



AIA[®] Document B101[™] – 2017

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the day of in the year
(In words, indicate day, month and year.)

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

Westport Public Schools
110 Myrtle Avenue
Westport, CT 06880

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

TBD

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

Staples High School
70 North Avenue
Westport, CT 06880

The Owner and Architect agree as follows.

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

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ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project:

(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

Includes a partial roof replacements Staples High School as indicated as shown in Exhibit C of the RFP for services.

§ 1.1.2 The Project's physical characteristics:

(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)

The Staples High School totals 178,588 square feet consisting of existing flat EPDM roofs with varying roof elevations.

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1:

(Provide total and, if known, a line item breakdown.)

The construction budgets is \$5,278,000 for Staples High School.

§ 1.1.4 The Owner's anticipated design and construction milestone dates:

.1 Design phase milestone dates, if any:

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100% Construction Documents: July 9, 2021
BOE/RTM/OSCGR Approvals: July 9th to December 8, 2021
Bidding: December 15, 2021

.2 Construction commencement date:

June 20, 2022 (weather dependent)

.3 Substantial Completion date or dates:

August 19, 2022

.4 Other milestone dates:

Final Completion of Punchlist: August 26, 2022

§ 1.1.5 The Owner intends the following procurement and delivery method for the Project:
(Identify method such as competitive bid or negotiated contract, as well as any requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction.)

General Contractor through public bidding including prevailing wage rates.

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:
(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Architect shall complete and incorporate AIA Document E204™–2017, Sustainable Projects Exhibit, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E204–2017 is incorporated into this agreement, the Owner and Architect shall incorporate the completed E204–2017 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.7 The Owner identifies the following representative in accordance with Section 5.3:
(List name, address, and other contact information.)

Mr. Elio Longo
Chief Financial Officer
Westport Public Schools
110 Myrtle Avenue
Westport, CT 06880

§ 1.1.8 The persons or entities, in addition to the Owner's representative, who are required to review the Architect's submittals to the Owner are as follows:
(List name, address, and other contact information.)

§ 1.1.9 The Owner shall retain the following consultants and contractors:
(List name, legal status, address, and other contact information.)

.1 Geotechnical Engineer:

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N/A

.2 Civil Engineer:

.3 Other, if any:
(List any other consultants and contractors retained by the Owner.)

§ 1.1.10 The Architect identifies the following representative in accordance with Section 2.3:
(List name, address, and other contact information.)

TBD

§ 1.1.11 The Architect shall retain the consultants identified in Sections 1.1.11.1 and 1.1.11.2:
(List name, legal status, address, and other contact information.)

§ 1.1.11.1 Consultants retained under Basic Services:

.1 Structural Engineer:

.2 Mechanical Engineer:

.3 Electrical Engineer:

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.4 Plumbing:

.5 Fire Protection:

.6 FF&E:

.7 Civil Engineering:

.8 Lighting Design:

.9 Technology:

.10 Telecommunications:

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.11 Audio Visual:

.12 Landscape:

.13 Interior Design:

.14 Acoustical Design:

.15 Code Specialist:

.16 Cost Estimating:

§ 1.1.12.2 Consultants retained under Supplemental Services:

§ 1.1.12 Other Initial Information on which the Agreement is based:

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User Notes: (1751607650)

1. Request for Qualifications/Proposals for Architectural Services and addenda there to.
2. Requirements of Connecticut Department of Administrative Services, Office of School Construction Grants and Review.

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the Architect's services, schedule for 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 agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, 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 professional services as set forth in this Agreement. The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals.

§ 2.2 The Architect shall perform its services 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. The Architect shall satisfy the requirements for the lawful practice of architecture in the state where the Project is located.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project. The representative shall be a Principal in Charge.

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

§ 2.5 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 11.9.~~

The Architect shall furnish to the Owner annually, unless otherwise requested, during the active terms of this Agreement, a certificate from an Insurance Carrier authorized to do business in the location of the Project indicating: 1) the existence of the insurance required under this section; 2) the amount of deductible; and 3) the amount of coverage of such insurance. The Architect shall submit a Certificate of Insurance covering the Professional Liability Insurance requirement for one year beyond the Substantial Completion Date of the Project.

During any period in which the Architect is not in compliance with the terms of this Article, no compensation will be paid by the Owner to the Architect.

It is agreed that the Architect will indemnify and hold harmless the Owner, its officers, its employees and its Designated Representative from any claim or liability of any type, including, without limitation, loss of use, reasonable counsel fees and defense costs, resulting from the Architect's negligence or that of its employees or

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subcontractors, in the performance of work under this contract. In the event that the Architect is requested and refuses to honor the indemnity provisions hereunder, then, in addition to all other obligations, and upon adjudication of the Architect's liability for indemnification, the Architect shall pay the cost of bringing any such action, including attorney's fees, to the Owner.

§ 2.5.1 Commercial General Liability with policy limits of not less than (\$) for each occurrence and (\$) in the aggregate for bodily injury and property damage.

§ 2.5.1.1 The Architect shall secure and maintain at its sole cost and expense, adequate General Liability Insurance to protect the Owner and its employees against claims arising out of the Architect's services during the design and construction of the Project for damages in law or equity for property damage and personal injury, including wrongful death. The Owner shall be named as an additional insured in the policy and the Architect shall submit a Certificate of Insurance to the Owner, prior to the Owner's submission of the executed Agreement to the Architect. Prior notification of the Owner is required should the policy have a reduction in limits or be cancelled for any reason. The Architect's General Liability Insurance shall include Personal Injury Liability; Property Damage Liability; Products/Completed Operations; Blanket Contractual Liability - All Written and Oral Contracts; Premises and Operation Liability; Personal Injury; Independent Contractors; Broad Form Property Damage; Severability of Interests Provisions; Personal Injury and Advertising Liability, Premises Medical Payments; Host Liquor Liability; Fire Damage Legal Liability; Incidental Malpractice (including employees); non-owned watercraft; and automatic coverage for newly acquired entities. The limits of liability for such coverage will be at the Architect's existing primary and excess liability limits with a minimum required limit of \$1,000,000 per occurrence and \$2,000,000 in the aggregate. Comprehensive Automobile Liability Insurance will have a combined limit of \$2,000,000. These limits can be satisfied by a combination for primary and excess insurance.

§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than (\$—\$1,000,000 per occurrence, \$2,000,000 aggregate () per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

§ 2.5.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.5.1 and 2.5.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 2.5.4 Workers' Compensation at statutory limits.

§ 2.5.4.1 The Architect shall maintain Workmen's Compensation with the minimum statutory limit for all its employees to be engaged in the Project.

§ 2.5.5 Employers' Liability with policy limits not less than one million dollars (\$ 1,000,000) each accident, two million dollars (\$ 2,000,000) each employee, and (\$) policy limit.

§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than one million dollars (\$ 1,000,000) per claim and two million dollars (\$ 2,000,000) in the aggregate.

§ 2.5.6.1 The Architect shall secure and maintain at its sole cost and expense, professional liability insurance to protect against loss resulting from design errors and omissions, failure to coordinate properly the Drawings and Specifications of the Project, and failure to properly execute the construction administration duties for the Project. The Architect shall be required to secure and maintain Professional Liability Insurance with a minimum coverage of the total Architect's fees under contract with the Owner or one million dollars, whichever is greater. The Architect is required to secure and maintain Professional Liability Insurance in accordance with this paragraph, up to and including one year after the date of Substantial Completion of the Project.

§ 2.5.7 Additional Insured Obligations. To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 2.5.8 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5.

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 usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services.~~ design services shall include, but are not limited to, normal structural, mechanical and electrical engineering services. The intent of this agreement is to contain full design services for the project. Therefore, under this Article and all articles under this Agreement, the Architect shall provide all required services necessary in formulating the design and bidding documents for the project including civil engineering, lighting design, technology, telecommunications systems design, AV system design, landscape design, interior design, acoustical design and/or specialty building design consultation as necessary. If the Architect's in-house personnel do not possess expertise and significant experience in these design disciplines, the Architect shall engage consultants with the required expertise within basic services. Section 3.1 identifies the exact services to be included as part of design services.

§ 3.1.0 Prior to execution of any subconsultant agreement, the Architect shall submit to the Owner a list of all proposed subconsultants, together with the proposed scope of services for each, in order to establish to the Owner's reasonable satisfaction that all aspects of the Project will be designed and managed by qualified professionals. The Architect shall not enter into any subconsultant agreement to which the Owner has a reasonable objection. Subconsultants shall be those named in Sections 1.1.11.1 and 1.1.11.2 and shall not be changed prior to completion of the Project without written consent of the Owner, which shall not be unreasonably withheld.

§ 3.1.0.1 During the design of the Project, the Architect and its consultants shall visit the Project site as required to obtain available record drawings, investigate the existing buildings and site to understand the project issues and record local and existing conditions. If additional measured drawings are required beyond what is available from the Owner's records, the Architect shall develop those drawings as part of Basic Services.

§ 3.1.1 The Architect shall manage the Architect's services, (including subconsultants), consult with the Owner, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall review information provided by consultants retained directly by the Owner and shall coordinate the work of such consultants with the Architect's work so as to provide a complete and consistent product at each phase. The Architect shall reasonably be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

§ 3.1.3 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. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for cost estimating, for cost/budget reconciliations, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. 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, The Architect and Owner shall promptly notify each other in the event that any changes to the established schedule are required and anticipated, and the Architect shall promptly revise and reissue the schedule accordingly, as the Project proceeds until the commencement of construction.

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§ 3.1.3.1 The Architect shall meet with the Owner and make presentations to Owner's review groups as reasonably required or requested during each phase of the Project.

§ 3.1.3.2 The Architect shall submit design documents to the Owner at intervals appropriate to the design process for purposes of evaluation and approval by the Owner. The Architect shall be entitled to rely on timely approvals received in writing from the Owner in the further development of the design. Owner review and approvals of Design Documents will be as identified in Article 3.

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work, made or given without the Architect's written approval-approval, which shall not be reasonably withheld.

§ 3.1.5 The Architect shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall design the Project to comply with all applicable federal, state and local laws, statutes, ordinances, codes, orders, rules and regulations and shall assist the Owner in obtaining required written approval of all governmental authorities having jurisdiction over the project. Review or approval of the Architect's documents by the Owner shall not relieve the Architect of any obligation for such compliance or for assistance in obtaining governmental approval by a governmental authority. The Architect shall respond to applicable design requirements imposed by those authorities and ~~entities~~-entities providing utility services and incorporate said requirements into the Contract Documents.

§ 3.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project, and by preparing documents for and attending meetings with governmental authorities having jurisdiction over the design and construction approval of the Project. This includes, but is not limited to, completing building code reviews and satisfying requirements of local or regional planning and zoning boards, fire marshals, and state and municipal authorities.

§ 3.2 Schematic Design Phase Services – Not Applicable

§ 3.2.1 The Architect shall review the program and other ~~information~~-information, including Owner objectives, schedules, space requirements and other building and site considerations furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, the proposed procurement and delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. In preparation for, and in conjunction with, the schematic design phase, the Architect shall also modify the provided program information into a formalized concise program document which includes, at a minimum, the following for Owner approval:

- a. Listing of Building Program spaces and sizes in net square feet with delineation of existing versus new.
- b. Documentation of required program space relationships.
- c. Listing of special needs for each programmed space.
- d. Target net square foot to gross square foot efficiency ratio.
- e. Special building characteristics and requirements which should be included in design and construction parameters of the project.

The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.2.2.1 The Architect shall advise the Owner of a need for tests, analyses, studies, reports, documentation of existing conditions or consultants' services not previously provided for in this Agreement.

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the ~~Project~~-Project, including the feasibility of incorporating

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environmentally responsible design approaches. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present, for the Owner's approval, a preliminary design illustrating the scale and relationship of the Project components.

§ 3.2.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.2.5.0 The Architect shall respond in writing, in the format requested by the Owner, to all written comments from the Owner regarding the Architect's Schematic Design Phase submittal, and shall secure Owner's final written approval of such submittal. Schematic Design Documents shall, if reasonably requested by the Owner, be revised and resubmitted incorporating modifications needed to obtain such approval.

§ 3.2.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain more advanced sustainable design services as a Supplemental Service under Section 4.1.1.

§ 3.2.5.2 The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project ~~that is and offer options for consideration by the Owner that are~~ consistent with the Owner's program, schedule, and budget for the Cost of the Work.

§ 3.2.5.3 Schematic Design documentation shall also include, but not be limited to, the following:

- 1 An evaluation of HVAC systems including a narrative and drawings of at least three alternative system strategies delineating advantages, disadvantages, flow diagrams, approximate loads, sizing and capacity information, and relative order of magnitude costs for operation and installation.
- .2 A written description, flow diagrams, and design loads of the preferred mechanical and electrical systems for the Project. After review and approval by the Owner, these documents will serve as the "Basis of Design" for the mechanical and electrical systems of the Project.
- .3 Schematic Design documentation shall include drawings and/or narrative description of and performance criteria for all principal construction materials and systems proposed for the project, including exterior and interior building materials and finishes; structural system; plumbing and piping systems and fixtures, HVAC systems including major equipment items and control systems; lighting concept and fixture types; electrical power and telecommunications systems; and other significant building or site components as required to complete a detailed construction cost estimate for the full scope of the Project.
- .4 Tabular comparison of all room areas shown in Owner's building program compared to all room areas as shown in schematic design document.

§ 3.2.5.4 When Schematic Design Documents have been prepared by the Architect, the Architect shall prepare for review by the Owner an estimate of construction costs with supporting data. The Estimate shall be in the Construction Specification Institute's (CSI's) format, or any other format requested by the Owner, and shall include separate line item costs, projected to the scheduled construction dates, for all major systems and components of the Work. The Architect shall also prepare comparative estimates for cost evaluations of alternative materials and systems. The Owner is not required to approve the Schematic Design Documents unless and until all of the following conditions have been met:

- 1) The Schematic Design Documents have been completed;
- 2) The Owner has completed an estimate of construction costs based upon the Schematic Design Documents;
- 3) The Architect has completed an estimate of construction costs based on the Schematic Design Documents;

- 4) The construction cost estimates of the Owner and the Architect have been reconciled ("Reconciled Cost Estimates");
- 5) The Reconciled Cost Estimates are mutually determined by the Architect and the Owner to be within the construction budget;
- 6) The Owner has reviewed the Schematic Design Documents;
- 7) The Architect has modified the Schematic Design Documents to conform with the budget reconciliation and the Owner's review comments. The modifications shall be as mutually agreed by the Architect and Owner to establish a revised construction scope which is within the budget constraints.

§ 3.2.6 The Architect shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

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

§ 3.3 Design Development Phase Services – Not Applicable

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels.

§ 3.3.2 The Architect shall update the estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval.

§ 3.3.4 Design Development documentation shall also include, but not be limited to, the following:

- .1 The "Basis of Design" for the mechanical systems approved in Schematic Design shall be expanded in the Design Development Phase to report detailed engineering assumptions and results of calculations. Detailed engineering criteria such as indoor design temperatures and humidity levels, room and building occupancy numbers, climatic design values, hydronic distribution temperatures, peak loads, relative seasonal dates, design values for lighting, and domestic hot water temperatures are some of the information that must be recorded by the design engineer and submitted to the Owner for review and approval. The HVAC Designer shall prepare, for review and approval by the Owner, a spreadsheet that lists all rooms and spaces in the project and their respective design criteria such as heating and cooling loads, ventilation requirements, and discharge air velocities. HVAC design will include an energy modeling computer program and a printout report shall be provided to the Owner. The energy modeling computer program will be a program accepted by the USGBC LEEDTM Certification process. Mechanical systems documentation shall include equipment schedules, general diagrammatic layout of ductwork and piping, typical details, riser diagrams for all systems, control diagrams showing sequence of operation;
- .2 Electrical systems documentation shall include riser diagrams for power, telephone, data, and emergency power systems as well as electrical equipment and lighting schedules;
- .3 Tabular comparison of all room areas as programmed, as shown in the Schematic Design submittal, and as shown in the Design Development submittal;
- .4 Comprehensive synopsis of regulatory requirements for the project, identifying salient design criteria and requirements of all applicable codes, laws and regulations.

§ 3.3.5 The Architect shall advise the Owner of any adjustments to the Design which affect the Schematic Estimate of Construction Cost.

§ 3.3.6 When Design Development Documents have been prepared by the Architect, the Architect shall prepare for review by the Owner, an estimate of construction costs with supporting data. The Estimate shall be in the Construction Specification Institute's (CSI's) 16 Division format, or any other format requested by the Owner, and shall include separate line item costs, projected to the scheduled construction dates, for all major systems and components of the Work. The Architect shall also prepare comparative estimates for cost evaluations of alternative materials and systems. The Owner is not required to approve the Design Development Documents unless and until all of the following conditions have been met:

- 1) The Design Development Documents have been completed;
- 2) The Owner has completed the estimate of construction costs based upon the Design Development Documents;
- 3) The Architect has completed the estimate of construction costs based on the Design Development Documents;
- 4) The construction cost estimates of the Owner and the Architect have been reconciled ("Reconciled Cost Estimates");
- 5) The Reconciled Cost Estimates are mutually determined by the Architect and the Owner to be within the construction budget;
- 6) The Owner has reviewed the Design Development Documents;
- 7) The Architect has modified the Design Development Documents to conform with the budget reconciliation and the Owner's review. The modifications shall be as mutually agreed by the Architect and Owner to establish a revised construction scope which is within the budget constraints.

§ 3.3.7 The Architect shall respond in writing, in the format requested by the Owner, to all written comments from the Owner regarding the Architect's Design Development Phase submittal, and shall secure Owner's final written approval of such submittal. Design Development Documents shall, if reasonably requested by the Owner, be revised and resubmitted incorporating modifications needed to obtain such approval.

§ 3.4 Construction Documents Phase Services

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

§ 3.4.1.1 The Architect shall advise the Owner if the Construction Documents are estimated to exceed the Construction budget.

§ 3.4.1.2 When Construction Documents are approximately 90% complete, the Architect shall prepare a detailed estimate of construction costs with supporting data for review by the Owner. The Owner is not required to approve the Construction Documents unless and until all of the following conditions have been met:

- 1) The Construction Documents have been completed;
- 2) The Architect has completed the estimate of construction costs based upon the 90% completed Construction Documents;
- 3) The Owner has reviewed the 100% complete Construction Documents;

- 4) The Architect has modified the Construction Documents to conform with the budget reconciliation and the Owner's review. The modifications shall be as mutually agreed by the Architect and Owner to establish a revised construction scope which is within the budget constraint.

§ 3.4.1.3 The Architect shall respond in writing, in the format requested by the Owner, to all written comments from the Owner regarding the Architect's one-hundred percent (100%) completion of the Construction Documents submittal, and shall secure Owner's final written approval of such submittal. Documents shall, if reasonably requested by the Owner, be revised and resubmitted incorporating modifications needed to obtain such approval.

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

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) bidding procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications, the AIA Document A201-2017 modified, and may include bidding requirements and sample forms. No provision of these General Conditions shall be deleted, changed or contravened by any other provision of the Construction Documents without the Owner's express written consent. Construction drawings and specifications or other construction documents or contract documents submitted by the Architect to the Owner for approval or to any contractor's bidding or negotiating shall be complete and unambiguous. The Architect shall exercise usual and customary professional care to comply with all applicable codes, ordinances, statutes, regulations, and laws in effect at the time Architect's services are performed.

§ 3.4.3.1 All proposed Alternates must be approved by the Owner in writing prior to inclusion in the Construction Documents. Preparation of Alternates proposed by the Architect shall be included in Architect's Design Services and shall not be compensated as a Change in Service.

§ 3.4.3.2 The Architect shall provide services for alternate or separate bids as mutually agreed upon by the Owner and Architect where it is done to satisfy maximum budget constraints in the bid process. The Architect will be required to provide one complete set of contract documents with division of work clearly defined.

§ 3.4.4 The Architect shall update the estimate for the Cost of the Work prepared in accordance with Section 6.3.

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, 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.

§ 3.5 Procurement Phase Services

§ 3.5.1 General

The Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction.

§ 3.5.2 Competitive Bidding

§ 3.5.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents, forms, General Conditions (AIA Document A201-2017 modified, General Conditions of the Contract for Construction), Specifications and Drawings, and any other pertinent Documents mutually agreed to by the Owner and Architect.

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

- .1 facilitating the distribution of Bidding Documents to prospective bidders;
- .2 organizing and conducting a-an on-site pre-bid conference for prospective bidders;
- .3 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,

- .4 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

§ 3.5.2.2.1 If during the bidding and negotiation process contractors provide alternatives to add value to the project, the Architect will review and evaluate these options, provide recommendations to the Owner and incorporate the mutually agreed upon alternatives into the Project. The evaluation and incorporation of these value engineering alternatives shall be included in Architect's design services and shall not be compensated as a Change in Service if required to meet budget.

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

§ 3.5.3 Negotiated Proposals

§ 3.5.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents-forms, General Conditions (AIA Document A201-2017 modified, General Conditions of the Contract for Construction) and any other pertinent Documents mutually agreed to be the Owner and Architect.

§ 3.5.3.2 The Architect shall assist the Owner in obtaining proposals by:

- .1 facilitating the distribution of Proposal Documents for distribution to prospective contractors or Construction Managers and requesting their return upon completion of the negotiation process;
- .2 organizing and participating in selection interviews with prospective contractors; contractors or Construction Managers;
- .3 preparing responses to questions from prospective contractors or Construction Managers and providing clarifications and interpretations of the Proposal Documents to the prospective contractors or Construction Managers in the form of addenda; and,
- .4 participating in negotiations with prospective contractors, contractors or Construction Managers, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.

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

§ 3.5.3.4 The Architect shall participate in pre-award conferences with bidders.

§ 3.5.3.5 If during the bidding and negotiation process contractors provide alternatives to add value to the Project, the Architect will review and evaluate these options, provide recommendations to the Owner and incorporate the mutually agreed upon alternatives into the Project. The evaluation and incorporation of these value engineering alternatives shall be included in Architect's design services and shall not be compensated as a Change in Service if required to meet budget.

§ 3.6 Construction Phase Services

§ 3.6.1 General

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

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

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intent of Contract Documents and schedule deviations from the most recent Construction Schedule submitted by the Contractor.

§ 3.6.1.3 Subject to Section 4.2 and except as provided in Section 3.6.6.5, 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.~~ Payment, provided all requirements have been met by the Contractor.

§ 3.6.1.3.1 Duties, responsibilities and limitations of authority of the Architect under this Article 2.6 shall not be restricted, modified or extended without written agreement of the Owner and Architect.

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 ~~The Architect~~ Architect, utilizing personnel with expertise in the specific disciplines required, shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become generally familiar with but not less than every one (1) week or as otherwise agreed by the Owner and the Architect, to become generally familiar with and observe all reasonably apparent conditions at the site, 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 in writing, (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, in the Work, and shall prepare and submit notes from job site observations to the Owner within seven (7) calendar days after each site visit. The Architect shall schedule, attend and chair, at the request of the Owner, all job meetings, and pre-construction meetings. Job meetings shall be held weekly unless otherwise provided in the Contract Documents or mutually agreed by the Architect, Owner and Contractor. The Architect shall prepare and distribute minutes of each such meeting to the Owner, Contractor, Clerk of the Works if any, consultants and others as appropriate not later than seven (7) calendar days after the meeting unless mutually agreed otherwise by the Owner and Architect. The Architect shall secure the attendance at job meetings of Architect's subconsultants and others as appropriate and as reasonably requested by the Owner..

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

§ 3.6.2.2.1 Throughout the Project, the Architect shall monitor the development of the "red lined" as-built documentation prepared by the Contractor. The "red lined" documents shall be maintained by the Contractor at the Project Site. The Architect will notify the Contractor and Owner in writing, if in the Architect's professional judgement, the documents are incomplete, inaccurate or the recording is untimely. The Contractor shall provide this documentation to the Architect for the development of a record set of drawings as required in Section 2.

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

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

§ 3.6.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201–2017, the Architect shall render initial decisions, the Architect shall render initial interpretations on Claims between the Owner and Contractor as provided in the Contract Documents.

§ 3.6.3 Certificates for Payment to Contractor

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

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2) reviewed construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and 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 procedures.

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

§ 3.6.4 Submittals

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

§ 3.6.4.2 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. The Architect's actions shall be taken with such reasonable promptness not to exceed seven (7) calendar days unless mutually agreed otherwise. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, details not within the intended scope of submittal, 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~~ or, unless otherwise provided in the Contract Documents, of any construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component. Substitutions of materials or components of work proposed by the Contractor during construction shall be considered, evaluated, documented and incorporated into the Construction Documents by the Architect within design services if the proposed substitution is mutually determined by the Architect and Owner to increase the value of the Project or the change is done to meet the Owner's budget.

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review 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 Architect's 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. The Architect shall not require supplemental Design Services from the Contractor through the Contract Documents unless specifically approved by the Owner.

§ 3.6.4.3.1 The Architect shall provide to the Contractor a base set of contract drawings in electronic format for their use in the preparation of coordination drawings and submittals. This service shall be provided by the Architect at no additional cost to the Owner or Contractor.

§ 3.6.4.4 Subject to Section 4.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the three (3) calendar days. The Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

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

§ 3.6.5 Changes in the Work

§ 3.6.5.1 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, the Architect shall prepare Change Orders and Construction Change Directives with supporting documentation and data if deemed necessary by the Architect or Owner's Representative for the Owner's approval and execution in accordance with the Contract Documents. Documents prior to being issued to the Contractor.

§ 3.6.5.1.1 The Architect shall review and analyze requests by the Owner or Contractor for changes in the Work, including adjustments to the Contract Sum or Contract Time. A properly prepared request for a change in the Work shall be accompanied by sufficient supporting data and information to permit the Architect to make a reasonable determination without extensive investigation or preparation of additional drawings or specifications. If the Architect determines that requested changes in the Work are not materially different from the requirements of the Contract Documents, the Architect may issue an order for a minor change in the Work with approval of the Owner or recommend to the Owner that the requested change be denied with reasons for denial.

§ 3.6.5.1.2 If the Architect determines that implementation of the requested changes would result in a material change to the Contract that may cause an adjustment in the Contract Time or Contract Sum, the Architect shall make a recommendation to the Owner, who may authorize further investigation of such change. Upon such authorization, and based upon information furnished by the Contractor, if any, the Architect shall estimate the additional cost and time that might result from such change, including any additional costs attributable to a Change in Services of the Architect. With the Owner's approval, the Architect shall incorporate those estimates into a Change Order or other appropriate documentation for the Owner's execution or negotiation with the Contractor.

§ 3.6.5.1.3 The Architect shall revise Contract Documents, prepare supplementary documents including drawings, specifications or other written instructions as reasonably necessary to establish the appropriateness of, and to implement the Work incorporated in the Contract by Change Orders or Change Directives. The cost of such services by the Architect shall be included in Architect's basic services including changes requested in writing by the Owner, if the cost of the requested changes is within the construction contingency or project contingency as delineated in Sections 6.1.3 and 6.1.4. Although these contingency funds are not within the Project Control Budget, the Architect shall be responsible for the review and issuance of change orders as described. Owner requested changes that exceed these contingency amounts shall be considered Changes in Services and compensated as provided in Section 3.3 unless required due to error or omission of the Architect.

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

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall:

- .1 conduct inspections to mutually determine with the Owner the date or dates of Substantial Completion and the date of final completion;
- .2 issue Certificates of Substantial Completion;

- .3 review and 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,
- .4 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.

§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected. The Architect shall provide comprehensive documentation of Work not in conformance with Contract Documents (punch list) for the Owner's and Contractor's review. This comprehensive list shall be inclusive of all architectural, mechanical and electrical disciplines. Prior to the issuance of final Certificate for Payment the Architect will reinspect to verify conformance with the Contract Documents.

§ 3.6.6.2.1 The Architect shall, within 30 calendar days after issuance of the final Certificate for Payment, prepare and deliver to the Owner a complete set of all original Contract Drawings modified to incorporate all changes directed by "SK" and other supplementary instructions prepared by the Architect or the Architect's Consultants and issued after execution of the construction contract, all changes in the Work, including detail and dimensional changes and the final locations of all plumbing, storm drainage, fire protection, mechanical and electrical lines, outlets, manholes, etc. both inside and outside the building, as recorded on the Contractor's "red-line" documents, and any other changes of which the Architect may be aware. These modified documents shall be dated and labeled "Record Documents", and the Architect shall provide the Owner with one complete full-size set of documents and, in addition, one electronic copy using the latest version of AutoCAD, an AutoCAD-compatible DWG format, or other format approved in advance by the Owner.

§ 3.6.6.3 When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

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

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

§ 3.6.6.6 Warranty Period Services

The Architect shall assist as reasonably requested by the Owner during the warranty period set forth in the Contract Documents in identifying defects in the Project and in determining and implementing appropriate corrective measures in accordance with the requirements of the Construction Contract. Approximately one month before expiration of the Contractor's warranty period, the Architect shall conduct an inspection of the Project together with the Owner's representatives, and shall report in writing any observed discrepancies under warranties or guarantees required by the Contract Documents.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

§ 4.1.1 The services listed below are ~~not included in Basic Services~~ but defined as included in Basic Services or Additional Services as may be required for the Project. The Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project.

(Designate the Architect's Supplemental Services and the Owner's Supplemental Services required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service.

Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.)

Supplemental Services	Responsibility <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.1 Programming	<u>Architect Basic Service</u>
§ 4.1.1.2 Multiple preliminary designs	<u>Architect Basic Service</u>
§ 4.1.1.3 Measured drawings	<u>Architect Basic Service</u>
§ 4.1.1.4 Existing facilities surveys	<u>Architect Basic Service</u>
§ 4.1.1.5 Site evaluation and planning	<u>Not Provided</u>
§ 4.1.1.6 Building Information Model management responsibilities	<u>Not Provided</u>
§ 4.1.1.7 Development of Building Information Models for post construction use	<u>Not Provided</u>
§ 4.1.1.8 Civil engineering	<u>Not Provided</u>
§ 4.1.1.9 Landscape design	<u>Not Provided</u>
§ 4.1.1.10 Architectural interior design	<u>Not Provided</u>
§ 4.1.1.11 Value analysis	<u>Architect Basic Service</u>
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	<u>Architect Basic Service</u>
§ 4.1.1.13 On-site project representation	<u>Architect Basic Service</u>
§ 4.1.1.14 Conformed documents for construction	<u>Architect Basic Service</u>
§ 4.1.1.15 As-designed record drawings	<u>Architect Basic Service</u>
§ 4.1.1.16 As-constructed record drawings	<u>Architect Basic Service</u>
§ 4.1.1.17 Post-occupancy evaluation	<u>Architect Basic Service</u>
§ 4.1.1.18 Facility support services	
§ 4.1.1.19 Tenant-related services	
§ 4.1.1.20 Architect's coordination of the Owner's consultants	<u>Owner</u>
§ 4.1.1.21 Telecommunications/data design	<u>Not Provided</u>
§ 4.1.1.22 Security evaluation and planning	<u>Not Provided</u>
§ 4.1.1.23 Commissioning	<u>Not Provided</u>
§ 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3	
§ 4.1.1.25 Fast-track design services	
§ 4.1.1.26 Multiple bid packages	
§ 4.1.1.27 Historic preservation	
§ 4.1.1.28 Furniture, furnishings, and equipment design	<u>Not Provided</u>
§ 4.1.1.29 Other services provided by specialty Consultants	
§ 4.1.1.30 Other Supplemental Services	

§ 4.1.2 Description of Supplemental Services

§ 4.1.2.1 A description of each Supplemental Service identified in Section 4.1.1 as the Architect's responsibility is provided below.

(Describe in detail the Architect's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit. The AIA publishes a number of Standard Form of Architect's Services documents that can be included as an exhibit to describe the Architect's Supplemental Services.)

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Preliminary hazardous materials assessment (visual inspection).

§ 4.1.2.2 A description of each Supplemental Service identified in Section 4.1.1 as the Owner's responsibility is provided below.

(Describe in detail the Owner's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit.)

§ 4.1.3 If the Owner identified a Sustainable Objective in Article 1, the Architect shall provide, as a Supplemental Basic Service, the Sustainability Services required in AIA Document E204™–2017, Sustainable Projects Exhibit, attached to this Agreement. ~~The Owner shall compensate the Architect as provided in Section 11.2.~~

§ 4.2 Architect's Additional Services

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Agreement, if mutually agreed in writing, if required by circumstances beyond the Architect's control, or if the Architect's services are affected as described in Section 3.3.1. In the absence of mutual agreement in writing, the Architect shall notify the Owner in writing prior to providing such services. If the Owner deems that all or a part of such Change in Services is not required, the Owner shall give prompt written notice to the Architect, and the Architect shall have no obligation to provide those services. 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 and an appropriate adjustment in the Architect's schedule. If the Architect believes that such circumstances beyond its control exist, the Architect shall promptly so notify the Owner in writing, stating the reasons for such belief and stating, insofar as can then be determined or estimated, the amount of any adjustment to the Architect's compensation or time for performance or both, which may be required. The Owner shall promptly respond in writing to the Architect's notice, either authorizing the Change in Services in its entirety, or stating that all or a part of such Change is not authorized. Except in an emergency which significantly threatens life safety, property damage or delay to the Project, the Architect shall have no obligation to provide, and shall not be entitled to any additional compensation for any services which the Owner states are not authorized.

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

- .1 ~~Services necessitated by a change in the Initial Information, 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; Project;~~
- .2 ~~Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service; Service, not reasonably anticipated;~~
- .3 ~~Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b) contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care; permit,;~~
- .4 ~~Services necessitated by decisions of the Owner not rendered in a timely manner after receipt of written notice from the Architect or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;~~
- .5 ~~Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner-authorized recipients;~~
- .6 ~~Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;~~
- .7 ~~Preparation for, and attendance at, a public presentation, meeting or hearing;~~
- .8 ~~Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;~~
- .9 ~~Evaluation of the qualifications of entities providing bids or proposals;~~

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- .10 Consultation concerning replacement of Work resulting from fire or other cause during ~~construction;~~
~~or, construction.~~
- .11 Assistance to the Initial Decision Maker, if other than the Architect.

§ 4.2.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Architect of the Owner's determination. The Owner shall compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice.

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule approved by the Architect;
- .2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner provided information, Contractor prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker; or,
- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom.

§ 4.2.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner:

- .1 three (3) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
- .2 twelve (12) visits to the site by the Architect and subconsultants during construction
- .3 three (3) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 three (3) inspections for any portion of the Work to determine final completion.

§ 4.2.4 Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and Contractor, whichever is earlier, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

§ 4.2.5 If the services covered by this Agreement have not been completed within () 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.

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, ~~including a written program, which shall set forth the Owner's objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility; expandability; special equipment; systems; and site requirements.~~ Project.

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

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§ 5.4 The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions, and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 5.5 The Owner shall furnish services of geotechnical engineers, ~~which when such services are requested by the Architect and when determined to be reasonably necessary by the Owner.~~ Such services may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations. The geotechnical consultant services provided by the Owner will be limited to testing and analyzing subsoil conditions of the site and providing results of the analysis to the Architect for use as design criteria or capacity of subsurface conditions. The Architect shall be responsible for services in providing a design solution for the project which satisfies these criteria within Basic Services. If geotechnical design services are required beyond those described above as being provided by the geotechnical engineer engaged by the Owner, then the Architect shall engage those services from the geotechnical engineer within Basic Services. Services required of the geotechnical engineer during construction will be considered "special inspections" or "materials testing services" as addressed in Article 3.3.

§ 5.6 The Owner shall provide the Supplemental Services designated as the Owner's responsibility in Section 4.1.1.

§ 5.7 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E204™-2017, Sustainable Projects Exhibit, attached to this Agreement.

§ 5.8 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 furnish the services of consultants other than those designated as the responsibility of the Architect in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.~~

§ 5.9 Unless otherwise provided in this Agreement, or otherwise customarily provided by the Architect, The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.10 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.

§ 5.11 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.

§ 5.12 As deemed necessary by the Owner, The Owner shall include the Architect in all communications with the Contractor that relate to or affect the Architect's services or professional responsibilities. ~~The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project.~~ Communications by and with the Architect's consultants shall be through the Architect.

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

§ 5.14 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.

§ 5.15 ~~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.~~

§ 5.16 The Owner may, at its sole option and expense, hire and direct the activity of a full or part-time Clerk of the Works, a Commissioning Agent, a consultant for peer design review, or other consultants reasonably acceptable to the Architect for the Project.

ARTICLE 6 COST OF THE WORK

§ 6.1 ~~For purposes of this Agreement, the~~ The Cost of the Work shall be the total cost to the Owner to construct cost to the extent the Project is not completed, the estimated cost to the Owner of all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. Architect. 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.

§ 6.1.1 The Cost of the Work shall include the cost at current market rates of labor and materials furnished by the Owner and equipment designed, specified, selected or specially provided for by the Architect, including the costs of management or supervision of construction or installation provided by a separate construction manager or contractor, plus a reasonable allowance for their overhead and profit. In addition, a reasonable allowance for market condition adjustments at the time of bidding and for changes shall be included in the Cost of the Work.

§ 6.1.2 The Cost of the Work does not include the compensation of the Architect and the Architect's consultants, the costs of the land, rights-of-way and financing or other costs that are the responsibility of the Owner .

§ 6.1.3 The Cost of the Work does not include the Construction Contingency which is to be spent if necessary during the construction phase of the Project. The Construction Contingency is however within the design and documentation scope of the Architect and should be included in the Basic Services. An amount of up to (5%) five percent of the Total Construction line of the budget may be expended by the Owner during the construction phase for changes in the Project. Non-limiting examples of these changes include unforeseen conditions discovered during construction, errors and omissions or opportunities to improve the value of the Project through quality or other construction enhancements. See Article 6.1.6.

§ 6.1.4 The Cost of the Work does not include the Project Contingency which may be spent during the construction phase of the Project. The Project Contingency is however within the design and documentation scope of the Architect and should be included in the Basic Services. An amount of up to (5%) five percent of the Cost of the Work which includes the construction cost and all remaining items within the Architect's design scope . These funds may be expended by the Owner during the construction phase for changes in the Project. Non-limiting examples of these changes include unexpected expenses, construction changes, minor construction enhancements or minor program related enhancements. See Article 6.1.6.

§ 6.1.5 Funds from the Construction Contingency and the Project Contingency cannot be committed or expended without the authorization of the Owner.

§ 6.1.6 Enhancements paid through the use of Construction Contingency or Project Contingency funds that will be considered part of the Architect's Basic Services include those enhancements approved by the Owner that are identified and designed during the design phases of the project. Other enhancements within Basic Services identified after the completion of the design phases must meet the following criteria to be considered within the Architect's Basic Services:

1. The enhancement does not involve the expansion of the Owner's Program as established in the Design Phases.

2. The enhancement does not involve additional design, evaluation, or documentation by the Architect other than change order preparation and processing.

The Architects services required for enhancements made to the project in the construction phase and paid through the use of Construction Contingency or Project Contingency funds not meeting the above criteria will be compensated as a change in service as described in 3.3 and 6.2.

§ 6.1.7 The Architect shall prepare one estimate of the Cost of the Work. As the design process progresses through the end of the preparation of the Construction Documents, the Architect shall update and refine the estimate of the Cost of the Work. The Architect shall advise the Owner of any adjustments to previous estimates of the Cost of the Work indicated by changes in Project requirements or general market conditions. If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget, and the Owner shall cooperate with the Architect in making such adjustments.

§ 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 4.1.1, as a Supplemental Service.

§ 6.4 If, through no fault of the Architect, the Procurement Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, the Owner's Project Control budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market industry between the date of submission of the Construction Documents to the Owner and the date on which proposals or bids are sought.

§ 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 Project Control 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; of the Work. If the budget is supplemented by the Owner to the extent necessary to fund a cost overrun of the design provided by the Architect and no expansion of project scope has occurred, then the Architect will not be compensated as additional services for this supplemental budget funding;
- .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; Work. Cooperate in revising the Project scope and quality as required to reduce the Cost of the Work to be within the maximum budget constraints of the Project Control Budget but not less than eighty percent (80%) of the Project Control Budget. The redesign must then be mutually agreed upon by the Owner and Architect; or,
- .5 implement any other mutually acceptable alternative.

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§ 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, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise the Work, the Architect's services for modifying the Construction Documents 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.

§ 6.7.1 The Owner's Representative will compare and analyze the Reconciled Cost Estimate (required in Article 2.4. If the Reconciled Cost Estimate exceeds the Construction Budget, the Architect shall advise the Owner on ways to revise the Project so its cost is within the Construction Budget. The Architect shall recommend options for cost reduction for the Owner's approval.

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 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. If and upon the date the Architect is terminated by the Owner for any cause other than default by the Owner of this Agreement, the foregoing license shall be deemed terminated and replaced by a second, nonexclusive license permitting the Owner to authorize other similarly credentialed design professionals to reproduce and, where permitted by law, to make changes, corrections or additions to the Instruments of Service solely for purposes of completing, using and maintaining the Project. In the case where the parties are engaged in a good faith dispute, the Owner will retain the aforementioned nonexclusive license until or unless the Owner is deemed to be in default.

§ 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 A201-2017, General Conditions of the Contract for ~~Construction~~-Construction, modified and incorporated into the Agreement. 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 9.7.~~
Agreement.

§ 8.2 Mediation

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's ~~services, the Architect or Owner's rights and obligations under this Agreement, the~~ liened party 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 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation, which, 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. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 8.2.3 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.

§ 8.2.3.1 At the request of the Owner, any claims between Owner and Contractor, Owner and Architect, Contractor and Architect, Contractor and its Surety, or Contractor and its Subcontractors or suppliers, shall be submitted for mediations as provided in this Section 8.2, and any or all of the parties named above shall, at the Owner's request, be joined or consolidated therein.

§ 8.2.4 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.)

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/

- Arbitration pursuant to Section 8.3 of this Agreement
- Litigation in a court of competent jurisdiction
- Other: *(Specify)* See Article 15 of the General Conditions

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

§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. Agreement and shall be conducted in a location local to the Project. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.

§ 8.3.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.

§ 8.3.2 The foregoing agreement to arbitrate, and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement, shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof. Upon request of the Owner, any claims between Owner and Contractor, Owner and Architect, Contractor and Architect, Contractor and its Surety, or Contractor and its Subcontractors or suppliers, shall be submitted for arbitration or litigation as provided in this Section 8.3 and any or all of the parties named above shall, at the Owner's request, be joined or consolidated therein.

§ 8.3.3 The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 8.3.4 Consolidation or Joinder

§ 8.3.4.1 ~~Either party, at its sole discretion, if mutually agreed, 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. The Owner will not be obligated to pay any sum disputed in good faith. However, pending resolution of any dispute or claim, the Architect will continue performance of the 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,~~ Project for more than sixty (60) consecutive days, 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 reasonable expenses incurred in the interruption and resumption of the Architect's ~~services.~~ services as mutually agreed upon. 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,~~ Project is suspended for any reason or the Architect's services are suspended for more than ninety (90) consecutive days, the Architect may terminate this Agreement by giving not less than seven-thirty days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than ~~seven-thirty 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-thirty days'~~ written notice to the Architect for the Owner's convenience and without cause.

§ 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 compensate the Architect for services performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements, together with Reimbursable Expenses incurred.

§ 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 from the date of Substantial Completion.~~

§ 9.9 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article ~~7 and Section 9.7.7.~~

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ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201–2017, General Conditions of the Contract for ~~Construction~~ Construction, modified and incorporated into this Agreement.

§ 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, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to 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 Unless otherwise required in this Agreement, 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. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include ~~the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary, any other information without the Owner's approval.~~ 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 Unless specifically requested by the Architect and authorized by the Owner in writing, the Architect shall maintain the confidentiality of information of the Project, unless withholding such information would violate the law, create the risk of significant harm to the public or prevent the Architect from establishing a claim or defense in an adjudicatory proceeding. The Architect shall require of the Architect's consultants similar agreements to maintain the confidentiality of information specifically designated as confidential by the Owner. If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement. confidential.

§ 10.8.1 ~~The receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, when required by law, arbitrator's order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.~~

§ 10.9 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.

§ 10.10 The Architect may not use any drawings or specifications thereof for any purpose not related to the Project without the Owner's consent.

§ 10.11 Upon completion of the Work or any earlier termination of the Agreement, the Architect will furnish the Owner with one complete set of reproducible record prints and one electronic copy of the documents, as they exist at that time, which may be used by the Owner without the Architect's permission for any proper purpose relating to the Project as determined by the Owner and per Article 3.

§ 10.12 Errors and Omissions by the Architect:

Construction Change Orders, or individual portions thereof made necessary by errors or omissions of the Architect and its consultants calculated at full value of the Change Order or portion thereof as a result of the error or omission will be paid through the Owner's budget without financial obligation of the Architect up to (1%) one percent of the "Total Construction Budget." The Change Orders, or individual portions thereof, within this contractual limit will accrue in order of Change Order approval date. In the case of any Change Orders, or individual portions thereof necessary by the errors or omissions of the Architect and its consultants calculated at full value of the Change Order or portion thereof as a result of the error or omission in aggregate above (1%) one percent of the amount as shown in the "Total Construction Budget", the Architect shall compensate the Owner for the difference between the amount of the Change Order, or individual portions thereof, and what the Owner would have paid had the error or omission not occurred. This difference will include the entire cost of removing work if required to remedy the error or omission. The difference will also include the entire cost of any other extra work that is required because of the error or omission if the Owner receives no substantial benefit from the required extra work. If the error or omission is discovered after bids are received and the contracting team has been selected, the minimum assumed premium, and therefore reimbursement from the Architect, for not bidding the specific work, required as a result of the error or omission will be twenty percent (20%) of the amount of the Change Order, or individual portions thereof. Change Orders, or individual portions thereof, made necessary to various contractors or subcontractors for work reassigned from another contract or assignment within the complete set of construction documents will not be considered an error or omission for purposes of this paragraph. In any case, the Architect will not be additionally compensated for services related to any Change Order, or individual portions thereof, made necessary by the Architect or its consultants' error or omissions.

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)

.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 the Architect's Supplemental Services designated in Section 4.1.1 and for any Sustainability Services required pursuant to Section 4.1.3, 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.)

§ 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.)

Based on a written proposal mutually agreeable by both Owner and Architect.

§ 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 ten percent (~~%)~~, ~~10%~~, or as follows:
(Insert amount of, or basis for computing, Architect's consultants' compensation for Supplemental or Additional Services.)

§ 11.5 When compensation for Basic Services is based on a stipulated sum or a percentage basis, the proportion of compensation for each phase of services shall be as follows:

Schematic Design Phase	percent	(%)
Design Development Phase	percent	(%)
Construction Documents Phase	<u>eighty</u>	percent (<u>80</u> %)
Procurement Phase	<u>three</u>	percent (<u>3</u> %)
Construction Phase	<u>seventeen</u>	percent (<u>17</u> %)
<hr/>			
Total Basic Compensation	one hundred	percent (100 %)

§ 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 to the date of termination whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's ~~consultants~~ 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.)

As provided in the Architect's proposal dated May , 2021.

Employee or Category

Rate (\$0.00)

§ 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:

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- .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;~~ Bulk reproductions, and plotting of Design and Contract Documents for the Owner's review and bidding purposes;
- .5 ~~Postage, handling, and delivery;~~ delivery of Instruments of Service;
- .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;~~ requested and authorized in advance as an additional service by the Owner;
- .8 ~~If required by the Owner, and with the Owner's prior written approval, the Architect's consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect's consultants;~~
- .9 ~~All taxes levied on professional services and on reimbursable expenses;~~
- .10 ~~Site office expenses;~~
- .11 ~~Registration fees and any other fees charged by the Certifying Authority for the Project or by other entities as necessary to achieve the Sustainable Objective;~~ Objective for the Project; and,
- .12 ~~Other similar Project-related expenditures;~~ direct Project-related expenditures, if authorized by the Owner.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus zero percent (0 %) of the expenses incurred.

§ 11.9 ~~Architect's Insurance.~~ If the types and limits of coverage required in Section 2.5 are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below:
(Insert the additional coverages the Architect is required to obtain in order to satisfy the requirements set forth in Section 2.5, and for which the Owner shall reimburse the Architect.)

§ 11.10 Payments to the Architect

§ 11.10.1 Initial Payments

§ 11.10.1.1 ~~An initial payment of (\$) 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.~~

§ 11.10.1.2 ~~If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of (\$) shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.~~

§ 11.10.2 Progress Payments

§ 11.10.2.1 Unless otherwise agreed, thirty (30) days from the date the Owner receives the Architect's invoice, 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 (—thirty (30) days after receipt of the Architect's invoice, except for amounts disputed in writing by the Owner. Amounts unpaid ninety (90) 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.)

½ of 1% per month

%

When the contractual limit for Errors and Omission is exceeded per Section 10.11, the Owner may withhold payment to the Architect equal to the amount exceeding this limit without interest or penalty.

§ 11.10.2.2 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.

§ 11.10.2.3 Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

Expenses not reimbursed by the Owner and part of the fee for Basic Services include, but are not limited to, the following:

1. Reproductions and plotting of Documents used by the Architect and the Architect's Subconsultants;
2. Purchase, rental or use of computer hardware or software;
3. Travel by the Architect and Subconsultants between their places of business;
4. Local telephone and equipment charges and any other office expenses customarily considered overhead such as office supplies, rent, utilities, general clerical and secretarial services and depreciation; and
5. Models produced by the Architect or the Architect's consultant for use in studying or illustrating the design or other aspects of the project not specifically requested and authorized by the Owner as an additional service.

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.)

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 B101™-2017, Standard Form Agreement Between Owner and Architect
- .2 ~~AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:~~
(Insert the date of the E203-2013 incorporated into this agreement.)

- .3 Exhibits:
(Check the appropriate box for any exhibits incorporated into this Agreement.)

AIA Document E204™-2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017 incorporated into this agreement.)

Other Exhibits incorporated into this Agreement:
(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits and scopes of services identified as exhibits in Section 4.1.2.)

AIA Document A201-2017, modified, General Conditions of the Contract for Construction

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

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1. Request for Qualifications/Proposal for Architectural Services for Staples High School Roof Replacement and Addenda thereto.
2. Architect's Proposal dated May , 2021

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

OWNER *(Signature)*

(Printed name and title)

ARCHITECT *(Signature)*

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

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Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, _____, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with this certification at 07:50:17 ET on 04/23/2021 under Order No. 0938138155 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B101™ – 2017, Standard Form of Agreement Between Owner and Architect, as published by the AIA in its software, other than changes shown in the attached final document by underscoring added text and striking over deleted text.

(Signed)

(Title)

(Dated)