AIA® Document B101™ – 2017

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the 22nd day of January 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)

Poudre School District R-1
2445 LaPorte Avenue
Fort Collins, CO 80521

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

Hord Coplan Macht
1800 Wazee Street, Suite 450
Denver, CO 80202
(303) 607-0977

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

New Southeast Elementary
The site is located at approximately Larimer County Road 30 and North Fairgrounds Avenue within the City of Loveland.
As per requirements outlined in RFP 19-1E1-001

The Owner and Architect agree as follows.

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

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

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ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.
(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project:
(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

See Exhibit "A"

§ 1.1.1.1 The Architect shall assist the Owner in the preparation of a facility program document that includes site data; and a space program. This facility program document will act as a guide for the schematic, design development, and construction document phase of this 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.)

See Exhibit "A"

§ 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.)

See Exhibit "A"

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

.1 Design phase milestone dates, if any:

See Exhibit "C"

.2 Construction commencement date:

See Exhibit "C"

.3 Substantial Completion date or dates:
For the purpose of this Agreement, Substantial Completion shall be as defined in CRS §24-91-102(5) and shall include the issuance of a certificate of occupancy by the governing municipality, as applicable.

See Exhibit "C"

.4 Other milestone dates:

See Exhibit "C"

§ 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.)

Competitive Bid through pre-qualified General Contractors

§ 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.)

As per the Owner's Sustainable Design Guidelines and Sustainability Management Plan as identified in Section 3.2.5.1

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

Earl Smith, Director of Construction Services
2445 LaPorte Avenue
Fort Collins, CO 80521
(970) 490-3450

esmith@psdschools.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.)

N/A

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

.1 Geotechnical Engineer:

TBD

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.2
(Paragraphs deleted)
Other, if any:
(List any other consultants and contractors retained by the Owner.)

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

Adele Willson, Principal HCM
1800 Wazee Street, Suite 450
Denver, CO 80202
(303) 607-0977

§ 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:

JVA, Incorporated
Mark Cormier
1319 Spruce Street
Boulder, CO 80302
(303) 444-1951

.2 Mechanical Engineer:

Shaffer - Baucom
Gary Shaffer
3900 S. Wadsworth Blvd, Suite 600
Lakewood, CO 80235
(303) 986-8200

.3 Electrical Engineer:

Shaffer - Baucom
Gary Shaffer
3900 S. Wadsworth Blvd, Suite 600
Lakewood, CO 80235
(303) 986-8200

.4 Civil Engineer:

Northern Engineering
Ryan Banning
301 N. Howes Street, Suite 100

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Fort Collins, CO 80521
(970) 221-4158

§ 1.1.11.2 Consultants retained under Supplemental Services:

See Exhibit "B"

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

N/A

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the Architect's services, schedule for the Architect's services, and the Architect's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form.

(Paragraph deleted)

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide professional services as set forth in this Agreement. The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals.

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

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

§ 2.4 Except with the Owner's knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect's professional judgment with respect to this Project. Neither the Architect nor any of its employees or consultants shall have other interests which conflict with the interests of the Owner, including being connected with the sale or promotion of equipment or material which may be used on the Project, and the Architect shall make written inquiry of all of its consultants concerning the existence of or potential for such conflict. In unusual circumstances, and with full disclosure to the Owner of such conflict of interest, the Owner, in its sole discretion, may grant a written waiver for the Architect or particular consultant.

§ 2.5 INSURANCE REQUIREMENTS

§ 2.5.1 The Architect and consultants shall procure and maintain until all of their obligations have been discharged, including any warranty periods under this Agreement are satisfied, insurance against claims for injury to persons or damage to property which may arise from or in connection with the performance of the work hereunder by the Architect, its agents, representative, employees or consultants. The insurance requirements herein are minimum requirements for this Agreement and in no way limit the indemnity covenants contained in this Agreement.

§ 2.5.2 The Owner in no way warrants that the minimum limits contained herein are sufficient to protect the Architect from liabilities that might arise out of the performance of the work under this Agreement by the Architect, its agents, representatives, employees, or consultants. The Architect shall assess its own risks and if it deems appropriate and/or prudent, maintain higher limits and/or broader coverages. The Architect is not relieved of any liability or other obligations assumed or pursuant to this Agreement by reason of its failure to obtain or maintain insurance in sufficient amounts, duration, or types.

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§ 2.5.3 Coverages and Limits of Insurance: The Architect shall provide coverage with limits of liability not less than those stated below. An excess liability policy or umbrella liability policy may be used to meet the minimum liability requirements provided that the coverage is written on a "following form" basis.

1. **Commercial General Liability – Occurrence Form – ISO CG 0001 or equivalent. Coverage to include:**
   - Premises and Operations
   - Personal/Advertising Injury
   - Products/Completed Operations
   - Liability assumed under an Insured Contract (including defense costs assumed under contract)

General Aggregate	$2,000,000
Products/Completed Operations Aggregate	$2,000,000
Each Occurrence Limit	$1,000,000
Personal/Advertising Injury	$1,000,000
Fire Damage (Any One Fire)	$50,000
Medical Payments (Any One Person)	$5,000

   a. The policy shall be endorsed to include the following additional insured language: Poudre School District R-1, its elected officials, employees, agents, and volunteers are included as Additional Insureds (ISO Form CG 2010, or equivalent). Further, all policies of insurance shall:

      1. Include a Waiver of Subrogation Clause.
      2. Include a Separation of Insureds Clause (Cross Liability).

   b. Architect's consultants shall be subject to the same minimum requirements identified above.

2. **Automobile Liability**
   Bodily injury and property damage for any owned, hired, and non-owned vehicles used in the performance of this Agreement.

Bodily Injury/Property Damage (Each Accident)	$1,000,000

   Architect's consultants shall be subject to the same minimum requirements identified in this section.

3. **Workers' Compensation and Employers' Liability**

Coverage A (Workers' Compensation)	Statutory
Coverage B (Employers Liability)	
Each Accident	$500,000
Disease – Policy Limit	$500,000
Disease – Each Employee	$500,000

   a. Architect's consultants shall be subject to the same minimum requirements identified in this section.
   b. This requirement shall not apply if the Architect or consultant is exempt under Colorado Workers' Compensation Act **AND** if the Architect or consultant has a current Workers' Compensation Coverage Rejection on file with the Colorado Department of Labor and Employment, Division of Worker's Compensation.

4. **Professional Liability (Errors and Omissions Liability)**

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Each Claim	$3,000,000
Annual Aggregate	$3,000,000 *(for each project under $10,000,000)* $5,000,000 *(for each project over $10,000,000)*

a. In the event that any professional liability insurance required by this Agreement is written on a claims-made basis, Architect warrants that any retroactive date under the policy shall precede the effective date of this Agreement; and that either continuous coverage will be maintained, or an extended discovery period will be exercised for a period of three (3) years beginning at the time work under this Agreement is completed.

b. Policy shall include a waiver of subrogation clause.

5. Professional Liability (Errors and Omissions Liability) for Consultants

In addition to the insurance requirements for the Architect, the Architect's registered consultants (including structural, civil, mechanical, plumbing, electrical engineering, landscape architecture, survey, geotechnical and materials testing) are required to carry Professional Liability insurance as follows:

Major Consultants (structural, mechanical, plumbing, electrical engineers)

Each Claim	$3,000,000
Annual Aggregate	$3,000,000 *(for each project under $10,000,000)* $5,000,000 *(for each project over $10,000,000)*

All other registered consultants not listed above will carry:

Each Claim	$1,000,000
Annual Aggregate	$1,000,000

a. In the event that any professional liability insurance required by this Agreement is written on a claims-made basis, Architect warrants that any retroactive date under the policy shall precede the effective date of this Agreement; and that either continuous coverage will be maintained, or an extended discovery period will be exercised for a period of three (3) years beginning at the time work under this Agreement is completed.

b. Policy shall include a waiver of subrogation clause.

§ 2.5.4 Additional Insured Requirements: The policies shall include, or be endorsed to include, the following provisions:

On insurance policies where the Owner is named as an additional insured, the Owner shall be an additional insured to the full limits of liability purchased by the Architect even if those limits of liability are in excess of those required by this Agreement.

§ 2.5.5 Notice of Cancellation: Each insurance policy required under this Agreement shall provide the required coverage and shall not be suspended, voided or canceled except after thirty (30) days prior written notice has been given to the Owner, except when cancellation is for non-payment of premium, then ten (10) days prior notice may be given. If the insurance carrier will not provide the required notice, the Architect and/or its insurance broker shall notify the Owner of any cancellation or non-renewal in coverage or limits of any insurance within seven (7) days of receipt of insurers' notification to that effect. Such notices shall be sent directly to the Owner's Director of Records & Risk Management.

§ 2.5.6 Verification of Coverage: Architect shall furnish the Owner with certificates of insurance (ACORD form or

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equivalent approved by the Owner's Director of Records & Risk Management) as required by this Agreement. The certificates for each insurance policy are to be signed by a person authorized by that insurer to bind coverage on its behalf.

1. All certificates and required endorsements are to be received and approved by the Owner's Director of Records & Risk Management before work commences. Each insurance policy required by this Agreement must be in effect at or prior to commencement of work under this Agreement and remain in effect for the duration of the project. Failure to maintain the insurance policies as required by this Agreement or to provide evidence of renewal is a material breach of contract.

2. All certificates required by this Agreement shall be sent directly to the Owner's Director of Records & Risk Management at risk@psdschools.org. The Owner's project/contract number and project description shall be noted on the certificate of insurance. The Owner reserves the right to require complete, certified copies of all insurance policies required by this Agreement at any time.

§ 2.5.7 Consultants: All required consultants' certificates and endorsements are to be received and approved by the Owner's Director of Records & Risk Management before work commences.

§ 2.5.8 Approval: Any modification or variation from the insurance requirements in this Agreement shall be made by the Owner's Director of Records & Risk Management, whose decision shall be final. Such action will not require a formal amendment but may be made by administrative action.

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect, as part of its Basic Services, shall retain professional engineering consultants for the structural, mechanical and electrical design of the Project. At the Owner's request, a copy of the Architect/Engineer agreement (s), if any, shall be forwarded to the Owner for approval or, if the consultants are members of the Architect's staff, their qualifications shall be forwarded to the Owner for approval. The approval required hereunder shall be obtained prior to any obligations relative to the Project being incurred regarding that consultant.

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

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner except by mutual agreement of the parties. Delays in the orderly progress of the Project caused by the Architect shall be the responsibility of the Architect. In the event of a delay caused by the Architect, the Architect shall accelerate to meet the time schedule without additional compensation. Time is of the essence of this Agreement.

§ 3.1.3.1 See Exhibit "C" for Project Schedule.

§ 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.

§ 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.

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§ 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 meet with planning commissions, fire protection agencies, utility companies, affected street and traffic authorities, health departments, the State of Colorado, and any other government entities as often as reasonably necessary, and shall assist as reasonably necessary to obtain approvals before the start of construction, unless the Owner gives written instruction to proceed without such approval.

§ 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.

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

§ 3.2.3 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. 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 The Architect shall prepare Schematic Design Documents for approval by the Owner consisting of drawings and other documents illustrating the scale and relationship of Project components. The Schematic Design Documents shall at a minimum contain, but not be limited to, the following:

1. a recommended scope of site development;
2. functional areas outlined (single line plans) indicating schematic spaces to meet program criteria;
3. correlation of space with criteria;
4. gross square footage of additions and remodeled areas;
5. net square footage; and
6. initial building code analysis.

§ 3.2.5.1 The Owner's current version of the "Technical Specification v6" dated November 2014, "Sustainable Design Guideline" dated June 2005, and "Sustainability Management Plan" dated 2017 will be provided to the Architect as part of this Agreement. These documents are intended to provide uniform and consistent quality standards for The Owner's facilities and are intended to communicate to the Architect the minimum acceptable standards for energy performance, occupant comfort requirements, products, materials and systems used in the Owner's facilities. The Architect shall make every effort to abide by the requirements of these documents and shall notify the Owner of any deviations.

§ 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, and request the Owner's approval.

§ 3.2.8 The Architect shall attend and facilitate, with the Owner, public meetings about the project design.

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§ 3.3 Design Development Phase Services

§ 3.3.1 Based on the approved Schematic Design Documents, the Architect shall prepare Design Development Documents for approval by the Owner. The Design Development Documents shall consist of drawings and other documents to fix and describe the size and character of the entire Project as to architectural, structural, mechanical and electrical systems, materials, and such other elements as may be appropriate. Without limiting the generality of the foregoing, the Design Development Documents shall include the following:

1. outline of specifications;
2. architectural floor plans;
3. architectural elevations and building sections;
4. a proposed finish schedule;
5. tabulation of gross and net areas; and
6. major structural, mechanical and electrical system components overlaid on architectural floor plans.
7. major exterior improvements, including athletic fields and related seating areas.
8. code plan or study

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

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

§ 3.4 Construction Documents Phase Services

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

§ 3.4.2 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; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications, 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 When the construction document phase is ninety percent (90%) complete and a minimum of ten (10) working days before construction documents are released for bid, the Architect shall submit to the Owner one (1) complete set of contract documents (drawings and specifications), and one (1) complete set of electronic documents in PDF format, for review and a current estimate of construction cost based on the ninety percent documents.

§ 3.5 Procurement Phase Services

§ 3.5.1 General

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

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§ 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** facilitating the distribution of Bidding Documents to prospective bidders;
- **.2** organizing and conducting a pre-bid conference for prospective bidders;
- **.3** preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to the prospective bidders in the form of addenda; and,
- **.4** organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

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

§ 3.5.3 Negotiated Proposals

§ 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.

§ 3.6 Construction Phase Services

§ 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™–2017, General Conditions of the Contract for Construction, as amended by the Owner.

§ 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 and 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. Notwithstanding the preceding sentence, the Architect shall promptly report to the Owner known deviations from the Contract Documents and from the most recent approved construction schedule. If the Architect finds that the progress of the Project is not in compliance with the approved construction schedule then, in addition to reporting to the Owner as required above, the Architect shall request the Contractor to submit a recovery plan for approval. In addition to the foregoing obligations to notify Owner, the Architect shall notify Owner promptly if Architect becomes aware of any other failures to perform, acts or omissions of the Contractor that in the Architect's professional judgement will or may result in a detriment to the Owner. The Architect shall be responsible for the Architect's negligent acts or omissions and failure to comply with this Agreement, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor, Subcontractors, or their agents or employees, or of any other persons or entities performing portions of the Work not employed by or retained by Architect.

(Paragraph deleted)

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§ 3.6.1.3 The Architect shall administer, and maintain record copies showing dates and signatures, of all construction phase documents, using standard AIA forms where applicable. This obligation includes but is not limited to the following, all of which shall be done in a prompt and timely manner:

1. providing a standard Request for Information (RFI) form and responding to all RFIs;
2. issuing Architect's Supplemental Instructions (ASI) and Proposal Requests (PR) as needed;
3. providing a standard Change Order Request (COR) form and responding to all CORs;
4. issuing all Change Order (CO) drafts for the Owner's and Contractor's approval and signature;
5. issuing all Construction Change Directives (CCD);
6. issuing all Notices of Nonconformance as required;
7. reviewing and responding to all Submittals; and
8. reviewing and either certifying or rejecting Applications for Payment.

§ 3.6.1.4 Subject to Section 4.2 and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall meet with the principal Contractor at the site at least once a week, or as mutually agreed to in writing by the Owner, Architect, and Contractor during the course of construction, or such further visits as shall be necessary, relative to the performance of the Contractor and all subcontractors in accordance with the final approved plans, specifications, and construction schedule. The Architect shall assist the Owner in reviewing the construction schedule for acceptability as outlined in the contract documents. Before the Contractor's first Application for Payment is processed, the Architect and Owner must agree and accept the Contractor's baseline documents and schedule of values. The Architect shall promptly prepare and distribute written minutes of the weekly meetings and distribute within three days of the meeting. The Architect shall request that any objections by the Contractor or the Owner to the content of such minutes shall promptly be made to the Architect in writing. On the basis of the site visits or any other information the Architect may have, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

Any and all other of the Architect's consultants shall visit the site a minimum of once per week, or as mutually agreed to in writing by the Owner, Architect, and Contractor during construction of their consultants' respective portion of the projects, or as otherwise agreed upon, or more as shall be necessary, and as relative to the performance of the Contractor and all subcontractors in accordance with the final approved plans and specifications. The Architect and his consultants shall review the findings of such on-site observations with the Contractor prior to leaving the site, and such on-site observations shall continue beyond the time of substantial completion until all items of work are documented in writing by the Architect as fully completed. The Architect and his consultants shall prepare written reports to document all on-site observations and site meetings and shall promptly submit such written reports to the Owner and Contractor. The Architect's on-site observations shall include, but not be limited to, the following services by the Architect, structural, mechanical and electrical engineers, and other consultants retained by the Architect:

1. observe that approved shop drawings, lab and testing reports, and updated as-built documents are being maintained at the site;
2. observe reinforcing steel after installation and before concrete is placed;
3. observe structural and architectural concrete before, during, and after pouring;
4. observe structural steel after erection and prior to the same being covered or enclosed;
5. observe mechanical work following its installation and prior to its being covered and /or enclosed;
6. observe electrical work following its installation and prior to its being covered and/or enclosed;
7. observe exposed surfaces for compliance with Construction Contract Documents;
8. representation of Owner at preliminary and final observations;
9. assist the Owner in determining that all systems are properly working as per the Contract Documents.

§ 3.6.2.2 The Architect has the authority 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

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

§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, 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, 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, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect.

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

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

§ 3.6.3.4 The Architect shall not execute the Contractor's monthly applications and Certificates for Payment and return to the Owner for action until Architect has made an observation of the construction to determine, to the best of his ability, that the said materials or services have been provided as indicated on the Contractor's Schedule of Values. If the Architect is aware of any legitimate basis upon which to dispute any sums payable, the Architect shall not issue a Certificate for Payment of such sums without first obtaining the Owner's written authorization.

§ 3.6.4 Submittals

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

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

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procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component, but the Architect shall take reasonable measures to verify that such assembly is consistent with the design concept expressed in the Contract Documents.

§ 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 except that the Architect shall exercise reasonable professional judgement as to the apparent accuracy and/or completeness of such shop drawings and other submittals, and to notify the Owner if such accuracy and/or completeness is in question.

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

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

§ 3.6.5 Changes in the Work

§ 3.6.5.1 The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work, by Addenda, RFI, PR, CCD, CO's, and submittals, and will incorporate Contractor's as-built redlines and provide to the Owner as provided in Section 3.6.6.6.

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall:

- **.1** conduct observations to determine the date or dates of Substantial Completion and the date of final completion;
- **.2** issue Certificates of Substantial Completion;
- **.3** forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and,
- **.4** issue a final Certificate for Payment based upon a final observation 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 observations shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected. The Architect shall require in the specifications that the Contractor shall provide complete and thorough start-up assistance, operating and maintaining instructions, manuals, and advice to the Owner. The Architect shall provide adequate engineering assistance to the Owner during this start-up period. The Architect shall coordinate and track the closeout of the Project including, but not limited to: systems demonstrations, spare parts inventory, equipment move-in, permanent key acceptance and verify that the Contractor has met all closeout requirements as outlined in the contract documents.

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§ 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 The Architect and his consultants shall issue written notices to the Contractor to correct failed work, reported by the Owner, as warranty items during the warranty period following substantial completion.

§ 3.6.6.6 Within ninety (90) days after final acceptance by Owner of the Contractor's as-built documents, the Architect shall supply the Owner with copies of all final contract documents, plans, specifications, drawings, showing all significant changes incorporated in the Work as finally complete. The following items shall be transmitted to the Owner prior to Final Payment:

.1 One compact disk containing all electronic AutoCAD and/or Revit files including any necessary fonts, reference files, etc. that were used in preparing the final record documents.

.2 One compact disk containing all final record drawings and specifications printed in an Adobe .pdf file format.

§ 3.6.6.7 As part of the Architect's basic services under this Agreement, and notwithstanding any other provision in this Agreement, approximately eleven (11) months after substantial completion and issuance of certificate of occupancy and prior to the expiration of any one-year contractor's or manufacturers warranties, the Architect and its consultants shall re-examine the Project and report to the Owner the status of the contractor's completion of the work, including but not limited to "punch list" items, and identifying any deficiencies or defects in workmanship or materials for which a claim can be made under the contractor's warranty.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

§ 4.1.1 The services listed below are included in Basic Services and are 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	Architect
§ 4.1.1.2 Multiple preliminary designs	Architect
§ 4.1.1.3 Measured drawings	Not Provided
§ 4.1.1.4 Existing facilities surveys	Not Provided
§ 4.1.1.5 Site evaluation and planning	Not Provided
§ 4.1.1.6 Building Information Model management responsibilities	Not Provided
§ 4.1.1.7 Development of Building Information Models for post construction use	Not Provided
§ 4.1.1.8 Civil engineering	Architect
§ 4.1.1.9 Landscape design	Architect

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Supplemental Services	Responsibility (Architect, Owner, or not provided)
§ 4.1.1.10 Architectural interior design	Architect
§ 4.1.1.11 Value analysis	Not Provided
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	Not Provided
§ 4.1.1.13 On-site project representation	Not Provided
§ 4.1.1.14 Conformed documents for construction	Architect
§ 4.1.1.15 As-designed record drawings	Not Provided
§ 4.1.1.16 As-constructed record drawings	Architect
§ 4.1.1.17 Post-occupancy evaluation	Not Provided
§ 4.1.1.18 Facility support services	Not Provided
§ 4.1.1.19 Tenant-related services	Not Provided
§ 4.1.1.20 Architect's coordination of the Owner's consultants	Architect
§ 4.1.1.21 Telecommunications/data design	Architect
§ 4.1.1.22 Security design	Architect
§ 4.1.1.23 Commissioning	Owner
§ 4.1.1.24 Sustainable Project Services	Not Provided
§ 4.1.1.25 Fast-track design services	Not Provided
§ 4.1.1.26 Multiple bid packages	Not Provided
§ 4.1.1.27 Historic preservation	Not Provided
§ 4.1.1.28 Furniture, furnishings, and equipment design	Not Provided
§ 4.1.1.29 Other services provided by specialty Consultants	Per Exhibit "B"
§ 4.1.1.30 Other Supplemental Services	N/A

§ 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.)

See Exhibit "B"

§ 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.)

N/A

(Paragraph deleted)

§ 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.

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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:

.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 (Architect shall give Owner timely notice of the due date of any such decision and reasonable reminders as the time approaches);

.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

.7 DELETED

.8 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;

.9 Evaluation of the qualifications of entities providing bids or proposals;

.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, and explain the facts and circumstances giving rise to the need. If, upon receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Architect of the Owner's determination. The Owner shall compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice.

.1 Reviewing a Contractor's submittal out of sequence from the submittal schedule approved by the Architect;

.2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;

.3 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;

.4 Evaluating an extensive number of Claims as the Initial Decision Maker; or,

.5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom.

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

.1 Two (2) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor

.2 Seventy (70) visits to the site by the Architect during construction or as required in Section 3.6.2.1, whichever is greater

.3 Two (2) observations 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 2 (Two) observation for any portion of the Work to determine final completion.

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

§ 4.2.5 If the services covered by this Agreement have not been completed within Thirty-Two (32) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program, which shall set forth the Owner's objectives; schedule; constraints and criteria, including space requirements and relationships; flexibility; expandability; special equipment; systems; and site requirements. The Architect shall assist the Owner as requested with the obligations and responsibilities referenced in this Article 5.

§ 5.2 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services. The Architect shall promptly notify the Owner in writing of any decision the Architect claims is not being done in a timely manner.

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

§ 5.5 The Owner shall furnish services of geotechnical engineers, which 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.

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

§ 5.7 DELETED

§ 5.8 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's written 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 to the Owner's satisfaction 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 deemed by the Owner to be appropriate to the services or work provided.

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§ 5.8.1 The Owner reserves the right to contract for commissioning services, construction management and/or inspection services, or other consultants in connection with the Work. In such event, the Architect agrees to cooperate fully, and the time set forth in Section 1.1.4 may be extended in writing by the Owner as reasonably necessary to allow for appropriate participation in the Work. In the event that the Architect's cooperation would require additional services by the Architect, such additional services will require prior written approval by the Owner.

§ 5.9 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

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

§ 5.11 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service. Subparagraph 5.11 shall not be construed to impose a duty upon the Owner to inspect or to observe the Project, or to become aware of any fault or defect in the Project or of any nonconformance with the Contract Documents, nor is the Owner required to give written notice if it is the Architect who is the source of the Owner's knowledge about any fault, defect or discrepancy. Moreover, failure to deliver notice required in this Section 5.11 shall not relieve the Architect of responsibility for the professional quality , technical accuracy, timely completion and the coordination of all designs, plans, reports, specifications drawings and other services rendered by the Architect and the Architect shall without additional compensation, promptly remedy and correct any errors, omissions, or other deficiencies in Architects work product that the Architect is responsible for, which may occur.

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

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

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

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

ARTICLE 6 COST OF THE WORK

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

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

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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. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1.1, as a Supplemental Service.

§ 6.4 If, through no fault of the Architect, the Procurement Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, the Owner's 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; or,
- **.5** implement any other mutually acceptable alternative.

§ 6.7 Regardless of which alternative the Owner chooses under Section 6.6 the Architect, the Architect's consultants and other planning professionals, without additional charge, shall modify the Contract Documents as necessary to ensure that the Cost of Work does not exceed the lesser amount of the Owner's Project Budget or the fixed limit of Construction Costs. The Architect's and/or consultants' and/or other planning professionals' modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

ARTICLE 7 COPYRIGHTS AND LICENSES

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

§ 7.2 The drawings, specifications, and other documents or data prepared by the Architect and the Architect's consultants for the Project, or any component of the Project, are Instruments of Service. Upon payment of all amounts due under this Agreement for that portion of drawings, specifications or other documents prepared or furnished, the Owner shall be deemed the owner of the Instruments of Service. The Architect and its consultants retain nonexclusive licenses to the Instruments of Service, provided that the completed Project represented by the Instrument of Service shall not be duplicated for any other client without the prior written consent of the Owner. The Architect and its consultants do not convey to the Owner their unique or proprietary design techniques or concepts as may be employed in the final Instruments of Service. To the extent that work, design, process, or product which is patented, copyrighted, or otherwise protected by an intellectual property right (whether common law, statutory, contractual or reserved), is incorporated into the Instruments of Service or the Work performed under this Agreement by the Architect, the Architect shall pay royalties and/or license fees for such patented or copyrighted designs, process or products. Architect shall at its sole cost and expense indemnify, defend, and hold harmless the Owner against any claims by third parties of infringement of any copyrights or other common law, statutory, contractual or reserved rights incorporated into the Instruments of Service or the Work.

§7.2.1 Electronic Media: The information contained on or in the Architect's electronic media, or retrieved/downloaded from the Architect's ftp site, is provided as a convenience to the users and is provided in "as is" condition. In the event of a conflict in their content, the Architect's printed hard copy shall take precedence over the electronic media.

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§7.2.1.1 Use of the Architect's electronic media shall be without liability to the Architect, its insurers, employees and consultants. It is expressly understood and agreed the Architect retains ownership of the printed hard copy drawings and/or specifications until completion of the project in accordance with Section 7.2, subject to the provisions of Section 9.3.

§7.2.1.2 It is understood and agreed that the information contained on or in the Architect's electronic media or retrieved/downloaded from the Architect's ftp site may have been or be altered intentionally or unintentionally by user or others and the user agrees to indemnify and hold harmless the Architect, its insurers, employees and consultants from any claims, liabilities, damages, loss and costs, including, but not limited to cost of legal defense for the use of such media.

§ 7.3 The Owner has the right to reproduce and/or use, and to create derivative works based upon, the Instruments of Service for other projects at its discretion; provided, however, that if the Owner reproduces or uses the Instruments of Service for another project, or creates (or causes others to create) a derivative work based upon the Instruments of Service, the Owner shall remove or completely obliterate the original professional seals, logos, and other indications of the identity of the Architect and the Architect's consultants on the Instruments of Service. The Owner shall not assign the Instruments of Service to any third party for use on projects unrelated to the Owner, unless the Owner first obtains written consent from the Architect. The use by the Owner or its successors in interest in title, or assigns, which incorporates the Instruments of Service or any derivatives thereof, shall be at the Owner's sole risk and without any liability or responsibility whatsoever by Architect or its consultants.

(Paragraph deleted)

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

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

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 In the event of any dispute or claim arising under or related to this Agreement, the parties shall use their best efforts to settle such dispute or claim through good faith negotiations with each other. If such dispute or claim is not settled through negotiations within 30 days after the earliest date on which one party notifies the other party in writing of its desire to attempt to resolve such dispute or claim through negotiations, then the parties agree to attempt in good faith to settle such dispute or claim by mediation conducted under the auspices of a recognized established mediation service within the State of Colorado. Such mediation shall be conducted within 60 days following either party's written request therefore. If such dispute or claim is not settled through mediation, then either party may initiate a civil action in the state courts of Larimer County, Colorado. No such action shall be removed to any other court or jurisdiction. The prevailing party in such court action shall be entitled to collect, as part of any judgment entered, its reasonable expert witness and attorneys' fees and costs.

§ 8.1.1 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. The term "consequential damages" shall not include the cost of any structural repair, demolition, dismantling, replacement, or construction waste that is reasonably related to the Architect's negligence.

(Paragraphs deleted)

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§ 8.2 To the fullest extent permitted by law, Architect shall indemnify, defend and hold the Owner harmless from and against all liability, claims, and demands, on account of injury, loss, or damage, including, without limitation, claims arising from bodily injury, personal injury, sickness, disease, death, property loss or damage, or any other loss of any kind whatsoever, that arise out of or are in any manner connected with this Agreement, to the extent that such injury, loss, or damage is caused by:

1. the negligent, intentional, or willful wrongful act of Architect, or any officer, employee, representative, agent, consultant of Architect, or other person for whom Architect is responsible under this Agreement; or
2. Architect's breach of this Agreement.

except to the extent such liability, claim, or demand arises through the negligent, intentional, or willful wrongful act of the Owner, its officers, employees, or agents, or Owner's breach of this Agreement.

This indemnity provision is to be interpreted to require Architect to indemnify, defend, and hold the Owner harmless only to the extent of the proportionate share of negligence or fault attributable to Architect or a person for whom Architect is responsible under this Section. To the extent indemnification is required under this Agreement, Architect shall investigate, handle, respond to, and to provide defense for and defend against (with counsel acceptable to Owner), any such liability, claims, or demands at its expense, and to bear all other costs and expenses related thereto, including court costs and attorney fees. This Section shall survive the completion or termination of this Agreement and shall be fully enforceable thereafter until all of the requirements of this Section are performed

(Paragraphs deleted)

§ 8.3 For Change Orders resulting in an increase in the Cost of the Work that are a result of negligent errors, omissions, or discrepancies in the plans, specifications, or other of the Contract Documents prepared by the Architect, its employees, agents, or consultants, the Architect agrees to reimburse the Owner for the cost premium associated with the increase in the Cost of the Work, the cost premium being the difference between the Cost of the Work in the Change Order had the negligence not occurred and the cost to remedy the negligence by Change Order. Reimbursement calculations shall be determined by the Architect and submitted to the Owner for negotiation and acceptance. Additionally, the Architect shall bear all costs associated with redesign efforts pertaining to such Change Orders, including third party cost estimating.

(Paragraphs deleted)

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 This Agreement may be terminated by either party upon five (5) days' written notice should either party fail to substantially perform in accordance with its terms through no fault of the other. In addition, the Owner may terminate this Agreement whenever it becomes reasonably apparent that the Architect is or will be unable or unwilling to substantially perform this Agreement in accordance with its terms or without resulting in interference with or disruption of the Project. In the event of termination of this Agreement, the Architect shall be paid the specified compensation for its services performed to the termination date, including reimbursable expenses then due.

(Paragraphs deleted)

§ 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 fee for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 In the event of a termination, the Architect shall deliver to the Owner all copies of all drawings, plans, and similar materials relating to the Project and for which it has received compensation, and all other documents delivered to Architect by Owner with respect to this Project, subject to the provisions of Article 7.

§ 9.4 The party properly terminating this Agreement under this Article 9 shall be entitled, in addition to any other amounts due under this Agreement, or as set off against amounts otherwise owed under this Agreement, to the reasonable costs, expenses, and damages occasioned by the termination of this Agreement.

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ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by and construed in accordance with the laws of Colorado. Exclusive venue for litigation over any issues pursuant to this Agreement shall be in the District Court of Larimer County, Colorado, and such litigation shall not be removed to any other court or jurisdiction.

§ 10.2 Unless otherwise defined in the Agreement, the 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 by the Owner.

§ 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. Further, the Owner may assign its rights under this Agreement to satisfy any governmental or financing requirements without the consent of Architect.

§ 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, and no third party is entitled to rely on the terms of this Agreement. Notwithstanding the preceding sentence, the Architect is not prohibited from incorporating this Agreement into its agreements with its consultants, provided that the Architect shall not thereby create (i) a contractual relationship between any consultant and the Owner, or (ii) any cause of action in favor of any consultant against the Owner.

§ 10.6 Unless otherwise provided in this Agreement, the Architect shall have no responsibility for the presence, handling, removal, disposal or detection of hazardous materials in any form at the Project site including, but not limited to, asbestos, asbestos products, polychlorinated biphenyl (PCB) or other hazardous materials. If the Architect in the conduct of his duties and obligations as provided in this Agreement shall become aware or shall reasonably suspect the presence of hazardous materials at the Project site, the Architect shall provide written notice to the Owner of the presence, and the general location, amount and condition of the known or suspected hazardous materials at the Project site. Such notice shall be in writing and shall be submitted no more than 24 hours after the presence of such materials reasonably become known or suspected by the Architect.

§ 10.6.1 In the event hazardous materials become known or suspected by the Architect as described in Section 10.6 of this Agreement, the Architect shall take all steps reasonably necessary to assist the Owner to ensure that work on the Project does not proceed or continue until the Architect and the Contractor have received written authorization from the Owner to proceed.

§ 10.6.2 In the event hazardous materials are identified or encountered during the course of the Project the Owner, at its expense, shall take reasonable actions to properly and safely deal with such materials. With respect to new construction, the Owner accepts the above-mentioned responsibility for the real property which is involved in the Project and not with any hazardous substances or materials which may be brought onto the property by others, including subcontractors.

§ 10.6.3 The Architect acknowledges that it and its employees, Consultants and agents have the responsibility of being fully informed of the Owner's Management Plan as it relates to the buildings located at the Project site and shall consult with the Owner about how such Plan addresses suspected or active asbestos-containing material areas within such buildings.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's

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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 provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1, and except as required under the Colorado Open Records Act (C.R.S.§ 24-72-201 et. seq.), as amended and applicable. This Section 10.8 shall survive the termination 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, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.

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

§ 10.10 Notwithstanding any provisions herein, this Agreement shall be deemed to include and be subject to all applicable requirements and provisions of all governing federal, state and local laws.

§ 10.11 The parties hereto understand and agree that Owner is relying on, and does not waive or intend to waive by any provision of this Agreement, the monetary limitations (presently $350,000 per person and $990,000 per occurrence) or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, Section 24-10-101 *et seq.*, C.R.S. as from time to time amended, or any other limitation, right, immunity or protection otherwise available to Owner its officers, or its employees.

§ 10.12 The Architect shall perform all work under this Agreement as an independent contractor and not as an agent or an employee of Owner. The Architect shall be free from the control and direction of the Owner in the performance of the services, both under the terms of this Agreement and in fact. The Owner and Architect further stipulate and agree that Architect is customarily engaged in an independent trade, occupation, profession or business related to the performance of the services required by this Agreement. Architect understands that: (i) Owner will not pay or withhold any sum for income tax, unemployment insurance, Social Security or any other withholding pursuant to any law or requirement of any governmental body; (ii) Architect is obligated to pay federal and state tax on any moneys earned pursuant to this Agreement; (iii) Architect's employees are not entitled to workers' compensation benefits from the Owner or the Owner's workers' compensation insurance carrier; and (iv) Architect's employees are not entitled to unemployment insurance benefits unless unemployment compensation coverage is provided by Architect or some other entity. Architect agrees to indemnify and hold Owner harmless from any liability resulting from Architect's failure to pay or withhold state or federal taxes on the compensation paid hereunder.

§ 10.13 In connection with work to be performed under this Agreement, and without limiting the generality of any provision of this Agreement, Architect hereby agrees that it: (i) will not discriminate against any employee or applicant for employment because of race, color, creed, sex, sexual orientation, religion, national origin, or disability; (ii) will insure that applicants are employed and that employees are treated during employment without regard to their race, color, creed, sex, sexual orientation, religion, national origin, or disability; and (iii) will in all solicitations or advertisements for employees to be engaged in the performance of work under this Agreement state that all qualified applicants will receive consideration for employment without regard to race, color, creed, sex, sexual orientation, religion, national origin, or disability. Architect shall further comply with all applicable federal, state, and local laws, rules and regulations. Without limiting the generality of the foregoing, Architect shall comply with all applicable provisions of the Americans With Disabilities Act, 42 U.S.C. §12101, *et seq.* (Public Law 101-336), and all applicable

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regulations and rules promulgated thereunder by any regulatory agency. The Architect shall indemnify the Owner from any and all liability arising from Architect's failure to comply with all applicable laws or regulations.

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)

See Exhibit "B"

.2 Percentage Basis
(Insert percentage value)

N/A (N/A) % 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)

N/A

§ 11.2 For the Architect's Supplemental Services designated in Section 4.1.1.29 and 4.1.1.30, 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.)

As negotiated in a future Fee Adjustment AIA Document G802

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

As negotiated in a future Fee Adjustment AIA Document G802

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus Ten percent (10 %), or as follows:
(Insert amount of, or basis for computing, Architect's consultants' compensation for Supplemental or Additional Services.)

N/A

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

Schematic Design Phase	Twenty	percent (	20	%)
Design Development Phase	Twenty	percent (	20	%)
Construction Documents Phase	Twenty-Five	percent (	25	%)
Procurement Phase	Five	percent (	5	%)
Construction Phase	Twenty-Five	percent (	25	%)
Record Documents	Five	percent (	5	%)
Total Basic Compensation	one hundred	percent (	100	%)

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§ 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.)*

See Exhibit "B"

Employee or Category	Rate ($0.00)
See Exhibit "B"	

§ 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: (All reimbursable expenses in excess of those identified in Exhibit "B" must be authorized in advance and in writing by the Owner)

- **.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 except that no overtime will be paid for Basic Services;
- **.7** Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
- **.8** DELETED;
- **.9** All taxes levied on professional services and on reimbursable expenses;
- **.10** Site office expenses;
- **.11** Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and,
- **.12** Other similar Project-related expenditures as approved by the Owner.

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

§ 11.8.3 The Architect shall not incur reimbursable expenses pursuant to Article 11 in excess of those identified in Exhibit "B" for the entire Project, without prior written approval of the Owner. However, in no event shall any single reimbursable expense exceed Five Hundred Dollars ($500.00) without the prior approval of the Owner.

§ 11.9
(Paragraphs deleted)
DELETED

§ 11.10 Payments to the Architect
§ 11.10.1 Initial Payments

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§ 11.10.1.1 An initial payment of Zero Dollars and Zero Cents ($ 0.00) 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.

(Paragraph deleted)

§ 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 upon presentation of the Architect's invoice. Amounts unpaid Forty-Five (45) 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.)

1.00 % Monthly

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

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

§ 11.11 BILLING THE OWNER

The Architect's billing shall be in such form as may be prescribed by the Owner.

§ 11.12 OTHER

The Architect agrees that his services performed under this Agreement are considered labor performed or materials furnished for public works and as such the Architect agrees for himself and his consultants to waive any rights to claim a mechanic's or materialman's lien on the Project. Architect further agrees that all funds disbursed to him for services performed by consultants under this Agreement shall be held in trust for those consultants, and Architect guarantees to pay those consultants in a timely manner using those funds. The Architect agrees to look solely to the Owner for payment for their services. Further, the Architect agrees to advise and obtain the consent of its consultants with respect to this arrangement.

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.)

N/A

§ 12.1 ILLEGAL ALIENS

§ 12.1.1 In accordance with the mandatory provisions of Colo. Rev. Stat. § 8-17.5-101 et. seq., Architect certifies that it has not knowingly employed or contracted with an illegal alien to perform work under this Contract, and that Architect will participate in the E-Verify Program or the Department Program [as defined in Colo. Rev. Stat. § 8-17.5-101(3.3)] in order to confirm the employment eligibility of all employees who are newly hired to perform work under this Contract. Architect further certifies that it will not enter into a contract with a consultant who fails to certify to Architect that the consultant shall not knowingly employ or contract with an illegal alien to perform work under this Contract.

§ 12.1.2 Architect has confirmed the employment eligibility of all employees who are newly hired to perform work under this Contract through participation in either the E-Verify Program or the Department Program. Architect shall not use the E-Verify Program or the Department Program to undertake pre-employment screening of job applicants while the Contract is being performed.

§ 12.1.3 If Architect obtains actual knowledge that a consultant performing work under this Contract knowingly employs or contracts with an illegal alien, Architect shall:

1. Notify the consultant and the Owner within three days that Architect has actual knowledge that the

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consultant is employing or contracting with an illegal alien; and

2. Terminate the contract if within three days of receiving actual notice the consultant does not stop employing or contracting with the illegal alien, except that Architect shall not terminate the consultant if during such three days the consultant provides information to establish that the consultant has not knowingly employed or contracted with an illegal alien.

§ 12.1.4 Architect shall comply with any reasonable request by the Department of Labor and Employment (hereinafter referred to as the "Department") made in the course of an investigation that the Department is undertaking pursuant to C.R.S. § 8-17.5-102(5).

§ 12.1.5 If Architect violates the provisions of this paragraph, the Owner may terminate this Agreement for breach and Architect shall be liable for actual and consequential damages.

§12.2 OTHER SPECIAL PROVISIONS

§12.2.1 It is anticipated that Architect will engage other professionals to perform portions of its services. Such professionals shall be employed at Architect's sole cost and expense, unless otherwise agreed in writing by the Owner. The Architect shall obtain from each such professional a written acknowledgment of understanding that the Architect is not a "contractor" as defined by Section 38-26-101, C.R.S., and a waiver of any claim to entitlement of benefits under a public works bond furnished to the Owner by the Contractor, or subcontractors. All contracts entered into by the Architect with such professionals shall contain a provision acknowledging the terms of this subsection 12.2.1. The Architect shall forward the Owner a signed copy of each such acknowledgment and waiver along with a copy of each such agreement entered into between the Architect and a professional engaged by the Architect to perform a portion of the services.

§12.2.2 The Owner and the Architect acknowledge and agree that nothing in this Agreement implies any undertaking by the Architect for the benefit of or which may be enforced by the Contractor, its subcontractors, or the surety of any of them; it being understood that the Architect's obligations are to the Owner. Conversely, in performing such obligations, the Architect may not and shall not increase the burdens and exposure of the Contractor, its subcontractors, or the surety of any of them.

§12.2.3 Architect will comply with the terms of Section 8-17-101, *et seq.*, C.R.S., which states:

> Whenever any public works financed in whole or in part by funds of the state, counties, school districts, or municipalities of the state of Colorado are undertaken in this state, Colorado labor shall be employed to perform the work to the extent of not less than 80% of each type or class of labor in the several classifications of skilled and common labor employed on such project or public works.
>
> 'Colorado labor' as used in this Agreement means any person who is a resident of the state of Colorado, at the time of the employment, without discrimination as to race, color, creed, sex, sexual orientation, marital status, national origin, ancestry, age, or religion except when sex or age is a bona fide occupational qualification.
>
> Architect shall, in all respects, comply with the requirements of the above statute.

§12.2.4 Fiscal Funding: In accordance with Article X, Section 20(4)(b) of the Colorado Constitution, this Agreement shall neither create nor be construed to create any multiple-fiscal year direct or indirect Owner debt or other financial obligation whatsoever. The parties recognize that this Agreement is dependent upon the continuing availability and appropriation of funds beyond the term of the Owner's current fiscal period ending upon the next succeeding June 30, and that financial obligations of the Owner payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, and otherwise made available. Notwithstanding any other provision of this Agreement, the Owner and the Architect understand and agree that the Owner may terminate this Agreement at or before the end of any Owner's fiscal year upon thirty (30) days' prior written notice to Architect with or without cause and without any liability, penalty or other obligation, except that Architect shall be paid the specified compensation for its services performed to the termination date, including reimbursable expenses then due.

§12.2.5 Condition Precedent: The parties acknowledge and agree that the Owner is currently involved in litigation that

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bears upon its ability to proceed with Project within the time contemplated herein, and further agree that all of the Owner's obligations hereunder are subject to and conditioned upon the Owner's receipt of all final judicial judgments, decisions, and orders as are necessary, in the Owner's sole and absolute judgment and discretion, before proceeding with the Project. Notwithstanding the foregoing, the Owner may by separate addendum hereto authorize the Architect to proceed with preliminary work on the Project as specified in such addendum, with compensation to be based upon sources not subject to the aforementioned litigation.

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

(Paragraphs deleted)

Architect, as amended by the Owner

.2 DELETED

.3 Exhibits:

(Check the appropriate box for any exhibits incorporated into this Agreement.)

(Paragraphs deleted)

[N/A] 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.)

1. Exhibit "A" - Scope of Work (1 page attached)
2. Exhibit "B" - Fee Schedule & Hourly Rates (2 pages attached)
3. Exhibit "C" – Project Schedule (1 page attached)
4. AIA Document A201 - 2017, General Conditions of the Contract for Construction as amended by the Owner, dated December 5, 2017 (49 page draft attached)
5. Technical Specifications v6, dated November 2014 (584 pages by reference)
6. Sustainable Design Guidelines, dated June 2005 (90 pages by reference)
7. Sustainability Management Plan, dated 2017 (39 pages by reference)

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

OWNER *(Signature)*	**ARCHITECT** *(Signature)*
(Printed name and title)	*(Printed name, title, and license number, if required)*

ALL CONTRACTS MUST BE APPROVED PER DISTRICT POLICY DJA

Poudre School District Policy DJA requires all contracts in excess of $250,000 have Board of Education approval. Contracts up to $250,000 must be approved by either the Superintendent, Executive Director of Finance, Purchasing and Materials Manager, or authorized delegate. This Contract is not valid until signed and dated below by an authorized person. Contractor is not authorized to begin performance until such time. If Contractor begins performing prior thereto, Poudre School District is not obligated to pay Contractor for such performance or for any goods and/or services provided hereunder.

APPROVED:

(Signature)

(Printed name, title, and date)

Approved at the Board of Education Meeting on January 22, 2019.

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EXHIBIT "A"

SCOPE OF WORK

This project consists of complete design services associated with site development, programing, design, estimating, bidding documents, contract administration, as well as close-out and warranty period necessary for the construction of a new 600 student elementary school to open in 2021. The design work will be completed using a collaborative approach of district staff as well as input from a selected Design Advisory Group which could include community representation. It is anticipated that the new facility would be designed as a four-round, k-5 facility, serving 600 students, plus a pre-school wing. The project scope is based on an approximate 75,000 square foot, possible two-story building and shall be comparable in program to the District's other elementary school facilities. The building will be constructed on a 15± acres site located at approximately Larimer County Road 30 and North Fairgrounds Avenue within the City of Loveland. The Project budget for building and on-site work shall be established as $25,500,000.

Unless notification is otherwise given in writing, the Owner's Representative shall be: Brian Schlicting, Project Manager, Poudre School District

Unless notification is otherwise given in writing, the Architect's Representative shall be: Adele Willson, Principal HCM

Tentative project schedule is as follows:

Schematic Design Submittal	-	Spring 2019
Design Development Submittal	-	Summer 2019
Complete Construction Documents	-	Fall 2019
Anticipated Bid Opening	-	December 2019
Construction to begin	-	March 2020
Project complete for owner occupancy	-	Summer 2021

EXHIBIT "B"

FEE SCHEDULE & HOURLY RATES

EXHIBIT "B"

CONTRACT AMOUNT:

	Base Fee for Architectural, Structural, Mechanical, and Electrical:				
●	$ 25,500,000	(Construction Budget)	x percent	4.9%	$ 1,249,500.00
		Subtotal of Base Architectural Services:			$ 1,249,500.00
●	Additional Architectural Services:				
	Evaluate GSHP Option				$ 4,650.00
	FF&E Assistance to District			Allowance	$ 20,000.00
	Presentation/Modeling Rendering (3)				$ 12,000.00
	Coordination of Additional Consultants				$ 33,552.00
		Subtotal of Additional Architectural Services:			$ 70,202.00
●	Additional Consultants:				
	AV/IT/Security		K2		$ 59,840.00
	Civil		Northern Engineering		$ 87,750.00
	Cost Estimator		Cummings or HCM		$ 52,424.00
	Energy Modeling		Group 14 Engineering		$ 13,800.00
	Fire Alarm		TLH		$ 18,750.00
	Food Service		Kitchen Tech		$ 10,000.00
	Irrigation		Aqua		$ 20,500.00
	Landscaping		TB Group		$ 59,500.00
	Roofing		RoofTech		$ 12,960.00
		Subtotal of Additional Consultants:			$ 335,524.00
		TOTAL BASIC COMPENSATION:			**$ 1,655,226.00**
	Estimated Reimbursable Expenses:				
	Reimbursables Budget				$ 10,000.00
		Subtotal of Estimated Reimbursable Expenses:			$ 10,000.00
		TOTAL COMPENSATION:			**$ 1,665,226.00**

HOURLY RATES:

Principal	$230.00	/ hour
Project Manager	$180.00	/ hour
Project Architect	$125.00	/ hour
CAD Technician	$110.00	/ hour
Interior Designer	$95.00	/ hour
Clerical	$80.00	/ hour

EXHIBIT "B" (continued)

Proposal/Fee Assumptions:

1. Slab-on-grade construction.
2. Mechanical system similar to previous prototype.
    a. Ground Source Heat Pump to be evaluated.
3. Sod/Irrigation at fields – not synthetic turf.
4. No Acoustic Services are included.

Site Visits:

Structural	-	7 + final compliance letter
Mech/Plumbing	-	10 visits + 2 final punch
Electrical	-	8 visits + 2 final punch
AV/IT/Security	-	4
Civil	-	4
Fire Alarm	-	8
Landscape	-	8 + 4 + 4 month
Irrigation	-	3
Roofing	-	6
Architect	-	70 + 2 final punch
Survey	-	by Owner

EXHIBIT "C"

hord | coplan | macht

Design Schedule

Date: 01/05/19
Project: Southeast ES – Poudre School District

Date	Milestone
01/22/19	Contract Approved by PSD Board
02/04/19	Start Schematic Design
04/12/19	Issue Schematic Design Package
04/15-04/30	Cost Estimate and District Review of Schematic Design Package
05/01/19	Start Design Development
07/12/19	Issue Design Development Package
07/15-08/07	Cost Estimate and District Review of Design Development Package
008/08/19	Start Construction Documents
10/16/19	Issue 95% CD Review Package
10/17-11/6	Cost Estimate and District Review of 95% CD Package
11/19/19	Issue Construction Documents for Bidding and Permit
12/17/19	Bid Opening
March 2020	Start of Construction
June 2021	Substantial Completion
August 2021	School Opens