



AIA[®] Document B101[™] – 2017

Standard Form of Agreement Between Owner and Architect

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

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

Wheaton Park District
102 E. Wesley
Wheaton, IL 60187

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

Williams Architects
500 Park Boulevard, Suite 800
Itasca, IL 60143

ADDITIONS AND DELETIONS:

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

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

for the following Project:
(Name, location and detailed description)
Community Center Interior Renovation, Phases 1 & 2
1777 S. Blanchard St.
Wheaton, IL 60189

Architect to provide architectural and engineering services for the following improvements to the Community Center:

Phase 1 (2020 Implementation):

This project will consist of renovations to the upper level program rooms including the President Room, Willow Pointe Room, Rathje/Kelly Rooms, Atten/Arrowhead Rooms, and Northside Room. Alternate bids will further be sought for the main level Memorial Room. Renovations to these spaces shall include, but not necessarily be limited to, the following as previously recommended for each space:

- Improvements and changes to wall paint, tile, and wall protection
- Modifications/repair to ceilings as required to accommodate new lighting/functional layouts (much of the 2nd floor ceiling tile has been recently replaced and is expected to remain)
- Replacement flooring materials with suitable materials for each desired function/program
- Replacement lighting including potential for daylight and occupancy control systems to reduce energy consumption
- Replacement casework and countertops to address condition and accessibility concerns
- Replacement sinks and trim to address condition and accessibility concerns
- Replacement of existing aluminum blinds with roller shades

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User Notes:

(1514760312)

Phase 2 (2021 Implementation):

This project will consist of renovations to main restrooms and corridors on all three levels of the building and improvements to the lobby/service desk area on the main level. Work in these areas shall include, but not necessarily be limited to, the following as previously recommended for each space:

- Reconfiguration of the main level entrance lobby, front desk, and "back-of-desk" areas to achieve customer flow and customer service improvements as previously recommended
- Improvements and changes to wall paint, tile, and wall protection throughout
- Modifications/repair to ceilings as required to accommodate new lighting/functional layouts Replacement flooring materials with suitable materials for each intended use
- Replacement lighting including potential for daylight and occupancy control systems to reduce energy consumption
- Replacement casework and countertops to address condition and accessibility concerns
- Replacement fixtures, partitions, and accessories in each restroom to address condition and accessibility concerns.

The Owner and Architect agree as follows.

TABLE OF ARTICLES

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

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth 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.)

Wheaton Park District Community Center Interior Renovations Project

§ 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.)

[TBD]

§ 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.)

\$471,000 for Phase 1, assuming approximately \$120,000 savings if Owner staff completes certain portions of the Work with its staff. \$968,100.00 for Phase 2, assuming approximately \$202,600.00 savings if Owner completes certain portions of the Work with its staff.

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

.1 Design phase milestone dates, if any:

Phase 1 – 2020 Implementation:

Design Development: December 2019-February 2020

Construction Documents & Permitting: March – May 2020

Bidding/Negotiations: May 2020

Phase 2 – 2021 Implementation:

Commence August 2020

Design Development: August 2020 – October 2020

Construction Documents & Permitting: November 2020 – February 2021

Bidding/Negotiations: March 2021

.2 Construction commencement date:

[TBD]

.3 Substantial Completion date or dates:

[TBD]

.4 Other milestone dates:

§ 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.)

Competitively bid in accordance with applicable public bidding and contracting requirements.

§ 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.)

NA

§ 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.)

Rob Sperl - Wheaton Park District
102 E. Wesley
Wheaton, IL 60187
T: 630-510-4970
Email: rsperl@wheatonparks.org

§ 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.)

NA

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

.1 Geotechnical Engineer:

Not applicable.

.2 Civil Engineer:

Not applicable.

.3 Other, if any:

(List any other consultants and contractors retained by the Owner.)

TBD

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

Tom C. Poulos, Principal-in-Charge
Williams Architects
500 Park Boulevard, Suite 800
Itasca, IL 60143
T: 630-221-1212
tcpoulos@williams-architects.com

Andrew R. Dogan, Principal & Managing Architect
500 Park Boulevard
Suite 800

Itasca, IL 60143
T: 630-221-1212

§ 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:

TBD

.2 Mechanical Engineer:

TBD

.3 Electrical Engineer:

TBD

.4 Low Voltage/AV Design:

TBD

§ 1.1.11.2 Consultants retained under Supplemental Services:

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

Owner and Architect hereby agree and understand that Architect's obligations for the Construction Phase Services for Phase 1 and Phase 2 as enumerated in Article 3.6 of this Agreement are subject to separate approval by Owner's Board upon completion of the Bidding Phase of each Phase of the Project. Owner may, but is under no obligation to, retain Architect for the Construction Phase Services of either Phase 1 or Phase 2 of this Project. If Owner elects to retain Architect for the Construction Phase Services of either Phase 1 or Phase 2 of this Project, Architect's fee for the Construction Phase Services shall be as provided in Article 11 of this Agreement.

§ 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 by subsequent written agreement 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 may 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 Reserved.

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 within the scope of Basic

Services. The scope of Basic Services to be provided by the Architect includes those services and other deliverables as specified in Architect's proposal dated November 8, 2019, Revised (the "Proposal"). The Proposal is incorporated into this Agreement by this reference. To the extent the Proposal conflicts with this Agreement, this Agreement controls.

§ 2.2 Architect understands and acknowledges that it has been engaged by the Owner to provide Architect's services based, in part, on the Architect's expertise, experience and qualifications in providing architectural services comparable to those to be provided under this Agreement and on projects comparable in kind and scope to this Project. The Architect's services shall be performed properly and expeditiously to permit the orderly and timely progress and proper performance both of the Architect's services and the Work, consistent with such professional skill, care and diligence and good architectural practices as are exercised by a competent architect with experience in the design and administration of projects of comparable kind and scope to this Project and practicing architecture in the Chicago metropolitan areas (such skill, care, diligence and practices being hereinafter referred to as the "Professional Standard").

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project. All persons connected with the Architect as an officer, employee or agent of or consultant to the Architect, who are directly in charge of the professional architectural or engineering work performed as part of Architect's services, are, and for so long as any services shall be provided under this Agreement, shall be duly registered and licensed under and in accordance with Illinois laws regarding the practice of architecture and engineering, as applicable to this Project, and they and any other consultants selected by the Architect and providing services with respect to the Project shall be otherwise qualified and possess the skill and competence required to perform the services properly. The Architect shall be responsible for the acts and omissions of its employees, agents and consultants, and their respective employees and agents with respect to the services provided under this Agreement.

§ 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 compromises or 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.

§ 2.5.1 Commercial General Liability, and if necessary, commercial umbrella insurance with policy limits of not less than one million dollars (\$1,000,000.00) for each occurrence and two million dollars (\$ 2,000,000.00) in the aggregate for bodily injury and property damage. CGL insurance shall be written on Insurance Services Office (ISO) occurrence form CG 00 04 13 93, or a substitute form providing similar coverage, and shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract). Owner shall be included as an insured under the CGL, using ISO additional insured endorsement CG 20 10 or a substitute providing similar coverage, and under the commercial umbrella, if any. This insurance shall apply as primary insurance with respect to any other insurance or self-insurance afforded to Owner. There shall be no endorsement or modification of the CGL limiting the scope of coverage for liability arising from pollution, explosion, collapse, or underground property damage.

§ 2.5.2 Automobile Liability, and, if necessary, commercial umbrella liability insurance, covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than one million dollars (\$ 1,000,000.00) 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. Business auto insurance shall be written on Insurance Services Office (ISO) form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage equivalent to that provided in the 1990 and later editions of CA 00 01.

§ 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

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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.

§ 2.5.5 Employers' Liability with policy limits not less than one million dollars (\$ 1,000,000.00) each accident, one million dollars (\$ 1,000,000.00) each employee, and one million dollars (\$ 1,000,000.00) policy limit. If Owner has not been included as an insured under the CGL using ISO additional insured endorsement CG 20 10 under the Commercial General and Umbrella Liability Insurance required in this Contract, the Architect waives all rights against Owner and its officers, officials, employees, volunteers and agents for recovery of damages arising out of or incident to the Architect's work.

§ 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 (\$ 1,000,000.00) per claim and Two Million Dollars (\$ 2,000,000.00) in the aggregate.

§ 2.5.7 Additional Insured Obligations. To the fullest extent permitted by law, the Architect shall by endorsement cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner, its elected and appointed officials, employees and agents 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 by endorsement 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, declarations, policies, and endorsements to the Owner that evidence compliance with the requirements in this Section 2.5. All specified insurance shall be obtained from insurance companies licensed to conduct business in Illinois and with a Best's Key Guide Rating of at least A / VII. All specified policies shall by endorsement incorporate a provision requiring thirty days' written notice to the Owner prior to the cancellation, non-renewal or material modification of any such policies.

§ 2.5.9 If Architect's commercial general liability policy does not contain the standard ISO separation of insureds provision, or a substantially similar clause, they shall be endorsed to provide cross-liability coverage.

§ 2.5.10 Deductibles and Self-Insured Retentions. The Architect has advised Owner that its deductibles are \$25,000 for Professional Liability; \$5,000 for Employment Practices and \$500 for BAPP. The Architect shall promptly notify Owner of any increase in any of its deductibles during the term of this Agreement and if such increase is unacceptable to Owner, Owner may terminate the Agreement upon seven days prior written notice to Architect.

§ 2.5.11 Sub-consultants. The Architect shall cause each consultant employed by Architect to purchase and maintain insurance of the type specified above. When requested by the Owner, Architect shall furnish copies of certificates of insurance evidencing coverage for each consultant.

§ 2.6 Architect's duties as set forth herein shall at no time be in any way diminished by reason of any approval by the Owner of the Construction Documents authored by the Architect or its consultants, nor shall anything contained in this Agreement be construed as a limitation on, or a waiver of, any remedies which the Owner may have at law or in equity for damages sustained or expense incurred because of, or arising out of, Architect's negligent errors, omissions, or failure to perform its duties or covenants in accordance with this Agreement. The grant of various rights to the Owner under this Agreement, and/or the failure of the Owner to exercise those rights do not and shall not create any responsibility or liability in the Owner for any error or omission of the Architect in the provision of its Services. Notwithstanding this provision, the Owner shall be responsible for all design decisions directed by the Owner over the specific written contrary recommendation of the Architect.

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§ 2.7 All agreements between the Architect and its consultants shall be in writing and shall contain such provisions binding the Architect's consultants to the Architect, requiring Architect's consultant's to perform their scope of services in the same manner and to the extent that the Architect is bound to the Owner in accordance with this Agreement. The Architect shall timely pay all sums due to its consultants in accordance therewith upon payment by Owner of undisputed invoices and shall not cause or permit any liens to be placed by any such consultants against the property or funds of the Owner provided Owner has paid Architect the sums due to (and such sums are not in dispute or Owner is otherwise entitled to withhold such sums in accordance with this Agreement,) the Architect's consultants in accordance with this Agreement. The Architect will provide Owner current waivers and releases of lien from Architect on account of the payment sought in the invoice, and for Architect's consultants, the Architect will provide Owner lien waivers for the prior payment paid to them in the performance of its services.

§ 2.8 The Architect shall furnish a competent and adequate staff, and contract with competent consultants as necessary for the proper administration, coordination, supervision and performance of the Architect's services. The Architect's representative shall not be changed without the consent of the Owner, unless such person leaves the employ of the Architect, in which event the substitute must first be approved in writing by the Owner which approval shall not be unreasonably withheld or delayed. The Architect agrees that the Architect will change its assistants assigned to provide the services at the reasonable request of the Owner, if, in the Owner's reasonable opinion, based on actual instances of deficient performance, such person's performance does not equal or exceed the Professional Standard, or the acts or omissions of such person are detrimental to the timely and/or proper performance of the Architect's services or the Work; provided however that the Owner's exercise of such right or failure to exercise such right shall not affect Architect's responsibility or liability for the proper performance of its services. The Architect accepts responsibility for the acts and omissions of its employees and consultants. The Architect's removal or replacement of an employee and/ or consultant pursuant to this provision shall not be deemed an admission of liability on the part of the Architect. The Architect shall coordinate all aspects of the Architect's services.

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 architectural, structural, civil, landscape, mechanical, plumbing, fire protection and electrical engineering, and maintenance equipment services, and all other specialty services, if and to the extent required to provide a complete design for the Project. Services not set forth in this Article 3 are Supplemental or Additional Services.

§ 3.1.1 The Architect shall manage the Architect's services, consult with the Owner, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner on a regular basis and in accordance with Architect's Proposal.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. After the Architect has reviewed such services and any information provided by Owner and Owner's consultants, and after Architect notifies the Owner in writing of any defects and deficiencies in such services or information of which the Architect is aware, the Architect shall 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 and Owner's Board of Commissioner's review, 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, or by the subsequent written agreement of the parties, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.4 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. Notwithstanding, if Owner proposes

to take such action without the Architect's approval, and Architect knows of such action and believes such action may be detrimental to the aesthetic, architectural, structural and/or functional aspects of the completed Project, the Architect shall so inform the Owner, in writing and with specificity, as soon as is reasonably practicable.

§ 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 respond to applicable design requirements imposed by those authorities and entities.

§ 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. The Architect shall prepare the paperwork required to apply for the approval of governmental authorities having jurisdiction over the Project if necessary, and shall present such documentation to the Owner for review, approval and execution, if necessary. The Architect shall present the Project at meetings or hearings to facilitate those approvals and the issuance of all permits required to commence and complete construction.

§ 3.1.7 If the Owner indicates its interest in utilizing a construction manager with respect to the Project, the Architect shall confer with the Owner to determine any adjustments needed to this Agreement based on the scope of services to be furnished by the construction manager.

§ 3.2 Schematic Design Phase Services

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services. The Architect shall respond in the design of the Project to requirements imposed by governmental authorities having jurisdiction over the Project.

§ 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. The Architect shall immediately, in writing, 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; and (3) any impact that the selected delivery method may have on the scheduled completion of the Project.

§ 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, including the feasibility of incorporating 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, and based upon the Owner's then-current budget, 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.

§ 3.2.5.1 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 consistent with the Owner's program, schedule, and budget for the Cost of the Work.

§ 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, meet with the Owner to review Schematic Design Documents, and request the Owner's approval.

§ 3.2.8 The Architect shall provide all services for the Schematic Design Phase in accordance with Architect's Proposal.

§ 3.3 Design Development Phase Services

§ 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, civil, structural, mechanical, plumbing, fire protection and electrical systems, maintenance equipment, other specialty systems for the facility, 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, meet with the Owner to review the Design Development Documents, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval.

§ 3.3.4 The Architect shall provide all services for the Design Document Phase in accordance with Architect's Proposal.

§ 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 Construction Documents shall include all Drawings and Specifications required to obtain the construction permits and approvals of the governmental authority or authorities having jurisdiction over the Project. 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.

§ 3.4.2 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) procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms, with alternate bid requirements; (2) the form of agreement between the Owner and Contractor; and (3) the General Conditions of the Contract for Construction as modified by the Owner or the Owner's attorney. The Architect shall also compile a project manual that includes the Owner-modified General Conditions of the Contract for Construction and Specifications, and may include bidding requirements and sample forms.

§ 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.

§ 3.4.6 The Architect shall provide all services for the Construction Documents and Permitting Phase in accordance with Architect's Proposal.

§ 3.5 Procurement Phase Services

§ 3.5.1 General

The Architect shall develop bidders' interest in the Project. 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 and the responsibility of bidders or proposers; (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.

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

- .1 issuing statutory notice for bid and facilitating the distribution of Bidding Documents to prospective bidders;
- .2 organizing and assisting the Owner in conducting a pre-bid conference for prospective bidders;
- .3 in consultation with the Owner, 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 assisting the Owner with the Owner's conducting of the opening of the bids, assisting the Owner in determining the responsiveness of bids and investigating the responsibility of bidders, and subsequently documenting and distributing the bidding results and notice of award(s), as directed by the Owner.

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

§ 3.5.3 Negotiated Proposals

§ 3.5.3.0 Section 3.5.3 and its subparts shall only apply if and to the extent Owner directs the Architect that the Work, or portions thereof, may be procured by negotiated proposals instead of competitive bidding as otherwise required by law. Architect shall follow the Owner's directions regarding the method of procurement for all portions of the Work.

§ 3.5.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents.

§ 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 and requesting their return upon completion of the negotiation process;
- .2 organizing and participating in selection interviews with prospective contractors;
- .3 preparing responses to questions from prospective contractors and providing clarifications and interpretations of the Proposal Documents to the prospective contractors in the form of addenda; and,
- .4 participating in negotiations with prospective contractors, 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, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective contractors.

§ 3.5.4 If the Architect recommends that the Owner disqualify or reject a bidder or proposer, as the case may be, based upon a lack of responsiveness and/or responsibility, the Architect shall provide a written recommendation to the Owner setting forth with specificity the basis of the proposed disqualification or rejection and providing all evidence

necessary to establish that the subject is not responsive and/or responsible. The Owner, upon the advice of the Architect, will make any and all determinations as to the responsiveness and/or responsibility of bidders.

§ 3.5.5 The Architect shall provide all services for the Bidding Phase in accordance with Architect's Proposal.

§ 3.6 Construction Phase Services

Architect's obligations under this Section 3.6 are subject to Section 1.1 of this Agreement.

§ 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™–2017, General Conditions of the Contract for Construction, as amended by the Owner or the Owner's attorney and included in the Project Manual. 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, except if the Architect fails to provide written notice as required in this Agreement and such failure causes specific damages to the Owner beyond those damages caused by the Contractor's failure to properly perform the Work. 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. During the Project, the Architect shall promptly report in writing to Owner any known defects or deficiencies in the Project or the Work of the Contractor or any of its Subcontractors, or their agents or employees, or any other person performing any of the Work. Drawings or Specifications furnished by the Architect that are found to contain any error or omission shall be promptly corrected by the Architect at no cost to the Owner. These provisions shall not limit the Owner's remedies under this Agreement.

§ 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 thirty (30) days from the date the Architect properly issues the final Certificate for Payment.

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, but not less than once per week, or as otherwise required in Section 4.2.3, to become familiar with the progress and quality of the portion of the Work completed, and to determine 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. Each site visit shall be combined with on-site project meeting with Owner and Contractor. After each site visit, the Architect shall provide the Owner a written report, 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.

On the basis of such on-site construction observation, the Architect shall keep the Owner informed of the progress and quality of the Work and shall exercise due care and diligence to guard Owner against defects and deficiencies in the Work of the Contractor and the Subcontractors, and shall promptly report to the Owner any defects or deficiencies in any Work known to the Architect. The Architect shall submit a written field report to the Owner for each field visit. The Architect during critical phases of construction shall have its consultants provide on-site observation to verify construction is in accordance with the Contract Documents. In such instances, the Architect's consultants shall prepare a field report of the conditions observed and any recommendations to be acted upon by Owner. The Architect and its

specialty engineers, consultants, agents and officers shall promptly upon notice or discovery during the Construction Phase or thereafter make necessary revisions or corrections of errors, ambiguities or omissions in its Drawings and Specifications without additional costs to the Owner. The Architect shall, at no additional cost to the Owner, provide project representation beyond Basic Services when required due to the Architect's failure to exercise the Professional Standard of care applicable to Architect's services.

§ 3.6.2.2 The Architect has the authority and responsibility to the Owner to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not 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.

§ 3.6.2.3 The Architect shall interpret and make recommendations to the Owner 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 recommendations 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 recommendations, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, and shall not be liable for results of interpretations or decisions rendered in good faith.

§ 3.6.2.5 To the extent required by the Contract Documents, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

§ 3.6.3 Certificates for Payment to Contractor

§ 3.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, and based on the Architect's exercise of the Professional Standard 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. Architect shall only issue a certificate of final payment to Contractor upon Contractor's submittal of all warranties and guarantees to Architect as required by the Contract Documents. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents, (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.

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

§ 3.6.3.4 The Architect is not responsible for review of any lien waivers.

§ 3.6.4 Submittals

§ 3.6.4.1 The Architect shall review and approve 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

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while allowing sufficient time, so as to not cause delay in the Work or in the activities of the Owner or Contractor, 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, to determine if the submittals conform to and are consistent with the Contract Documents. Where appropriate, the Architect's consultants shall review and approve submittals. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. Unless otherwise indicated in such review, the Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review 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, unless the Architect knows or reasonably should know that such submittals contain errors or omissions or do not conform to the Contract Documents.

§ 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 be made in a form approved by the Architect and 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 so as to not cause delay in the Work or in the activities of Owner or Contractor. If deemed appropriate by the Architect, 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 and shall regularly notify the Owner of same at progress meetings.

§ 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. The Architect shall maintain a complete written record of such minor changes and shall regularly notify the Owner of same at the progress meetings. Subject to Section 4.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.6.5.1.1 The Architect shall review 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. If necessary, the Architect shall prepare additional Drawings and Specifications to accompany the changes in the Work. If the Architect determines that requested changes in the Work are not materially different from the requirements of the Contract Documents, the Architect may, at the Owner's option, issue an order for a minor change in the Work or recommend to the Owner that the requested change be denied.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work and shall regularly notify the Owner of same at the construction progress meetings. The Architect shall, at appropriate intervals, update the Construction Documents to incorporate all approved changes in the Work, and to create Record Drawings.

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall:

- .1 conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;
- .2 if when deemed appropriate by the Architect, issue Certificates of Substantial Completion;
- .3 review and approve, 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 if and when deemed appropriate by the Architect, 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.

§ 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 Prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, schedule and conduct a meeting with the Owner to review the facility operations and performance and determine any outstanding warranties.

§ 3.6.6.6 The Architect shall provide all services for the Construction Observation and Administration Phase in accordance with Architect's Proposal.

§ 3.6.6.7 The Architect shall provide all services for the Post Construction Services and Close-Out - 2 Year Warranty Phase in accordance with Architect's Proposal

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

§ 4.1.1 The services listed below are not included in Basic Services but 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 (Architect, Owner, or not provided)
§ 4.1.1.1 Programming	
§ 4.1.1.2 Multiple preliminary designs	
§ 4.1.1.3 Measured drawings	
§ 4.1.1.4 Existing facilities surveys	
§ 4.1.1.5 Site evaluation and planning	

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Supplemental Services	Responsibility (Architect, Owner, or not provided)
§ 4.1.1.6 Building Information Model management responsibilities	
§ 4.1.1.7 Development of Building Information Models for post construction use	
§ 4.1.1.8 Civil engineering	
§ 4.1.1.9 Landscape design	
§ 4.1.1.10 Architectural interior design	Architect as part of Basic Services in accordance with Architect's Proposal
§ 4.1.1.11 Value analysis	
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	
§ 4.1.1.13 On-site project representation	
§ 4.1.1.14 Conformed documents for construction	
§ 4.1.1.15 As-designed record drawings	
§ 4.1.1.16 As-constructed record drawings	
§ 4.1.1.17 Post-occupancy evaluation	
§ 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	
§ 4.1.1.21 Telecommunications/data design	
§ 4.1.1.22 Security evaluation and planning	
§ 4.1.1.23 Commissioning	
§ 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	
§ 4.1.1.29 Other services provided by specialty Consultants	Architect
§ 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.)

§ 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 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. 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.

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

- .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;
- .2 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;
- .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;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner-authorized recipients;
- .6 (Deleted and included in Basic Services);
- .7 (Deleted and included in Basic Services);
- .8 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .9 (Deleted and included in Basic Services);
- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or,
- .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, explain the facts and circumstances giving rise to the need, and invoice the Owner at rates that shall not exceed the hourly rates contained in the Proposal. 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 repeated requests for information that are not prepared in accordance with the Contract Documents or where such requests are made outside the normal and custom practice or when 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 (Deleted and included in Basic Services);
- .4 Evaluating an extensive number of Claims if and to the extent Architect is serving as the Initial Decision Maker; or,
- .5 Evaluating an extensive number of substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom.

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§ 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 Two (2) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
- .2 Twelve (12) on-site observation visits for Phase 1 and sixteen (16) on-site observation visits for Phase 2 during construction. These limits assume weekly site observation visits during each phase..
- .3 One (1) inspection 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 One (1) inspection for any portion of the Work to determine final completion.

§ 4.2.4 Reserved.

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

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall consult with the Architect and provide information in a timely manner regarding requirements for and limitations on the Project, as requested by the Architect in writing and reasonably necessary for the Architect to perform its services.

§ 5.2 The Owner shall establish and consult with the Architect to periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. 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, subject to the extent expressly permitted by applicable law and the Owner's rules, policies, and practices. The Owner shall render decisions and approve the Architect's properly submitted submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

§ 5.4 The Owner shall furnish surveys, as requested by the Architect, 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 upon reasonable advance written request of the Architect directly contract for geotechnical, surveying, construction material testing, and fixture, furnishing and equipment design services, or authorize and direct the Architect to furnish them as Additional Services, when such services are reasonably required by the scope of the Project and to the extent not included in Architect's services hereunder. The Architect shall assist with soliciting proposals and provide recommendations for the terms of such agreements as necessary.

§ 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.

§ 5.9 The Owner shall, upon the Architect's request, 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 use reasonable efforts to 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; provided that the failure of the Owner to provide such notice shall not waive any of Owner's rights or remedies under this Agreement or otherwise.

§ 5.12 The Owner may include the Architect in all communications with the Contractor that relate to or affect the Architect's services or professional responsibilities. The Owner may 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, as amended.

§ 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.

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total actual cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. To the extent the Project is not completed, the Cost of the Work shall be the Contractor's bid price, as modified by any Change Orders then executed. 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. The Cost of the Work does not include Work for which the Architect has performed designs, specifications or drawings designs as an Additional Service. Instead, the Architect's sole compensation for Additional Services shall be the hourly rates or agreed upon fixed fee agreed in writing by the parties.

§ 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.

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§ 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.

§ 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 budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

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

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

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

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect shall, without additional compensation and as a part of Basic Services, 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 and rebid the Project because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work, the Architect's services for modifying the Construction Documents and rebidding the Project shall be without additional compensation.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.01 Drawings, specifications and other documents, including those in electronic form, prepared by the Architect and the Architect's consultants are Instruments of Service for use solely with respect to this Project. Provided the Owner is not in default under this Agreement, the Owner owns the Instruments of Service and shall retain all common law, statutory and other reserved rights, including copyrights, and the Architect hereby waives all common law, statutory and other reserved rights, including copyrights, in and to the Instruments of Service. Provided the Owner is not in default under this Agreement, the Owner may use the Instruments of Service for future additions or alterations to this Project or for other projects, which use shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

§ 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 Reserved.

§ 7.3 Reserved.

§ 7.3.1 Reserved.

§ 7.4 Reserved.

§ 7.5 Promptly upon the termination of this Agreement or the Architect's services and payment in full of all outstanding invoices received from the Architect and not in dispute, the Architect shall deliver to the Owner copies of all documents prepared by Architect in the performance of its services under this Agreement, including without limitation all drawings and specifications, and all models prepared by the Architect for the Project prior to the effective date of termination, so as to avoid any delay or increased cost of the Project.

§ 7.6 The provisions of this Article 7 shall survive the termination of this Agreement.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 Causes of action by the parties to this Agreement pertaining to the performance and/or breach of this Agreement shall be deemed to have accrued and the applicable statutes of limitation and repose shall operate as provided by Illinois law.

§ 8.1.2 Reserved.

§ 8.1.3 Reserved.

§ 8.2 Mediation

§ 8.2.1 In the sole discretion of the Owner, any claim, dispute or other matter in question arising out of or related to this Agreement may be subject to mediation on the written demand of the Owner. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 8.2.2 Reserved.

§ 8.2.3 If the Owner demands mediation as provided above in Section 8.2.1, the parties shall share the mediator's fee and any filing fees equally. Such mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in such mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 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.)

☒ In the Owner's sole discretion, and upon written demand by the Owner, arbitration pursuant to Section 8.3 of this Agreement, and otherwise, litigation in a court of competent jurisdiction provided, however, that in the event of litigation, the only proper jurisdiction and venue shall be the Circuit Court of the Eighteenth Judicial Circuit, DuPage County, Illinois and the parties to this Contract hereby waive any challenge to same.

☐ Litigation in a court of competent jurisdiction

☐ Other: (Specify)

§ 8.3 Arbitration

§ 8.3.1 If the Owner demands arbitration as provided above in Section 8.2.4, any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to arbitration, which, unless the parties mutually agree otherwise, shall be administered in accordance with the American Arbitration Association's Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered by the Owner to the Architect, and filed with the person or entity administering the arbitration. If no such person or entity is selected at the time of the Owner's demand, promptly after Owner serves such demand on the

Architect, the parties shall meet and agree upon an arbitrator. If no such agreement results within fourteen days after the demand, then one or both of the parties may submit the case to the American Arbitration for selection of an arbitrator in accordance with Rule 14 of the AAA's Construction Industry Rules and Mediation Procedures in effect on the date of this Agreement, and further proceedings in accordance with such rules.

§ 8.3.1.1 A demand for arbitration by the Owner shall not 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, the Architect's receipt of the Owner's written demand for 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, at the sole option of the Owner, 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.

§ 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, 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.

§ 8.5 In addition to the other rules applicable to any arbitration hereunder, the following shall apply if the Owner elects arbitration:

.1 Promptly after the impaneling of the arbitrator, the arbitrator shall establish a procedure for each party to set forth in writing and to serve upon each other party a detailed statement of its contentions of fact and law, along with appropriate responses thereto;

.2 All parties to the arbitration shall be entitled to reasonable discovery procedures as provided by the Illinois Code of Civil Procedure and Illinois Supreme Court Rules;

.3 The arbitration shall be commenced and conducted as expeditiously as possible consistent with affording reasonable discovery as provided herein. Similarly, the scope of discovery, and the extent of proceedings hereunder relating to discovery, shall be consistent with the parties' intent that the arbitration be conducted as expeditiously as possible.

§ 8.6 In the event of any litigation or arbitration between the parties to this Agreement, the Architect shall pay the Owner's reasonable attorneys' fees and court costs to the extent the court or tribunal determines the Owner is the prevailing party.

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect for services properly performed and billed to the Owner and expenses properly incurred and billed to the Owner in accordance with this Agreement, and said invoices for services and expenses are not in dispute, such failure shall be considered cause for suspension of performance of services under this Agreement. Prior to such suspension, the Architect shall give seven days' written notice to the Owner. 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 for services and expenses properly rendered and incurred. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted if such suspension exceeds thirty (30) days.

§ 9.2 Reserved.

§ 9.3 Reserved.

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

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

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, , the Owner shall compensate the Architect for services performed prior to termination, and Reimbursable Expenses properly 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:

None

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

None

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall expire one year from the date of Substantial Completion of Phase 2 of the Project. Such expiration shall not affect rights under this Agreement that have accrued at the time of expiration or may later accrue.

§ 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.

§ 9.10 If the Architect is adjudged as bankrupt, or makes a general assignment for the benefit of its creditors, or if a receiver is appointed on account of the Architect's insolvency, or if any provision of the bankruptcy law is invoked by or against the Architect, or if the Architect persistently or repeatedly refuses or fails (except in cases for which extension of time is provided), to perform the Architect's services in accordance with the Agreement, then notwithstanding any other rights or remedies granted the Owner, the Owner may, without prejudice to any other right or remedy, (i) terminate the employment of the Architect and/or (ii) finish the Architect's services by whatever method the Owner may deem expedient. In such case, the Architect shall not be entitled to receive any further payment until Architect's services are finished and the Owner may be entitled to recover and deduct from any remaining amounts due Architect all damages allowed by law.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the State of Illinois, without regard to conflict of law principles.

§ 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, as amended and included in the Project Manual.

§ 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.

§ 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. Architect shall report to Owner any hazardous materials discovered by Architect at the Project site.

§ 10.7 Upon Architect's receipt of prior written consent from the Owner, 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 if such consent is granted. However, the Architect's materials shall not include the Owner's confidential or proprietary information or any other information prohibited by law from disclosure. The Owner may provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination or expiration of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 The Architect shall maintain the confidentiality of all information in its possession regarding the Project and this Agreement, and shall require similar agreements with its consultants to maintain the confidentiality of all information regarding the Project and this Agreement. Architect 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 or expiration of this Agreement.

§ 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, attorneys, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, attorneys, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8. The Architect shall require of the Architect's consultants similar agreements to maintain the confidentiality of information considered as "confidential" or "business proprietary" by Owner

§ 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.

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§ 10.10 Indemnification. To the fullest extent permitted by law, the Architect shall indemnify and hold harmless the Owner and its officers, officials, employees, and agents from and against all claims, damages, losses and expenses, including but not limited to legal fees (attorney's and paralegals' fees and court costs), arising out of or resulting from the performance of the Architect's services, provided that any such claim, damage, loss or expense (i) is attributable to bodily injury, sickness, disease or death, or injury to or destruction of tangible property, other than the work itself, including the loss of use resulting therefrom and (ii) is caused in whole or in part by any act or omission of the Architect, Architect's consultants and sub-consultants, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, except to the extent it is caused in whole or in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this Paragraph. Architect shall similarly protect, indemnify and hold and save harmless the Owner, its officers, officials, employees, and agents against and from any and all claims, costs, causes, actions and expenses including but not limited to legal fees, incurred by reason of Architect's breach of any of its obligations under, or Architect's default of, any provision of the Contract. Architect's obligations under this paragraph shall survive the termination of this Agreement.

§ 10.11 Notwithstanding any provision of this Agreement to the contrary, the Owner's review and/or approval of any and all documents or other matters required herein shall be for the purpose of providing the Architect with information as to the Owner's objectives and goals with respect to the Project and not for the purpose of determining the accuracy, completeness or correctness of such documents, and shall in no way create any liability on the part of the Owner (notwithstanding any professional skill and judgment possessed by the Owner) for errors, inconsistencies or omissions in any approved documents.

§ 10.12 Independent Contractor. The Architect agrees that all services performed under this Agreement are being performed by Architect as an independent contractor and not as an employee or agent of Owner. This Agreement is not intended to constitute, create, give rise to or otherwise recognize a joint venture agreement or relationship, partnership or formal business organization of any kind or create an employer/employee relationship between Owner and Architect, Architect's employees, subcontractors, subcontractors' employees or any person supplied by Architect in the performance of Architect's obligations under this Agreement and does not entitle said persons to rights or benefits from Owner normally associated with an employment relationship, such as, but not limited to, civil service, retirement, personnel rules which accrue to such persons, health insurance, motor vehicle insurance, life insurance, workers' compensation, sick leave or any other fringe benefits. The Architect and the Architect's consultants shall have total responsibility for all salaries, wages, bonuses, retirement, withholdings, worker's compensation, occupational disease compensation, unemployment compensation, other employee benefits and all taxes and premiums appurtenant thereto concerning such persons and shall indemnify, hold harmless and defend Owner with respect thereto, including payment of reasonable attorney's fees and costs in the defense of any claim made under the Fair Labor Standards Act or any other federal or state laws. Such indemnity shall be required by Architect from its consultants, if any, on behalf of Owner.

§ 10.13 Retention of Records Architect and any consultant shall keep and maintain accurate books of record and account, in accordance with sound accounting principles, of all expenditures made and all costs, liabilities and obligations incurred under this Agreement, and all papers, files, accounts, reports, cost proposals with backup data and all other material relating to work under this Agreement and shall make all such materials available at the office of the Owner at any reasonable time during the term of this Agreement and for the length of time established by law or five (5) years, whichever is longer from the date of final payment to Architect or termination of this Agreement for audit, inspection and copying upon Owner's request.

§ 10.14 Subcontracts The Architect shall insert into all subcontracts the paragraphs herein entitled "INSURANCE," "RETENTION OF RECORDS," and "INDEMNIFICATION."

§ 10.15 Compliance with Laws

The Architect shall comply with applicable federal and state laws and local ordinances and regulations applicable to the services within the scope of this Agreement, including but not limited to the following:

- .1 The Architect shall comply with, and require all persons providing any of the services on its behalf to

Init.

comply with, to the extent applicable, all applicable federal and state laws and governmental rules and regulations now or hereafter in effect pertaining to equal employment opportunity and discrimination in provision of the services, including the provisions of the Equal Employment Opportunity Clause. Architect specifically represents and certifies to Owner that Architect complies with all applicable provisions of the Illinois Human Rights Act and that it maintains, and shall maintain at all times during the period it is required to perform the its services, a written sexual harassment policy in full compliance with Section 2-105(A)(4) thereof.

- .2 To the best of the Architect's knowledge, information and belief, no officer or employee of Architect has been convicted of bribery or attempting to bribe an officer or employee of the State of Illinois, or any unit of local government, nor has any officer or employee made an admission of guilt of such conduct which is a matter of record. Architect's Proposal to the Owner seeking a contract for the performance of the architectural services for this Project was made without any connection or common interest in the profits anticipated to be derived from the Agreement by the Architect with any other person submitting proposals to the Owner for this Project. The Agreement terms are in all respects fair and the Agreement is entered into by the Architect without collusion or fraud and no official, officer or employee of the Owner has any direct or indirect financial interest in the Architect's Proposal or in the Architect.
- .3 The Architect certifies that it is not barred from contracting with the Owner because of any delinquency in the payment of any tax administrated by the Illinois Department of Revenue, unless it is being contested. Architect further certifies that it understands that making a false statement regarding delinquency in taxes is a Class A. misdemeanor and, in addition, voids the Agreement between Architect and Owner, and allows the Owner, a municipal entity, to recover in a civil action all amounts paid to the Architect.
- .4 If Architect has 25 or more employees on the date of this Agreement, Architect knows, understands and acknowledges its obligations under the Illinois Drug Free Workplace Act (30 ILCS 580/1 *et seq.*) and certifies that it will provide a drug-free workplace by taking the actions required under, and otherwise implementing on a continuing basis, Section 3 of the Drug Free Workplace Act. The Architect further certifies that it has not been debarred and is not ineligible for award of this Agreement as the result of a violation of the Illinois Drug Free Workplace Act.
- 5 The Architect herby certifies that, to the best of its knowledge, information and belief, no individual employed or otherwise retained by Architect or any of Architect's consultants to perform Architect's services has been convicted of a crime that would make the individual ineligible to be employed by Owner in accordance with 70 ILCS 1205/8-23.

§ 10.16 Headings The headings for each paragraph of this Agreement are for convenience and reference purposes only and in no way define, limit or describe the scope or intent of said paragraphs or of this Agreement nor in any way affect this Agreement.

ARTICLE 11 COMPENSATION

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

- .1 Stipulated Sum
(Insert amount)

For Phase 1: \$46,800.00
For Phase 2: \$91,875.00
- .2 Percentage Basis
(Insert percentage value)

Init.

() % 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.)

Included in the Stipulated Sum set forth in 11.1.1

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, subject to the requirements for written pre-approval by Owner as provided in Article 4, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation.)

At the hourly rates contained in the Proposal.

§ 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 zero percent (0 %), 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:

Phase 1:

Schematic Design Phase		percent (%)
Design Development Phase	Eighteen	percent (	18	%)
Construction Documents and Permitting Phase	Forty-six	percent (	46	%)
Procurement Phase	nine	percent (	9	%)
Construction Phase	Twenty-seven	percent (	27	%)
<hr/>				
Total Basic Compensation	one hundred	percent (	100	%)

Phase 2:

Schematic Design Phase		percent (%)
Design Development Phase	Twenty	percent (	20	%)
Construction Documents and Permitting Phase	Forty-seven	percent (	47	%)
Procurement Phase	Six	percent (	6	%)
Construction Phase	Twenty-seven	percent (	27	%)
<hr/>				
Total Basic Compensation	one hundred	percent (	100	%)

Init.

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

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

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

In accordance with Architect's Proposal

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:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;
- .3 Permitting and other fees required by authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, and standard form documents;
- .5 Postage, handling, and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
- .8

(Paragraphs deleted)

Site office expenses;

- .9 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and,
- .10 Other similar Project-related expenditures.

§ 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. Reimbursable expenses shall not exceed \$25,000 without prior written approval from Owner. Architect shall provide all supporting documentation of said Reimbursable Expenses.

§ 11.9

(Paragraphs deleted)

Reserved.

§ 11.10 Payments to the Architect

§ 11.10.1 Initial Payments

§ 11.10.1.1 No initial payment shall be made upon execution of this Agreement.

§ 11.10.1.2 Reserved.

§ 11.10.2 Progress Payments

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable shall be processed in accordance with the Local Government Prompt Payment Act, 50 ILCS 505/1, et seq.

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§ 11.10.2.2 Reserved.

§ 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.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

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

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

§12.1 The Architect shall at its own cost promptly cure any breach of its obligations under this Agreement. Should Architect refuse or neglect to cure such breach within a reasonable time, taking into consideration the nature of the breach and its impact on the progress or the cost of the Work, after receiving reasonable notice requesting such cure from Owner, then Owner shall be entitled to cure such breach following additional notice of such intended action to Architect, and recover the costs permitted under applicable law relating to cure from Architect. This commitment by Architect is in addition to and not in substitution for, any other remedy which the Owner may have at law or in equity.

§12.2 Architect's Basic Services shall include services before and after issuance to Owner of the final Certificate for Payment, or in the absence of the final Certificate of Payment, before or after the date of Final Completion, made necessary by (i) failure of performance of a Contractor under any Contract for Construction, when such defects or deficiencies in the Work, or failure of performance resulted from Architect's negligence or errors or omissions in the Contract Documents which it provided for the Project or (ii) breach of the duties or obligations of the Architect under this Agreement.

§12.3 In the event Architect is hindered, delayed or prevented from performing its obligations under this Agreement as a result of any fire, flood, landslide, tornado or other act of God, theft, strike, lockout, other labor problems, shortages of material or labor, failure of any governmental agency or Owner to furnish information or to approve or to disapprove Architect's work or any other cause beyond the reasonable control of Architect, the time for completion of Architect's work shall be extended by the period of resulting delay.

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

(Paragraphs deleted)

Architect's Proposal dated November 9, 2019.

(Paragraphs deleted)

Init.

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

WHEATON PARK DISTRICT

OWNER (Signature)

(Printed name and title)

769872nd

WILLIAMS ARCHITECTS

ARCHITECT (Signature)

Tom C. Poulos, Managing Principal/Vice President

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

Intil

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User Notes:

(1514760312)

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This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

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PAGE 1

AGREEMENT made as of ~~the~~ day of ~~in the year~~ the day of in the year Two Thousand Nineteen

...

Wheaton Park District
102 E. Wesley
Wheaton, IL 60187

...

(Name, legal status, address and other information)

Williams Architects
500 Park Boulevard, Suite 800
Itasca, IL 60143

...

(Name, location and detailed description)

Community Center Interior Renovation, Phases 1 & 2
1777 S. Blanchard St.
Wheaton, IL 60189

Architect to provide architectural and engineering services for the following improvements to the Community Center:

Phase 1 (2020 Implementation):

This project will consist of renovations to the upper level program rooms including the President Room, Willow Pointe Room, Rathje/Kelly Rooms, Atten/Arrowhead Rooms, and Northside Room. Alternate bids will further be sought for the main level Memorial Room. Renovations to these spaces shall include, but not necessarily be limited to, the following as previously recommended for each space:

- Improvements and changes to wall paint, tile, and wall protection
- Modifications/repair to ceilings as required to accommodate new lighting/functional layouts (much of the 2nd floor ceiling tile has been recently replaced and is expected to remain)
- Replacement flooring materials with suitable materials for each desired function/program
- Replacement lighting including potential for daylight and occupancy control systems to reduce energy consumption
- Replacement casework and countertops to address condition and accessibility concerns
- Replacement sinks and trim to address condition and accessibility concerns
- Replacement of existing aluminum blinds with roller shades

Phase 2 (2021 Implementation):

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User Notes:

(1514760312)

This project will consist of renovations to main restrooms and corridors on all three levels of the building and improvements to the lobby/service desk area on the main level. Work in these areas shall include, but not necessarily be limited to, the following as previously recommended for each space:

- Reconfiguration of the main level entrance lobby, front desk, and "back-of-desk" areas to achieve customer flow and customer service improvements as previously recommended
- Improvements and changes to wall paint, tile, and wall protection throughout
- Modifications/repair to ceilings as required to accommodate new lighting/functional layouts Replacement flooring materials with suitable materials for each intended use
- Replacement lighting including potential for daylight and occupancy control systems to reduce energy consumption
- Replacement casework and countertops to address condition and accessibility concerns
- Replacement fixtures, partitions, and accessories in each restroom to address condition and accessibility concerns.

TABLE OF ARTICLES
PAGE 3

Wheaton Park District Community Center Interior Renovations Project

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[TBD]

...

\$471,000 for Phase 1, assuming approximately \$120,000 savings if Owner staff completes certain portions of the Work with its staff. \$968,100.00 for Phase 2, assuming approximately \$202,600.00 savings if Owner completes certain portions of the Work with its staff.

...

Phase 1 – 2020 Implementation:

Design Development: December 2019-February 2020

Construction Documents & Permitting: March – May 2020

Bidding/Negotiations: May 2020

Phase 2 – 2021 Implementation:

Commence August 2020

Design Development: August 2020 – October 2020

Construction Documents & Permitting: November 2020 – February 2021

Bidding/Negotiations: March 2021

[TBD]

...

[TBD]

...

Competitively bid in accordance with applicable public bidding and contracting requirements.

PAGE 4

NA

...

Rob Sperl - Wheaton Park District
102 E. Wesley
Wheaton, IL 60187
T: 630-510-4970
Email: rsperl@wheatonparks.org

...

NA

...

Not applicable.

...

Not applicable.

...

TBD

...

Tom C. Poulos, Principal-in-Charge
Williams Architects
500 Park Boulevard, Suite 800
Itasca, IL 60143
T: 630-221-1212
tcpoulos@williams-architects.com

Andrew R. Dogan, Principal & Managing Architect
500 Park Boulevard
Suite 800
Itasca, IL 60143
T: 630-221-1212
PAGE 5

TBD

...

TBD

.3 Electrical Engineer:
TBD

...

.3 — Electrical Engineer: .4 Low Voltage/AV Design:
TBD

...

Owner and Architect hereby agree and understand that Architect's obligations for the Construction Phase Services for Phase 1 and Phase 2 as enumerated in Article 3.6 of this Agreement are subject to separate approval by Owner's Board upon completion of the Bidding Phase of each Phase of the Project. Owner may, but is under no obligation to, retain Architect for the Construction Phase Services of either Phase 1 or Phase 2 of this Project. If Owner elects to retain Architect for the Construction Phase Services of either Phase 1 or Phase 2 of this Project, Architect's fee for the Construction Phase Services shall be as provided in Article 11 of this Agreement.

§ 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 by subsequent written agreement 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~~ may 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. Reserved.~~

...

§ 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 professionals within the scope of Basic Services. The scope of Basic Services to be provided by the Architect includes those services and other deliverables as specified in Architect's proposal dated November 8, 2019, Revised (the "Proposal"). The Proposal is incorporated into this Agreement by this reference. To the extent the Proposal conflicts with this Agreement, this Agreement controls.

§ 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.~~ Architect understands and acknowledges that it has been engaged by the Owner to provide Architect's services based, in part, on the Architect's expertise, experience and qualifications in providing architectural services comparable to those to be provided under this Agreement and on projects comparable in kind and scope to this Project. The Architect's services shall be performed properly and expeditiously to permit the orderly and timely progress and proper performance both of the Architect's services and the Work, consistent with such professional skill, care and diligence and good architectural practices as are exercised by a competent architect with experience in the design and administration of projects of comparable kind and scope to this Project and practicing architecture in the Chicago metropolitan areas (such skill, care, diligence and practices being hereinafter referred to as the "Professional Standard").

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project. All persons connected with the Architect as an officer, employee or agent of or consultant to the Architect, who are directly in charge of the professional architectural or engineering work performed as part of Architect's services, are, and for so long as any services shall be provided under this Agreement, shall be duly registered and licensed under and in accordance with Illinois laws regarding the practice of architecture and engineering, as applicable to this Project, and they and any other consultants selected by the Architect and providing services with respect to the Project shall be otherwise qualified and possess the skill and competence required to perform the services properly. The Architect shall be responsible for the acts and omissions of its employees, agents and consultants, and their respective employees and agents with respect to the services provided under this Agreement.

§ 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 compromises or 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.~~

§ 2.5.1 ~~Commercial General Liability-Liability, and if necessary, commercial umbrella insurance with policy limits of not less than (\$) for each occurrence and (\$) one million dollars (\$1,000,000.00) for each occurrence and two million dollars (\$ 2,000,000.00) in the aggregate for bodily injury and property damage. CGL insurance shall be written on Insurance Services Office (ISO) occurrence form CG 00 04 13 93, or a substitute form providing similar coverage, and shall cover liability arising from premises, operations, independent contractors, products-completed~~

operations, personal injury and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract). Owner shall be included as an insured under the CGL, using ISO additional insured endorsement CG 20 10 or a substitute providing similar coverage, and under the commercial umbrella, if any. This insurance shall apply as primary insurance with respect to any other insurance or self-insurance afforded to Owner. There shall be no endorsement or modification of the CGL limiting the scope of coverage for liability arising from pollution, explosion, collapse, or underground property damage.

§ 2.5.2 Automobile Liability—Liability, and, if necessary, commercial umbrella liability insurance, covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than ~~(\$—) one million dollars (\$ 1,000,000.00)~~ 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. Business auto insurance shall be written on Insurance Services Office (ISO) form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage equivalent to that provided in the 1990 and later editions of CA 00 01.

PAGE 7

§ 2.5.5 Employers' Liability with policy limits not less than ~~(\$—) each accident, (\$—) each employee, and (\$—) policy limit one million dollars (\$ 1,000,000.00) each accident, one million dollars (\$ 1,000,000.00) each employee, and one million dollars (\$ 1,000,000.00) policy limit.~~ If Owner has not been included as an insured under the CGL using ISO additional insured endorsement CG 20 10 under the Commercial General and Umbrella Liability Insurance required in this Contract, the Architect waives all rights against Owner and its officers, officials, employees, volunteers and agents for recovery of damages arising out of or incident to the Architect's work.

§ 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 (\$ 1,000,000.00) per claim and Two Million Dollars (\$ 2,000,000.00) in the aggregate.

§ 2.5.7 Additional Insured Obligations. To the fullest extent permitted by law, the Architect shall by endorsement cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the ~~Owner~~ Owner, its elected and appointed officials, employees and agents 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 by endorsement 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—insurance, declarations, policies, and endorsements~~ to the Owner that evidence compliance with the requirements in this Section 2.5. All specified insurance shall be obtained from insurance companies licensed to conduct business in Illinois and with a Best's Key Guide Rating of at least A / VII. All specified policies shall by endorsement incorporate a provision requiring thirty days' written notice to the Owner prior to the cancellation, non-renewal or material modification of any such policies.

§ 2.5.9 If Architect's commercial general liability policy does not contain the standard ISO separation of insureds provision, or a substantially similar clause, they shall be endorsed to provide cross-liability coverage.

§ 2.5.10 Deductibles and Self-Insured Retentions. The Architect has advised Owner that its deductibles are \$25,000 for Professional Liability; \$5,000 for Employment Practices and \$500 for BAPP. The Architect shall promptly notify Owner of any increase in any of its deductibles during the term of this Agreement and if such increase is unacceptable to Owner, Owner may terminate the Agreement upon seven days prior written notice to Architect.

§ 2.5.11 Sub-consultants. The Architect shall cause each consultant employed by Architect to purchase and maintain insurance of the type specified above. When requested by the Owner, Architect shall furnish copies of certificates of insurance evidencing coverage for each consultant.

§ 2.6 Architect's duties as set forth herein shall at no time be in any way diminished by reason of any approval by the Owner of the Construction Documents authored by the Architect or its consultants, nor shall anything contained in this Agreement be construed as a limitation on, or a waiver of, any remedies which the Owner may have at law or in equity for damages sustained or expense incurred because of, or arising out of, Architect's negligent errors, omissions, or failure to perform its duties or covenants in accordance with this Agreement. The grant of various rights to the

Owner under this Agreement, and/or the failure of the Owner to exercise those rights do not and shall not create any responsibility or liability in the Owner for any error or omission of the Architect in the provision of its Services. Notwithstanding this provision, the Owner shall be responsible for all design decisions directed by the Owner over the specific written contrary recommendation of the Architect.

§ 2.7 All agreements between the Architect and its consultants shall be in writing and shall contain such provisions binding the Architect's consultants to the Architect, requiring Architect's consultant's to perform their scope of services in the same manner and to the extent that the Architect is bound to the Owner in accordance with this Agreement. The Architect shall timely pay all sums due to its consultants in accordance therewith upon payment by Owner of undisputed invoices and shall not cause or permit any liens to be placed by any such consultants against the property or funds of the Owner provided Owner has paid Architect the sums due to (and such sums are not in dispute or Owner is otherwise entitled to withhold such sums in accordance with this Agreement.) the Architect's consultants in accordance with this Agreement. The Architect will provide Owner current waivers and releases of lien from Architect on account of the payment sought in the invoice, and for Architect's consultants, the Architect will provide Owner lien waivers for the prior payment paid to them in the performance of its services.

§ 2.8 The Architect shall furnish a competent and adequate staff, and contract with competent consultants as necessary for the proper administration, coordination, supervision and performance of the Architect's services. The Architect's representative shall not be changed without the consent of the Owner, unless such person leaves the employ of the Architect, in which event the substitute must first be approved in writing by the Owner which approval shall not be unreasonably withheld or delayed. The Architect agrees that the Architect will change its assistants assigned to provide the services at the reasonable request of the Owner, if, in the Owner's reasonable opinion, based on actual instances of deficient performance, such person's performance does not equal or exceed the Professional Standard, or the acts or omissions of such person are detrimental to the timely and/or proper performance of the Architect's services or the Work; provided however that the Owner's exercise of such right or failure to exercise such right shall not affect Architect's responsibility or liability for the proper performance of its services. The Architect accepts responsibility for the acts and omissions of its employees and consultants. The Architect's removal or replacement of an employee and/ or consultant pursuant to this provision shall not be deemed an admission of liability on the part of the Architect. The Architect shall coordinate all aspects of the Architect's services.

PAGE 8

§ 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, architectural, structural, civil, landscape, mechanical, plumbing, fire protection and electrical engineering, and maintenance equipment services, and all other specialty services, if and to the extent required to provide a complete design for the Project. Services not set forth in this Article 3 are Supplemental or Additional Services.

§ 3.1.1 The Architect shall manage the Architect's services, consult with the Owner, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner. Owner on a regular basis and in accordance with Architect's Proposal.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The After the Architect has reviewed such services and any information provided by Owner and Owner's consultants, and after Architect notifies the Owner in writing of any defects and deficiencies in such services or information of which the Architect is aware, the Architect shall 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 and Owner's Board of Commissioner's review, 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, or by the subsequent written agreement of the parties, be exceeded by the Architect or Owner. With

the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.4 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. Notwithstanding, if Owner proposes to take such action without the Architect's approval, and Architect knows of such action and believes such action may be detrimental to the aesthetic, architectural, structural and/or functional aspects of the completed Project, the Architect shall so inform the Owner, in writing and with specificity, as soon as is reasonably practicable.

PAGE 9

§ 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. The Architect shall prepare the paperwork required to apply for the approval of governmental authorities having jurisdiction over the Project if necessary, and shall present such documentation to the Owner for review, approval and execution, if necessary. The Architect shall present the Project at meetings or hearings to facilitate those approvals and the issuance of all permits required to commence and complete construction.

§ 3.1.7 If the Owner indicates its interest in utilizing a construction manager with respect to the Project, the Architect shall confer with the Owner to determine any adjustments needed to this Agreement based on the scope of services to be furnished by the construction manager.

...

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services. The Architect shall respond in the design of the Project to requirements imposed by governmental authorities having jurisdiction over the Project.

§ 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. The Architect shall immediately, in writing, 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; and (3) any impact that the selected delivery method may have on the scheduled completion of the Project.

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

...

§ 3.2.5 Based on the Owner's approval of the preliminary design, and based upon the Owner's then-current budget, 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.

PAGE 10

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

§ 3.2.8 The Architect shall provide all services for the Schematic Design Phase in accordance with Architect's Proposal.

...

§ 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;~~ civil, structural, mechanical, plumbing, fire protection and electrical systems, maintenance equipment, other specialty systems for the facility, 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.

...

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

§ 3.3.4 The Architect shall provide all services for the Design Document Phase in accordance with Architect's Proposal.

...

§ 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 Construction Documents shall include all Drawings and Specifications required to obtain the construction permits and approvals of the governmental authority or authorities having jurisdiction over the Project. 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.

...

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) procurement information that describes the time, place, and conditions of bidding, including bidding or proposal ~~forms;~~ forms, with alternate bid requirements; (2) the form of agreement between the Owner and Contractor; and (3) the General Conditions of the Contract for Construction ~~(General, Supplementary and other Conditions)~~ as modified by the Owner or the Owner's attorney. The Architect shall also compile a project manual that includes the Owner-modified General Conditions of the Contract for Construction and Specifications, and may include bidding requirements and sample forms.

PAGE 11

§ 3.4.6 The Architect shall provide all services for the Construction Documents and Permitting Phase in accordance with Architect's Proposal.

...

~~The Architect shall assist the Owner in establishing a list of prospective contractors; develop bidders' interest in the Project.~~ 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;~~ proposals and the responsibility of bidders or proposers; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction.

...

- .1 issuing statutory notice for bid and facilitating the distribution of Bidding Documents to prospective bidders;
- .2 organizing and assisting the Owner in conducting a pre-bid conference for prospective bidders;
- .3 in consultation with the Owner, 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 assisting the Owner with the Owner's conducting of the opening of the bids, assisting the Owner in determining the responsiveness of bids and investigating the responsibility of bidders, and subsequently documenting and distributing the bidding results, results and notice of award(s), as directed by the Owner.

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

...

§ 3.5.3.0 Section 3.5.3 and its subparts shall only apply if and to the extent Owner directs the Architect that the Work, or portions thereof, may be procured by negotiated proposals instead of competitive bidding as otherwise required by law. Architect shall follow the Owner's directions regarding the method of procurement for all portions of the Work.

...

§ 3.5.4 If the Architect recommends that the Owner disqualify or reject a bidder or proposer, as the case may be, based upon a lack of responsiveness and/or responsibility, the Architect shall provide a written recommendation to the Owner setting forth with specificity the basis of the proposed disqualification or rejection and providing all evidence necessary to establish that the subject is not responsive and/or responsible. The Owner, upon the advice of the Architect, will make any and all determinations as to the responsiveness and/or responsibility of bidders.

§ 3.5.5 The Architect shall provide all services for the Bidding Phase in accordance with Architect's Proposal.

Architect's obligations under this Section 3.6 are subject to Section 1.1 of this Agreement.

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™–2017, General Conditions of the Contract for ~~Construction~~ Construction, as amended by the Owner or the Owner's attorney and included in the Project Manual. 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~~. Documents, except if the Architect fails to provide written notice as required in this Agreement and such failure causes specific damages to the Owner beyond those damages caused by the Contractor's failure to properly perform the Work. 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. During the Project, the Architect shall promptly report in writing to Owner any known defects or deficiencies in the Project or the Work of the Contractor or any of its Subcontractors, or their agents or employees, or any other person performing any of the Work. Drawings or Specifications furnished by the Architect that are found to contain any error or omission shall be promptly corrected by the Architect at no cost to the Owner. These provisions shall not limit the Owner's remedies under this Agreement.

§ 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 thirty (30) days from~~ the date the Architect properly issues the final Certificate for Payment.

PAGE 12

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, but not less than once per week, or as otherwise required in Section 4.2.3, to become ~~generally~~-familiar with the progress and quality of the portion of the Work completed, and to ~~determine, in general, determine~~ 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~~ Each site visit shall be combined with on-site project meeting with Owner and Contractor. After each site visit, the Architect shall provide the Owner a written report, 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.

On the basis of such on-site construction observation, the Architect shall keep the Owner informed of the progress and quality of the Work and shall exercise due care and diligence to guard Owner against defects and deficiencies in the Work of the Contractor and the Subcontractors, and shall promptly report to the Owner any defects or deficiencies in any Work known to the Architect. The Architect shall submit a written field report to the Owner for each field visit. The Architect during critical phases of construction shall have its consultants provide on-site observation to verify construction is in accordance with the Contract Documents. In such instances, the Architect's consultants shall prepare a field report of the conditions observed and any recommendations to be acted upon by Owner. The Architect and its specialty engineers, consultants, agents and officers shall promptly upon notice or discovery during the Construction Phase or thereafter make necessary revisions or corrections of errors, ambiguities or omissions in its Drawings and Specifications without additional costs to the Owner. The Architect shall, at no additional cost to the Owner, provide project representation beyond Basic Services when required due to the Architect's failure to exercise the Professional Standard of care applicable to Architect's services.

§ 3.6.2.2 The Architect has the authority and responsibility to the Owner to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not 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.

§ 3.6.2.3 The Architect shall interpret and ~~decide matters~~ make recommendations to the Owner 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~~ recommendations 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, recommendations~~, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, ~~shall not show partiality to either~~, and shall not be liable for results of interpretations or decisions rendered in good faith. ~~The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.~~

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

PAGE 13

§ 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, and based on the Architect's exercise of the Professional Standard 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. Architect shall only issue a certificate of final payment to Contractor upon Contractor's submittal of all warranties and guarantees to Architect as required by the Contract Documents. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, Documents, (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.

...

§ 3.6.3.4 The Architect is not responsible for review of any lien waivers.

§ 3.6.4.1 The Architect shall review and approve 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, so as to not cause delay in the Work or in the activities of the Owner or Contractor, 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 to determine if the submittals conform to and are consistent with the Contract Documents.~~ Where appropriate, the Architect's consultants shall review and approve submittals. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. ~~The Unless otherwise indicated in such review, the Architect's~~ review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review 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, unless the Architect knows or reasonably should know that such submittals contain errors or omissions or do not conform to the Contract Documents.

§ 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 be made in a form approved by the Architect and 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, promptness so as to not cause delay in the Work or in the activities of Owner or Contractor. If deemed appropriate by the Architect, 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. Documents and shall regularly notify the Owner of same at progress meetings.

§ 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. The Architect shall maintain a complete written record of such minor changes and shall regularly notify the Owner of same at the progress meetings. Subject to Section 4.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.6.5.1.1 The Architect shall review 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. If necessary, the Architect shall prepare additional Drawings and Specifications to accompany the changes in the Work. If the Architect determines that requested changes in the Work are not materially different from the requirements of the Contract Documents, the Architect may, at the Owner's option, issue an order for a minor change in the Work or recommend to the Owner that the requested change be denied.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the ~~Work~~ Work and shall regularly notify the Owner of same at the construction progress meetings. The Architect shall, at appropriate intervals, update the Construction Documents to incorporate all approved changes in the Work, and to create Record Drawings.

- .2 if when deemed appropriate by the Architect, issue Certificates of Substantial Completion;
- .3 review and approve, 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 if and when deemed appropriate by the Architect, 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.

...

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

§ 3.6.6.6 The Architect shall provide all services for the Construction Observation and Administration Phase in accordance with Architect's Proposal.

§ 3.6.6.7 The Architect shall provide all services for the Post Construction Services and Close-Out - 2 Year Warranty Phase in accordance with Architect's Proposal

§ 4.1.1.10 Architectural interior design	<u>Architect as part of Basic Services in accordance with Architect's Proposal</u>
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§ 4.1.1.29 Other services provided by specialty Consultants	<u>Architect</u>
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§ 4.2.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following Additional Services until the Architect receives the Owner's written ~~authorization~~ authorization and approval of a fee for such Additional Services:

...

- .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;~~(Deleted and included in Basic Services);~~
- .7 Preparation for, and attendance at, a public presentation, meeting or hearing;~~(Deleted and included in Basic Services);~~

...

- .9 Evaluation of the qualifications of entities providing bids or proposals;~~(Deleted and included in Basic Services);~~

...

§ 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~~ the need, and invoice the Owner at rates that shall not exceed the hourly rates contained in the Proposal. 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.

...

- .2 Responding to the Contractor's repeated requests for information that are not prepared in accordance with the Contract Documents or where such requests are made outside the normal and custom practice or when 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;~~~~(Deleted and included in Basic Services);~~
- .4 Evaluating an extensive number of Claims if and to the extent Architect is serving as the Initial Decision Maker; or,
- .5 Evaluating an extensive number of substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom.

PAGE 18

- .1 Two (2) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
- .2 ~~(—) visits to the site by the Architect during construction~~Twelve (12) on-site observation visits for Phase 1 and sixteen (16) on-site observation visits for Phase 2 during construction. These limits assume weekly site observation visits during each phase..
- .3 ~~(—) inspections~~One (1) inspection 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 ~~(—) inspections~~One (1) inspection 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.~~Reserved.

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

...

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall consult with the Architect and 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 as requested by the Architect in writing and reasonably necessary for the Architect to perform its services.

§ 5.2 The Owner shall establish and consult with the Architect to periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. 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. Project, subject to the extent expressly permitted by applicable law and the Owner's rules, policies, and practices. The Owner shall render decisions and approve the Architect's properly submitted submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

§ 5.4 The Owner shall furnish ~~surveys~~ surveys, as requested by the Architect, 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 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 upon reasonable advance written request of the Architect directly contract for geotechnical, surveying, construction material testing, and fixture, furnishing and equipment design services, or authorize and direct the Architect to furnish them as Additional Services, when such services are reasonably required by the scope of the Project and to the extent not included in Architect's services hereunder. The Architect shall assist with soliciting proposals and provide recommendations for the terms of such agreements as necessary.~~

...

§ 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 The Owner ~~shall shall,~~ upon the Architect's request, 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.

PAGE 19

§ 5.11 The Owner shall use reasonable efforts to 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; of Service; provided that the failure of the Owner to provide such notice shall not waive any of Owner's rights or remedies under this Agreement or otherwise.

§ 5.12 The Owner ~~shall~~may include the Architect in all communications with the Contractor that relate to or affect the Architect's services or professional responsibilities. The Owner ~~shall~~may 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~~Construction, as amended.

...

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total actual cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. To the extent the Project is not completed, the Cost of the Work shall be the Contractor's bid price, as modified by any Change Orders then executed. 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. The Cost of the Work does not include Work for which the Architect has performed designs, specifications or drawings designs as an Additional Service. Instead, the Architect's sole compensation for Additional Services shall be the hourly rates or agreed upon fixed fee agreed in writing by the parties.

PAGE 20

§ 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.~~

...

- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the ~~Work~~Work and rebid the Project; or,

...

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect ~~shall~~shall, without additional compensation and as a part of Basic Services, 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 ~~and rebid the Project 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~~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 and rebidding the Project shall be without additional compensation.~~

...

§ 7.01 Drawings, specifications and other documents, including those in electronic form, prepared by the Architect and the Architect's consultants are Instruments of Service for use solely with respect to this Project. Provided the Owner is not in default under this Agreement, the Owner owns the Instruments of Service and shall retain all common law, statutory and other reserved rights, including copyrights, and the Architect hereby waives all common law, statutory

and other reserved rights, including copyrights, in and to the Instruments of Service. Provided the Owner is not in default under this Agreement, the Owner may use the Instruments of Service for future additions or alterations to this Project or for other projects, which use shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

§ 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.Reserved.

§ 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.Reserved.

§ 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.Reserved.

§ 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.Reserved.

§ 7.5 Except as otherwise stated in Section 7.3, the provisions of this Article 7 shall survive the termination of this Agreement.Promptly upon the termination of this Agreement or the Architect's services and payment in full of all outstanding invoices received from the Architect and not in dispute, the Architect shall deliver to the Owner copies of all documents prepared by Architect in the performance of its services under this Agreement, including without limitation all drawings and specifications, and all models prepared by the Architect for the Project prior to the effective date of termination, so as to avoid any delay or increased cost of the Project.

§ 7.6 The provisions of this Article 7 shall survive the termination of this Agreement.

PAGE 21

§ 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. Causes of action by the parties to this Agreement pertaining to the performance and/or breach of this Agreement shall be deemed to have accrued and the applicable statutes of limitation and repose shall operate as provided by Illinois law.

§ 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. 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. Reserved.

§ 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. Reserved.

...

§ 8.2.1 ~~Any~~ In the sole discretion of the Owner, 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. may be subject to mediation on the written demand of the Owner.~~ If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

§ 8.2.2 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. Reserved.

§ 8.2.3 ~~The~~ If the Owner demands mediation as provided above in Section 8.2.1, the parties shall share the mediator's fee and any filing fees equally. The Such mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in such mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

...

[] ~~Arbitration~~ X In the Owner's sole discretion, and upon written demand by the Owner, arbitration pursuant to Section 8.3 of this ~~Agreement~~ Agreement, and otherwise, litigation in a court of competent jurisdiction provided, however, that in the event of litigation, the only proper jurisdiction and venue shall be the Circuit Court of the Eighteenth Judicial Circuit, DuPage County, Illinois and the parties to this Contract hereby waive any challenge to same.

...

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.

...

§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, Owner demands arbitration as provided above in Section 8.2.4, 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 in accordance with the American Arbitration Association in accordance with its Association's Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, by the Owner to the Architect, and filed with the person or entity administering the arbitration. If no such person or entity is selected at the

time of the Owner's demand, promptly after Owner serves such demand on the Architect, the parties shall meet and agree upon an arbitrator. If no such agreement results within fourteen days after the demand, then one or both of the parties may submit the case to the American Arbitration for selection of an arbitrator in accordance with Rule 14 of the AAA's Construction Industry Rules and Mediation Procedures in effect on the date of this Agreement, and further proceedings in accordance with such rules.

~~§ 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 by the Owner shall not 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 the Architect's receipt of the Owner's written demand for 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, at the sole option of the Owner, 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.

PAGE 22

§ 8.5 In addition to the other rules applicable to any arbitration hereunder, the following shall apply if the Owner elects arbitration:

.1 Promptly after the impaneling of the arbitrator, the arbitrator shall establish a procedure for each party to set forth in writing and to serve upon each other party a detailed statement of its contentions of fact and law, along with appropriate responses thereto;

.2 All parties to the arbitration shall be entitled to reasonable discovery procedures as provided by the Illinois Code of Civil Procedure and Illinois Supreme Court Rules;

.3 The arbitration shall be commenced and conducted as expeditiously as possible consistent with affording reasonable discovery as provided herein. Similarly, the scope of discovery, and the extent of proceedings hereunder relating to discovery, shall be consistent with the parties' intent that the arbitration be conducted as expeditiously as possible.

§ 8.6 In the event of any litigation or arbitration between the parties to this Agreement, the Architect shall pay the Owner's reasonable attorneys' fees and court costs to the extent the court or tribunal determines the Owner is the prevailing party.

~~§ 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, for services properly performed and billed to the Owner and expenses properly incurred and billed to the Owner in accordance with this Agreement, and said invoices for services and expenses are not in dispute, such failure shall be considered cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, Prior to such suspension, the Architect shall give seven days' written notice to the Owner before suspending services. Owner. 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. for services and expenses properly rendered and incurred. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted. adjusted if such suspension exceeds thirty (30) days.~~

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

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

§ 9.4 Either party may terminate this Agreement upon not less than ~~seven~~fourteen 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.

PAGE 23

§ 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 and Reimbursable Expenses properly incurred.~~

...

None

...

None

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall ~~terminate~~expire one year from the date of Substantial ~~Completion~~Completion of Phase 2 of the Project. Such expiration shall not affect rights under this Agreement that have accrued at the time of expiration or may later accrue.

§ 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.~~

§ 9.10 If the Architect is adjudged as bankrupt, or makes a general assignment for the benefit of its creditors, or if a receiver is appointed on account of the Architect's insolvency, or if any provision of the bankruptcy law is invoked by or against the Architect, or if the Architect persistently or repeatedly refuses or fails (except in cases for which extension of time is provided), to perform the Architect's services in accordance with the Agreement, then notwithstanding any other rights or remedies granted the Owner, the Owner may, without prejudice to any other right or remedy, (i) terminate the employment of the Architect and/or (ii) finish the Architect's services by whatever method the Owner may deem expedient. In such case, the Architect shall not be entitled to receive any further payment until Architect's services are finished and the Owner may be entitled to recover and deduct from any remaining amounts due Architect all damages allowed by law.

PAGE 24

§ 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, State of Illinois, without regard to conflict of law principles.

§ 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, as amended and included in the Project Manual.

§ 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.~~Project.

...

§ 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. Architect shall report to Owner any hazardous materials discovered by Architect at the Project site.

~~§ 10.7 The Upon~~ Architect's receipt of prior written consent from the Owner, 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~~ such representations if such consent is granted. 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.~~ The Owner shall ~~or any other information prohibited by law from disclosure.~~ The Owner may provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination or expiration of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

~~§ 10.8 If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party~~ The Architect shall maintain the confidentiality of all information in its possession regarding the Project and this Agreement, and shall require similar agreements with its consultants to maintain the confidentiality of all information regarding the Project and this Agreement. Architect 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 or expiration of this Agreement.

§ 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, attorneys, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, attorneys, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8. ~~The Architect shall require of the Architect's consultants similar agreements to maintain the confidentiality of information considered as "confidential" or "business proprietary" by Owner~~

PAGE 25

§ 10.10 Indemnification. To the fullest extent permitted by law, the Architect shall indemnify and hold harmless the Owner and its officers, officials, employees, and agents from and against all claims, damages, losses and expenses, including but not limited to legal fees (attorney's and paralegals' fees and court costs), arising out of or resulting from the performance of the Architect's services, provided that any such claim, damage, loss or expense (i) is attributable to bodily injury, sickness, disease or death, or injury to or destruction of tangible property, other than the work itself, including the loss of use resulting therefrom and (ii) is caused in whole or in part by any act or omission of the Architect, Architect's consultants and sub-consultants, anyone directly or indirectly employed by any of them or anyone for whose acts any of them may be liable, except to the extent it is caused in whole or in part by a party indemnified hereunder. Such obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this Paragraph. Architect shall similarly protect, indemnify and hold and save harmless the Owner, its officers, officials, employees, and agents against and from any and all claims, costs, causes, actions and expenses including but not limited to legal fees, incurred by reason of Architect's breach of any of its obligations under, or Architect's default of, any provision of the Contract. Architect's obligations under this paragraph shall survive the termination of this Agreement.

§ 10.11 Notwithstanding any provision of this Agreement to the contrary, the Owner's review and/or approval of any and all documents or other matters required herein shall be for the purpose of providing the Architect with information as to the Owner's objectives and goals with respect to the Project and not for the purpose of determining the accuracy, completeness or correctness of such documents, and shall in no way create any liability on the part of the Owner (notwithstanding any professional skill and judgment possessed by the Owner) for errors, inconsistencies or omissions in any approved documents.

§ 10.12 Independent Contractor. The Architect agrees that all services performed under this Agreement are being performed by Architect as an independent contractor and not as an employee or agent of Owner. This Agreement is not intended to constitute, create, give rise to or otherwise recognize a joint venture agreement or relationship, partnership or formal business organization of any kind or create an employer/employee relationship between Owner and Architect, Architect's employees, subcontractors, subcontractors' employees or any person supplied by Architect in the performance of Architect's obligations under this Agreement and does not entitle said persons to rights or benefits from Owner normally associated with an employment relationship, such as, but not limited to, civil service,

retirement, personnel rules which accrue to such persons, health insurance, motor vehicle insurance, life insurance, workers' compensation, sick leave or any other fringe benefits. The Architect and the Architect's consultants shall have total responsibility for all salaries, wages, bonuses, retirement, withholdings, worker's compensation, occupational disease compensation, unemployment compensation, other employee benefits and all taxes and premiums appurtenant thereto concerning such persons and shall indemnify, hold harmless and defend Owner with respect thereto, including payment of reasonable attorney's fees and costs in the defense of any claim made under the Fair Labor Standards Act or any other federal or state laws. Such indemnity shall be required by Architect from its consultants, if any, on behalf of Owner.

§ 10.13 Retention of Records Architect and any consultant shall keep and maintain accurate books of record and account, in accordance with sound accounting principles, of all expenditures made and all costs, liabilities and obligations incurred under this Agreement, and all papers, files, accounts, reports, cost proposals with backup data and all other material relating to work under this Agreement and shall make all such materials available at the office of the Owner at any reasonable time during the term of this Agreement and for the length of time established by law or five (5) years, whichever is longer from the date of final payment to Architect or termination of this Agreement for audit, inspection and copying upon Owner's request.

§ 10.14 Subcontracts The Architect shall insert into all subcontracts the paragraphs herein entitled "INSURANCE," "RETENTION OF RECORDS," and "INDEMNIFICATION."

§ 10.15 Compliance with Laws

The Architect shall comply with applicable federal and state laws and local ordinances and regulations applicable to the services within the scope of this Agreement, including but not limited to the following:

- .1 The Architect shall comply with, and require all persons providing any of the services on its behalf to comply with, to the extent applicable, all applicable federal and state laws and governmental rules and regulations now or hereafter in effect pertaining to equal employment opportunity and discrimination in provision of the services, including the provisions of the Equal Employment Opportunity Clause. Architect specifically represents and certifies to Owner that Architect complies with all applicable provisions of the Illinois Human Rights Act and that it maintains, and shall maintain at all times during the period it is required to perform the its services, a written sexual harassment policy in full compliance with Section 2-105(A)(4) thereof.
- .2 To the best of the Architect's knowledge, information and belief, no officer or employee of Architect has been convicted of bribery or attempting to bribe an officer or employee of the State of Illinois, or any unit of local government, nor has any officer or employee made an admission of guilt of such conduct which is a matter of record. Architect's Proposal to the Owner seeking a contract for the performance of the architectural services for this Project was made without any connection or common interest in the profits anticipated to be derived from the Agreement by the Architect with any other person submitting proposals to the Owner for this Project. The Agreement terms are in all respects fair and the Agreement is entered into by the Architect without collusion or fraud and no official, officer or employee of the Owner has any direct or indirect financial interest in the Architect's Proposal or in the Architect.
- .3 The Architect certifies that it is not barred from contracting with the Owner because of any delinquency in the payment of any tax administrated by the Illinois Department of Revenue, unless it is being contested. Architect further certifies that it understands that making a false statement regarding delinquency in taxes is a Class A. misdemeanor and, in addition, voids the Agreement between Architect and Owner, and allows the Owner, a municipal entity, to recover in a civil action all amounts paid to the Architect.
- .4 If Architect has 25 or more employees on the date of this Agreement, Architect knows, understands and acknowledges its obligations under the Illinois Drug Free Workplace Act (30 ILCS 580/I et seq.) and certifies that it will provide a drug-free workplace by taking the actions required under, and otherwise implementing on a continuing basis, Section 3 of the Drug Free Workplace Act. The Architect further certifies that it has not been debarred and is not ineligible for award of this Agreement as the result of a

violation of the Illinois Drug Free Workplace Act.

- 5 The Architect hereby certifies that, to the best of its knowledge, information and belief, no individual employed or otherwise retained by Architect or any of Architect's consultants to perform Architect's services has been convicted of a crime that would make the individual ineligible to be employed by Owner in accordance with 70 ILCS 1205/8-23.

§ 10.16 Headings The headings for each paragraph of this Agreement are for convenience and reference purposes only and in no way define, limit or describe the scope or intent of said paragraphs or of this Agreement nor in any way affect this Agreement.

PAGE 26

For Phase 1: \$46,800.00
For Phase 2: \$91,875.00

PAGE 27

Included in the Stipulated Sum set forth in 11.1.1

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, subject to the requirements for written pre-approval by Owner as provided in Article 4, the Owner shall compensate the Architect as follows:

...

At the hourly rates contained in the Proposal.

§ 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 zero percent (0 %), or as follows:

...

Phase 1:

...

Design Development Phase	<u>Eighteen</u>	percent (	<u>18</u>	%)
Construction Documents and Permitting Phase	<u>Forty-six</u>	percent (	<u>46</u>	%)
Procurement Phase	<u>nine</u>	percent (	<u>9</u>	%)
Construction Phase	<u>Twenty-seven</u>	percent (	<u>27</u>	%)

...

Phase 2:

<u>Schematic Design Phase</u>		percent (%)
<u>Design Development Phase</u>	<u>Twenty</u>	percent (	<u>20</u>	%)
<u>Construction Documents and Permitting Phase</u>	<u>Forty-seven</u>	percent (	<u>47</u>	%)
<u>Procurement Phase</u>	<u>Six</u>	percent (	<u>6</u>	%)
<u>Construction Phase</u>	<u>Twenty-seven</u>	percent (	<u>27</u>	%)
<u>Total Basic Compensation</u>	<u>one hundred</u>	percent (	<u>100</u>	%)

In accordance with Architect's Proposal

...

- ~~.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~~ .9 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and,
- ~~.12~~ .10 Other similar Project-related expenditures.

§ 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. Reimbursable expenses shall not exceed \$25,000 without prior written approval from Owner. Architect shall provide all supporting documentation of said Reimbursable Expenses.

§ 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.)

Reserved.

...

§ 11.10.1.1 ~~An~~ No 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. Reserved.

PAGE 29

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid ~~(—)~~ 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.) shall be processed in accordance with the Local Government Prompt Payment Act, 50 ILCS 505/1, et seq.

...

§ 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. Reserved.

...

§12.1 The Architect shall at its own cost promptly cure any breach of its obligations under this Agreement. Should Architect refuse or neglect to cure such breach within a reasonable time, taking into consideration the nature of the breach and its impact on the progress or the cost of the Work, after receiving reasonable notice requesting such cure from Owner, then Owner shall be entitled to cure such breach following additional notice of such intended action to Architect, and recover the costs permitted under applicable law relating to cure from Architect. This commitment by Architect is in addition to and not in substitution for, any other remedy which the Owner may have at law or in equity.

§12.2 Architect's Basic Services shall include services before and after issuance to Owner of the final Certificate for Payment, or in the absence of the final Certificate of Payment, before or after the date of Final Completion, made necessary by (i) failure of performance of a Contractor under any Contract for Construction, when such defects or deficiencies in the Work, or failure of performance resulted from Architect's negligence or errors or omissions in the Contract Documents which it provided for the Project or (ii) breach of the duties or obligations of the Architect under this Agreement.

§12.3 In the event Architect is hindered, delayed or prevented from performing its obligations under this Agreement as a result of any fire, flood, landslide, tornado or other act of God, theft, strike, lockout, other labor problems, shortages of material or labor, failure of any governmental agency or Owner to furnish information or to approve or to disapprove Architect's work or any other cause beyond the reasonable control of Architect, the time for completion of Architect's work shall be extended by the period of resulting delay.

...

- .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.) Architect's Proposal dated November 9, 2019.

[] 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.)

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

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

WHEATON PARK DISTRICT
PAGE 30

WILLIAMS ARCHITECTS

766872v1

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Brian J. Armstrong, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 17:58:52 ET on 01/08/2020 under Order No. 9103322895 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 those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)