for payment shall not be a representation that the Engineer has made any examination to ascertain how and for what purpose the contractor may have used the monies paid on account of the contract sum.

1.12 Be responsible for the review of all MEP-related written warranties, guarantees, bonds, operating or maintenance instructions and manuals, together with any other pertinent MEP-related documentation or documents called for in the plans, drawings and specifications, and deliver same to District and Project Architect prior to final acceptance of the project.

1.13 Make an overall inspection of the MEP-related elements of the project just prior to the expiration of the contractor's warranty period, and furnish the District with a written statement setting forth all items of MEP-related work and/or material which the Engineer determines to be defective due to defective workmanship and/or materials, in order that the District may pursue any claim it might have under the terms of the contractor's warranty.

B. In the performance of such services the Engineer shall not:

1.1 Be responsible for identification, testing, or removal of asbestos, lead based paint and underground contamination.

1.2 Authorize change orders. However, Engineer shall review all MEP-related change orders, and make recommendations to District and Project Architect regarding all MEP-related change orders.

1.3 Utilize any services of any engineers not previously approved by the District.

2. COST OF THE PROJECT: PRELIMINARY ESTIMATE. The District has budgeted the sum of Five Million, Two-Hundred Fifty Thousand Dollars (\$5,250,000) excluding Engineer's fees, for the construction cost of the MEP-related elements of this project (herein called the MEP-related "budgeted amount" or "budgeted cost"). After Engineer has prepared, or caused to be prepared, preliminary plans, drawings and specifications for the MEP-related elements of the project, and at each subsequent design phase, Engineer shall provide a statement of the probable cost of the MEP-related elements of the project. Engineer shall make such revisions in the MEP-related preliminary plans, drawings and specifications as may be required to reduce the probable cost to the budgeted amount, or to such greater sum as the District and Project Architect shall consider acceptable. The District and Project Architect shall not be obligated to accept the MEP-related preliminary (or subsequent design phase) plans, drawings and specifications until this is accomplished. Review and acceptance of the plans, drawings and specifications by the District and Project Architect shall not relieve the Engineer of the responsibility for the technical adequacy of such plans, drawings and specifications.

3. COST OF THE PROJECT: FINAL QUOTES/PROPOSALS. The Engineer shall design the MEP-related elements of the project so that the total cost for MEP-related elements will not exceed the budgeted amount, or such greater sum as may be authorized by the District and Project Architect at the time of approval of the detailed final plans, drawings and specifications. If all bids

received on MEP-related elements exceed the budgeted cost for the MEP-related elements of the project, the District may require the Engineer, at no additional cost to the District, to make such revisions to the MEP-related plans, drawings and specifications as may be necessary to reduce the total cost of MEP-related construction so that an acceptable bid within the budgeted amount is obtained.

4. ENGINEER'S FEE. The District will pay to the MEP Engineer a fee equal to 5.75 % of the MEP construction costs (excluding General Contractor's general conditions and overhead & profit), which shall constitute complete compensation for all MEP engineering services performed, or caused to be performed, by Engineer with respect to the construction of such project, except as specifically provided in paragraph 5 below. Such fee shall be payable as follows:

4.1 An initial 15% of the fee shall be paid upon the approval and acceptance by District and Project Architect of the MEP-related schematic plans, drawings, sketches, and specifications meeting the requirements of paragraph 2 above.

4.2 An additional 15% of the fee shall be paid upon the approval and acceptance by District and Project Architect of the MEP-related design development plans, drawings, sketches, and specifications meeting the requirements of paragraph 2 above.

4.3 An additional 14% of the fee shall be paid upon the approval and acceptance by the District and Project Architect of 50% complete MEP-related construction drawings, and specifications.

4.4 An additional 14% of the fee shall be paid upon the approval and acceptance by the District and Project Architect of 90% complete MEP-related construction drawings, and specifications.

4.5 An additional 13% of the fee shall be paid upon authorization by the Board of Trustees to award a construction contract. If bids are not solicited within 90 days after the approval and acceptance by the District of the final detailed plans, drawings, and specifications, this portion of the fee shall be payable at that time.

4.6 An additional 24% of the fee shall be paid in monthly payments during the course of construction. Each monthly payment shall bear the same relation to 24% of such fee as the monthly payment made to the contractor for MEP-related work bears to the total amount to be paid to the contractor for MEP-related work.

4.7 The MEP engineer will submit statements for professional services rendered to the District based on sections 4.1, 4.2, 4.3, 4.4, 4.5, and 4.6. The statements shall be submitted for payment on or before the 15th of the month. For statements properly submitted on or before the 15th of the month, the District will pay for MEP engineer services on the 20th of the month.

4.8 The final 5% of the fee will be paid when all MEP-related documents required in the Contract Documents or by this Contract have been furnished to the District; such documents shall include, but are not limited to: documents evidencing compliance with the design requirements set forth in paragraph 1.A.1.3 above, and other MEP-related contract closeout documents.

5. ADDITIONAL COMPENSATION AND REIMBURSEMENT FOR CERTAIN EXPENSES: The following services and items of expense are not covered by the fee set forth in paragraph 4 above, and if initiated and authorized by the District, shall constitute additional work for which additional compensation may be paid to the Engineer at the rates set forth in Attachment B:

5.1 Revising the plans, drawings, specifications or other documents previously approved by the District and Project Architect to accomplish changes not initiated by the Engineer or changes required as the result of the enactment or substantial revision of codes, laws or regulations subsequent to the preparation of the final plans, drawings and specifications. Changes and revisions required under the terms of paragraph 3 above are specifically excluded from the terms of this subparagraph.

5.2 Reproduction expenses for furnishing the District and Project Architect with a set of reproducible "as-built" drawings of the MEP-related elements of the construction project.

5.3 Out-of-Pocket expenses of the Engineer for trips out of the service area made by the Engineer at the request of the District.

5.4 Where the District is unable to provide accurate or sufficient underground site information on existing conditions, the Engineer shall be compensated for providing services to investigate existing conditions and to make measured drawings thereof.

5.5 For extended service of Engineer due to fire, storm, or Contractor default.

5.6 For services of special consultants required other than MEP-related engineering for the project, at a cost of 1.0 times the cost.

5.7 For reproduction of contract documents, at actual cost of reproduction.

5.8 For services rendered relating to any other work outside the Contractor's contract when so directed by the District.

Engineer shall not be entitled to any additional compensation or reimbursement of expenses for the services and expenses set forth above unless the amount thereof has been determined by the Engineer and approved by the District, in writing, prior to the time that such services are performed or such expenses are incurred.

6. DISTRICT'S RESPONSIBILITIES. The District shall:

6.1 Furnish the Engineer full information establishing the District's and Project Architect's requirements and objectives for the project. The District shall furnish such information and render its decisions promptly during the progress of the design, review and preparation of preliminary and final plans, drawings and specifications. Failure of the District to render any decision within ten (10) business days after receipt from the Engineer of the data required for such decision shall entitle the Engineer to extend the time for performing his services by the additional time required for the District's action over and above such ten days.

6.2 Furnish the Engineer with an accurate survey of the building site, including the grades, contours and boundaries of the property, the location of all streets and easements, and all the information contained in the District's files relating to the location and scope of sewer, water, gas and electrical services.

6.3 Pay for the services of a soil engineer acceptable to Engineer, District and Project Architect, when such services are deemed necessary by the Engineer, and approved by the District and Project Architect, to provide soil reports, test borings, test piers, soil bearing values, percolation test reports and other information necessary to the determination of sub-soil conditions.

7. TERMINATION OF CONTRACT. The District may terminate this contract at any time, with or without cause. In such event, and after all plans and other documents and material provided by the District are returned to the District, the Engineer shall be compensated for his services as follows:

7.1 If termination occurs prior to approval and acceptance by the District of the Schematic Phase MEP-related plans, drawings, sketches, and specifications meeting the requirements of paragraph 2 above, the MEP Engineer shall be paid a reasonable compensation for the services actually rendered by him, but in no event more than sixteen percent (16%) of the total fee which the Engineer otherwise would have earned under the terms of this contract based upon the fee set forth in paragraph 4 above.

7.2 If termination occurs after the preparation, approval, and acceptance of the MEP-related preliminary plans, drawings, sketches, and specifications, but prior to the completion and approval of Design Development MEP-related final plans, drawings, sketches, and specifications, the Engineer shall be paid a reasonable compensation for the services actually rendered by him but in no event less than sixteen percent (16%) nor more than thirty-two percent (32%) of the total fee which the Engineer otherwise would have earned under the terms of this contract, based upon the fee set forth in paragraph 4 above.

7.3 If termination occurs after the preparation, approval, and acceptance of the Design Development Phase MEP-related plans, drawings, sketches, and specifications, but prior to the completion and approval of 50% developed MEP-related construction documents plans, drawings, sketches, and specifications, the Engineer shall be paid a reasonable compensation for the services actually rendered by him but in no event less than thirty-two percent (32%) nor more than fifty percent (50%) of the total fee which the Engineer otherwise would have earned under the terms of this contract, based upon the fee set forth in paragraph 4 above.

7.4 If termination occurs after the preparation, approval, and acceptance of the MEP-related Design Development Phase plans, drawings, sketches, and specifications, but prior to the completion and approval of 90% developed MEP-related construction documents plans, drawings, sketches, and specifications, the Engineer shall be paid a reasonable compensation for the services actually rendered by him but in no event less than fifty percent (50%) nor more than seventy percent (70%) of the total fee which the Engineer otherwise would have earned under the terms of this contract, based upon the fee set forth in paragraph 4 above.

7.5 If termination occurs after the completion and approval of MEP-related detailed final plans, drawings, and specifications, but before a bid within the budgeted cost of such project has been received, the fee of the Engineer shall be seventy percent (70%) of the total fee which the Engineer otherwise would have earned under the terms of this contract, based upon the fee set forth in paragraph 4 above.

7.6 If termination occurs after the letting of the contract, but prior to final completion and acceptance by the District, the fee of the Engineer shall be computed in accord with the provision of paragraph 4 of this contract to the date of termination.

7.7 The foregoing shall not be construed to require the District to compensate the Engineer for any services not performed, or not caused to be performed, in a proper professional manner suitable for use in connection with the construction of the project contemplated by the parties to this agreement.

7.8 If the Engineer should be unable to complete this contract due to death, illness, or any other cause beyond his reasonable control, he or his estate shall be compensated in the manner set forth above.

8. TECHNICAL ASSISTANTS AND CONSULTANTS. The District shall not pay the fees of expert or technical assistants and consultants unless such employment, including the rate of compensation, has been approved previously in writing by the District.

9. TIME AND ORDER OF ENGINEER'S SERVICES. The Engineer shall furnish the documents, or cause them to be furnished, and personally render, or cause to be rendered, the services required by this contract in such sequence and at such time as may be necessary to insure the prompt and continuous design and construction of the project.

10. ASSIGNABILITY. Except for routine duties delegated to personnel on the Engineer's staff, the Engineer shall not assign transfer or delegate any of his obligations or duties required under the terms of this contract to any person without the prior written consent of the District. If the Engineer is a partnership which is dissolved or terminated during the term of this contract, such contract shall inure to the individual benefit of such partner or partners as the District may designate. No part of the Engineer's fee may be assigned in advance of receipt by the Engineer without prior written consent of the District.

11. OWNERSHIP OF DOCUMENTS. Upon the completion of the project (or upon termination prior to completion) the Engineer shall furnish to the District and Project Architect, in a suitable container for filing, a hard copy and a computer disk copy of all MEP-related designs and drawings, together with a correct and legible set of MEP-related specifications reflecting all significant changes to the MEP-related elements of the project including change orders, construction change directives, written minor change orders, and addendum items. The District shall be the owner of such drawings and specifications; however, the District agrees that it will not reuse the drawings and specifications in another project.

12. MISCELLANEOUS.

12.1 This contract is to be performed in Portland, San Patricio County, Texas, and shall be governed by the laws of the State of Texas.

12.2 This contract represents the entire and integrated agreement between the District and the Engineer and supersedes all prior negotiations, representations or agreements, either written or oral. This contract may be amended only by written instrument signed by both District and Engineer.

EXECUTED ON July 24, 2023

ATTEST:

Amy Malone
Secretary

GREGORY-PORTLAND INDEPENDENT SCHOOL DISTRICT

By [Signature]
Tim Flinn, President Board of
Trustees

Michelle Cavazos
Dr. Michelle Cavazos, Superintendent of Schools

DBR Engineering Consultants

MEP Engineer

By Edward Puentes

Title Partner

247402/SSH

Attachment A

(for MEP Engineering Subconsultant Contract)

Excluded from the scope of MEP Engineer's basic services are the following:

- 1) Design provisions for telephone, security (intrusion detection), CCTV, access control, IT and A/V systems included herein are limited to rough-in outlet boxes and conduit only based upon mark-up Drawings indicating rough-in locations/requirements furnished by others. All system cabling, devices, and equipment is to be designed by others.
- 2) Plumbing distribution (domestic water and sanitary sewer) to be designed by this firm shall terminate five (5) feet beyond the facility. Plumbing distribution from this point to the point(s) of service origin shall be designed by the Civil Engineer.
- 3) Design work associated with an emergency generation and transfer system is not included within the base proposal amount. If such design work is required, it will be invoiced on an hourly basis in accordance with the above schedule of hourly rates in addition to the base fee amount.
- 4) Arc flash studies and associated labeling of switchgear is not included in the proposed fee amount. Arc flash services will be proposed as additional services if requested.
- 5) Commissioning of HVAC and lighting control systems is not included within the base fee amount. Such services will be proposed as additional services if requested.
- 6) Proposed fire protection system engineering services are limited to coordination of service entrance apparatus, preparation and submittal of fire protection performance specifications, review / reporting associated with fire protection shop drawings prepared by the contractor, and jobsite review of visible fire protection system installation. Drawings for the fire protection system are excluded. In the event that a fire pump and / or water storage is required for the fire protection system, engineering services included in this paragraph will be excluded from services to be rendered by MEP Engineer.