

# DRAFT AIA® Document B101™ – 2017

## Standard Form of Agreement Between Owner and Architect

**AGREEMENT** made as of the «Twelfth» day of «June» in the year «Two Thousand Twenty-Four»

*(In words, indicate day, month and year.)*

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

Community Unit School District 200  
130 West Park Avenue  
Wheaton, IL 60189

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

Perkins+Will, Inc.  
The Wrigley Building  
410 N. Michigan, Ave.  
Suite 1600  
Chicago, Illinois, 60611

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

« This is a Master Agreement between Owner and Architect for projects assigned to the Architect by Owner. Once Owner authorizes a project and assigns a project number, this Agreement shall govern the project and all required phases of services unless otherwise provided in writing in the contract amendment. The contract amendment shall provide the specific project scope, fee, and terms and conditions for the specific Project in addition to or in lieu of those contained in this Master Agreement. All contract amendments issued for a specific project shall be attached as Exhibit A to this Agreement and shall be the contract amendment for the project.»

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.

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.")*

Professional services for individual projects will be defined with individual contract amendments submitted by the Architect for written approval by the Owner. Each contract amendment will include a program statement, scope of work, project budget, schedule, compensation, Owner project requirements, project phases and other relevant information inclusive of basic services and optional additional services.

**§ 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.)*

«Owner's Program will be provided for each project or may be developed by the Architect as identified in the contract amendment. »

**§ 1.1.2** The Project's physical characteristics:

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

«The project physical characteristics will be identified in the contract amendment for each individual project. »

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

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

«The Owner and Architect will develop a budget to be included in the contract amendment or the contract amendment will identify how the budget / estimate will be developed. »

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

**.1** Design phase milestone dates, if any:

«The Owner and Architect will develop a milestone schedule or duration to be included in each contract amendment. »

**.2** Construction commencement date:

«The Owner and Architect will develop a milestone schedule or duration to be included in each contract amendment. »

**.3** Substantial Completion date or dates:

«The Owner and Architect will develop a milestone schedule or duration to be included in each contract amendment. »

**.4** Other milestone dates:

«The Owner and Architect will develop a milestone schedule or duration to be included in each contract amendment. »

**§ 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.)*

«The procurement process for construction projects will be a Construction Manager (CM) and all trade packages will be procured through a competitive bid process unless otherwise approved in writing by the Owner.

**§ 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.)*

«The contract amendment will identify Sustainable Objectives if applicable. »

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

**§ 1.1.7** The Owner identifies the following representative in accordance with Section 5.3:

*(List name, address, and other contact information.)*

«The Owner will identify the facilities director or staff member to represent the Owner in each contract amendment.

**§ 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.)*

«To be identified in each contract amendment. »

**§ 1.1.9** The Owner shall retain the following consultants and contractors:

*(List name, legal status, address, and other contact information.)*

**.1 Geotechnical Engineer:**

To be identified in each contract amendment and procured separately with input from the Architect.

**.2 Civil Engineer:**

To be identified in each contract amendment and included with basic services provided by the Architect.

**.3 Other, if any:**

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

«»

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

To be identified in each contract amendment.

**§ 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:**

To be identified in each contract amendment as needed.

**.2 Mechanical Engineer:**

To be identified in each contract amendment as needed.

**.3 Electrical Engineer:**

To be identified in each contract amendment as needed.

**§ 1.1.11.2** Consultants retained under Supplemental Services:

To be identified in each contract amendment.

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

«This agreement will serve as a Master Agreement for all projects. Individual contract amendments will identify specific project information.»

**§ 1.2** The Owner and Architect may rely on the Initial Information included in each contract amendment, each incorporated as Exhibit A to this Master Agreement. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall by subsequent written agreement appropriately adjust the Architect's services, schedule for the Architect's services, and the Architect's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

**§ 1.3** The Architect uses building information modeling software ("BIM") as its primary production tool for internal design, coordination, and documentation. The Architect's Basic Services do not include any intended use of the BIM for the Owner or other parties to this Project which may include, but is not limited to, quantity takeoffs, cost

estimation, construction sequencing or phasing, clash detection, shop drawings, site safety, operations and maintenance, building automation systems, existing conditions modeling, digital fabrication, prefabrication, as-constructed record modeling, or asset management. The formatting of the BIM will follow the Architect's normal business practices unless explicitly called out in this Agreement or its exhibits. The deliverable of electronic documents to the Owner shall be in PDF form unless requested in BIM. If so requested, the BIM shall be provided in the native file format of the software the Architect uses to produce the Architect's Instruments of Service. The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties may use AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

## **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. The scope of Basic Services to be provided by the Architect includes those services and other deliverables as specified in Exhibit A, the contract amendment for each respective Project. To the extent any contract amendment conflicts with this Master Agreement, this Master Agreement controls.

**§ 2.2** The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects performing similar services for educational institutions with facilities of like size and kind in the same locality and under the same or similar conditions. The Architect shall exercise usual and customary professional care in its efforts with the goal that final Construction Documents prepared by Architect or consultants of Architect to be in compliance with all applicable laws, statutes, codes, ordinances, orders, rules and regulations of the governmental authority or authorities having jurisdiction over the Project and to be complete, detailed, and ready for bidding and construction. 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.

**§ 2.5** The Architect shall maintain the following insurance until termination of this Agreement.

**§ 2.5.1** Commercial General Liability with policy limits not less than one million dollars (\$ 1,000,000.00) for each occurrence and two million dollars (\$ 2,000,000.00) in the general aggregate for bodily injury and property damage and two million dollars (\$ 2,000,000.00) for products/completed operations.

**§ 2.5.2** Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than one million dollars (\$ 1,000,000.00) per accident for bodily injury, death of any person, and property damage.

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

**§ 2.5.4** Workers' Compensation at statutory limits.

§ 2.5.5 Employers' Liability with policy limits not less than one million dollars (\$ 1,000,000.00) bodily injury by accident - each accident, one million dollars (\$ 1,000,000.00) bodily injury by disease - each employee, and one million dollars (\$ 1,000,000.00) bodily injury by disease - policy limit.

§ 2.5.6 Professional Liability covering damages to the extent caused by the negligent acts, errors and omissions in the performance of professional services with policy limits of not less than Two Million Dollars (\$2,000,000.00) per claim and Two Million Dollars (\$2,000,000.00) in the aggregate.

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

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

§ 2.5.9 The Architect shall provide certificates of insurance, and additional insured and waiver of subrogation endorsements to the Owner that evidence compliance with the requirements in this Section 2.5. All specified insurance shall be obtained from insurance companies licensed or authorized to conduct business in Illinois and with a Best's Key Guide Rating of at least A- VII. All specified policies shall by endorsement incorporate a provision requiring thirty days' written notice to the Owner prior to the cancellation non-renewal, except ten days' notice for non-payment of premium, of any such policies.

### ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, civil, and electrical engineering, including low voltage services. Services not set forth in this Article 3 are Supplemental or Additional Services. The project phases, work scope, meetings, and construction administration services shall be clarified in the project specific contract amendment.

§ 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. After the Architect has reviewed such services and any information provided by Owner and Owner's consultants, and after Architect notifies the Owner in writing of any defects and deficiencies in such services or information of which the Architect is aware or, consistent with the standard of care herein, should be aware, the Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the execution of the contract amendment, 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 or by subsequent written agreement of the parties, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

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

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

**§ 3.1.5** The Architect shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities.

**§ 3.1.6** The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project. The Architect shall prepare the paperwork required to apply for the approval of governmental authorities having jurisdiction over the Project if necessary, and shall present such documentation to the Owner for review, approval and execution, if necessary. The Architect shall present the Project at meeting or hearings to facilitate those approvals and the issuance of all permits required to commence and complete construction.

**§ 3.1.7** If the project specific contract amendment indicates the Owner's interest in utilizing an independent construction manager or have the Architect provide these services with respect to the Project, the Architect shall confer with the Owner to determine any adjustments needed to this Agreement based on the scope of services to be furnished by the construction manager.

**§ 3.1.8** Neither party shall be liable for any failure or delay in performance under this Agreement (other than for delay in the payment of money due and payable hereunder) to the extent said failures or delays are proximately caused (I) by causes beyond that party's reasonable control, including epidemic and pandemic, and occurring without its fault or negligence, including, without limitation, failure of suppliers, subcontractors, and carriers, or party to substantially meet its performance obligations under this Agreement, provided that, as a condition to the claim of non-liability, the party experiencing the difficulty shall give the other prompt written notice, with full details following the occurrence of the cause relied upon, as well as labor shortages or restrictions on movement or access to labor, where that restriction or shortage is caused by legal or administrative action or the publicized recommendation of public health officials, governmental authorities, or labor organizations having jurisdiction over the project or source of supply for the project as a condition for relief from schedule and performance obligations. Dates by which performance obligations are scheduled to be met will be extended for a period of time equal to the time lost due to any delay so caused.

### **§ 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, (2) other information or consulting services that may be reasonably needed for the Project, and (3) any anticipated impact that the selected delivery method may have on the scheduled completion of the Project.

**§ 3.2.3** The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project, including the feasibility of incorporating environmentally responsible design approaches if requested by the Owner and incorporated into the project specific contract amendment. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

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

**§ 3.2.5** Based on the Owner's approval of the preliminary design, and based upon the Owner's then-current budget, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary

building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

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

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

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

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

### **§ 3.3 Design Development Phase Services**

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

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

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

**§ 3.3.3.1** At the conclusion of Design Development Phase, the Architect and Owner shall review estimates and reconcile the estimates within the budget and obtain approval from the Owner. If the estimates are above the budget, the Owner and Architect will work together to reconcile the estimates to meet the Owners overall budget by modifying the contingency, scope of work or the quality of materials. The Architect shall not proceed to the next phase without Owner approval of the estimate and budget.

### **§ 3.4 Construction Documents Phase Services**

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

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



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

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

**§ 3.4.5** The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.

### **§ 3.5 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 and the responsibility of the bidders or proposers; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction.

#### **§ 3.5.2 Competitive Bidding**

**§ 3.5.2.1** Bidding Documents shall consist of bidding requirements and proposed Contract Documents.

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

- .1 Providing statutory notice to the Owner for bids and facilitating the distribution of Bidding Documents to prospective bidders;
- .2 organizing and assisting the Owner in conducting a pre-bid conference for prospective bidders;
- .3 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to the prospective bidders in the form of addenda; and,
- .4 organizing and assisting the Owner with the Owner's conducting the opening of the bids, assisting the Owner in determining the responsiveness of bids and investigating the responsibility of bidders, and subsequently documenting and distributing the bidding results and notice of award(s), as directed by the Owner.

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

**§ 3.5.2.4** The Architect shall submit to Owner's attorneys for review and approval of all template front end specifications including agreements and template general conditions for review and approval at the commencement of the first Project under this Agreement. Thereafter only non-standard front-end specifications and general conditions will require Owner approval before issuance.

**§ 3.5.2.5** The Architect shall assist the CM who has primary responsibility to review and evaluate each bid and shall recommend to the Owner the lowest responsive, responsible bidder. If requested by the Owner, the CM shall notify all prospective bidders of the bid results. If the CM recommends that the Owner disqualify or reject a bidder, the CM shall provide a written recommendation to the Owner setting forth with specificity the basis of the proposed disqualification or rejection and providing evidence necessary to establish that the subject bidder is either not responsive or not responsible. The Owner, upon the advice of the CM with input from the Architect, will make any and all determinations as to the responsiveness or responsibility of bidders. If a General Contractor delivery method is utilized then the Architect will have responsibility for the items in this section currently having a designated responsibility for the CM.

### § 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 or the Owner's attorney and to be included in the Project Manual. If the Owner and Contractor modify AIA Document A201–2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

§ 3.6.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work. During the Project, the Architect shall in its written field observation report, convey to Owner any known defects or deficiencies in the Project or the Work of the Contractor or any of its Subcontractors. These provisions shall not limit the Owner's remedies under this Agreement.

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

§ 3.6.1.4 The Architect shall promptly make corrections to the Construction Documents, at no cost to the Owner, if any errors, omissions, or ambiguities by the Architect or its consultants are discovered during the Construction Phase.

§ 3.6.1.5 The Architect shall, as appropriate for the state of construction, attend a certain number, as identified in the contract amendment, of progress meetings which shall include the Owner, the Architect, and the General Contractor, such meeting shall be conducted by the Contractor. Unless otherwise stated in the Project Authorization, the Contractor shall record the meetings in written meeting minutes, which shall be distributed for review. Comments on the published meeting minutes shall be discussed as part of the following progress meeting. Each progress meeting shall cover, at a minimum, progress, new and old business, and quality. Notwithstanding, it is anticipated that the Contractor shall have separate meetings for its own purposes of planning and coordinating its own work.

#### § 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect and, to the extent needed, its consultants shall visit the site as appropriate for the stage of construction for the duration reasonably necessary, and will be on site on average once a week during the construction phase, excluding mobilization and post-substantial completion, unless a lesser frequency is approved by the Owner in writing, to become familiar with the progress and quality of the portion of the Work completed, and to

determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. Based on the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner in writing (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

The Architect shall, at no additional cost to the Owner, provide on-site representation and associated coordination or communication beyond Basic Services when required due to the Architect's failure to exercise the standard of care applicable to Architect's services.

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

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

**§ 3.6.2.4** Interpretations and recommendations of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, and shall not be liable for results of interpretations or decisions rendered in good faith.

**§ 3.6.2.5** 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, (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.

**§ 3.6.3.1.1** The Construction Documents shall provide that each Contractor submit a schedule of values prior to commencing its Work. The schedule of values, among other things, shall be used by the Architect as a basis for evaluating the applications for payment.

**§ 3.6.3.1.2** The Architect shall determine whether Contractor's contractual prerequisites to payment have been satisfied for each Application for Payment, such as submission of Certified Payrolls, submission of Schedule of Values and submission of Lien Waivers properly executed by Subcontractors. The Architect shall not be responsible for verifying the accuracy or adequacy of such documentation.

**§ 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.

#### **§ 3.6.4 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, and where appropriate its consultants, 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 general 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. Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

**§ 3.6.4.3** If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The Architect's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

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

**§ 3.6.5.1.1** The Architect shall review requests by the Owner or Contractor for changes in the Work, including adjustments to the Contract Sum or Contract Time. A properly prepared request for a change in the Work prepared by the Contractor shall be accompanied by sufficient supporting data and information to permit the Architect to make a reasonable determination without extensive investigation. If necessary, the Architect shall prepare additional

Drawings and Specifications to accompany the changes in the Work as an additional service in accordance with this agreement. If the Architect determines that requested changes in the Work are not materially different from the requirements of the Contract Documents, the Architect may, at the Owner's option, issue an order for a minor change in the Work or recommend to the Owner that the requested change be denied.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work. The Contractor shall, at appropriate intervals, update the Construction Documents to incorporate all approved changes in the Work, and to create Record Drawings.

**§ 3.6.6 Project Completion**

§ 3.6.6.1 The Architect shall:

- .1 conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;
- .2 issue Certificates of Substantial Completion;
- .3 review and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and,
- .4 issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

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

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

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

**ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES**

**§ 4.1 Supplemental Services**

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

*(Designate the Architect's Supplemental Services and the Owner's Supplemental Services required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.*

Supplemental Services	Responsibility <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.1 Programming	Service provided as identified in contract amendment.
§ 4.1.1.2 Multiple preliminary designs- Included as Basic Services unless specified in contract amendment.	

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

Supplemental Services	Responsibility <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.29 Other services provided by specialty Consultants	Service provided as identified in contract amendment.
§ 4.1.1.30 Other Supplemental Services	Service provided as identified in contract amendment.

#### § 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)*

«The Architect's supplemental services and compensation shall be identified per project in the contract amendment.»

§ 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)*

«The Owner's supplemental services shall be identified per project in the contract amendment.»

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

#### § 4.2 Architect's Additional Services

The Architect may provide Additional Services after execution of the issuance of a contract amendment 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 or the contract amendment shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

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

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;
- .3 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b) contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner-authorized recipients;
- .6 Preparation of design and documentation for material alternate bids or proposal requests.;
- .7 Preparation and attendance at Public Presentations, or hearings, may be an additional service if mutually agreed in writing. ;
- .8 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto; Reserved;

- .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, and invoice the Owner at rates that shall not exceed the hourly rates contained in the Proposal. If, upon receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Architect of the Owner's determination. The Owner shall compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice.

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule approved by the Architect;
- .2 Responding to the Contractor's 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. 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 in conjunction with an Owner's representative or Construction Manager (otherwise to be included in Basic Services).

**§ 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 The number of site visits by the Architect during construction shall be identified the individual contract amendment.
- .3 «One» ( «1» ) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 «One» ( «1» ) inspections for any portion of the Work to determine final completion.

**§ 4.2.4** Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and Contractor, whichever is earlier, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services and such delay in the date of Substantial Completion is through no fault of the Architect..

**§ 4.2.5** The contract amendment will state if services covered by the amendment have not been completed, 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 consult with the Architect and provide information in a timely manner regarding requirements for and limitations on the Project as requested by the Architect and reasonably necessary for the Architect to perform its services.

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

**§ 5.3** The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project, subject to the extent expressly permitted by applicable law and the Owner's rules, policies, and practices. The



Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services.

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

**§ 5.5** The Owner shall upon reasonable advance written request of the Architect directly contract for geotechnical, surveying, construction material testing, and fixture, furnishing and equipment design services, when such services are reasonably required by the scope of the Project.

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

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

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

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

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

**§ 5.11** The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service provided that the failure of the Owner to provide such notice shall not waive any of Owner's rights or remedies under this Agreement or otherwise.

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

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

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

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

## ARTICLE 6 COST OF THE WORK

**§ 6.1** For purposes of this Agreement, the Cost of the Work shall be the total estimated cost to the Owner per the approved Design Development Cost Estimate to construct all elements of the Project designed or specified by the Architect and shall include The trade contractors' general conditions costs, overhead/profit, construction contingency, anticipated construction escalation, builders risk, general liability, performance bond, CM fee, fixed general conditions, and reimbursable general conditions. The Cost of the Work will include the absolute value of alternates approved by the Owner at the end of Design Development, design contingency, and construction contingency. The Cost of the Work does not include the compensation of the Architect, the costs of the land, rights-of-way, financing or other costs that are the responsibility of the Owner. The Cost of the Work does not include Work for which the Architect has performed designs, specifications or drawings designs as an Additional Service. Instead, the Architect's sole compensation for Additional Services shall be the hourly rates or agreed upon fixed fee agreed in writing by the parties.

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

**§ 6.3** In preparing estimates of the Cost of Work, the Architect or Construction Manager 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 or Construction Manager's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques

**§ 6.4** If, through no fault of the Architect, the Procurement Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

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

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

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

**§ 6.7** If the Owner chooses to proceed under Section 6.6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Architect to modify the Construction Documents and rebid the Project because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work in an amount less than ten (10) percent, the Architect's services for modifying the Construction Documents and rebidding the Project shall not include additional compensation. Modifications shall be compensated as Additional Services for the residual amount above ten (10) percent if the need to modify the Construction Documents and rebid the Project was not due to error or a failure to

exercise the standard of care owed to the Owner by the Architect. In any event, the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

## ARTICLE 7 COPYRIGHTS AND LICENSES

**§ 7.01** Drawings, specifications and other documents, including those in electronic form, prepared by the Architect and the Architect's consultants are Instruments of Service for use solely with respect to this Project. Upon full payment of all amounts due or anticipated to be due the Architect under this Agreement and upon performance of all the Owner's obligations under this Agreement, the Instruments of Service shall become the property of the Owner, and the Architect hereby waives all common law, statutory and other reserved rights, including copyrights, in and to the Instruments of Service except as provided herein. To the extent that the Instruments of Service include intellectual property, design elements, notes, terms or details that have been developed by Architect, or its consultants, in the course of their respective practices over the years ("Proprietary Standards"), then the Architect, or its consultants, shall retain the ownership of all intellectual property related to such Proprietary Standards. However, the Architect grants the Owner a perpetual, non-exclusive, royalty free, license to use such Proprietary Standards in the same manner as permitted for the Instruments of Service. Provided the Owner is not in default under this Agreement, the Owner may use the Instruments of Service for future additions or alterations solely to this Project which use shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

**§ 7.02** If the Owner subsequently reproduces project-related documents or creates (or causes others to create) a derivative work based upon project-related documents created by the Architect and the Architect's consultants, the Owner shall completely remove the original professional seals, logos and other indications on the documents of the identity of the Architect and the Architect's consultants. The Owner agrees that any future use, reuse, or modification of the Architect's or the Architect's consultant's, work product without retaining and maintaining the retention of the same, shall be at the Owner's sole risk and without liability to the Architect or the Architect's consultants, and the Owner agrees to waive any and all claims against the Architect and the Architect's consultants, and release, defend, indemnify and hold the Architect and the Architect's consultants, harmless from any and all claims or liabilities arising therefrom.

**§ 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.

## ARTICLE 8 CLAIMS AND DISPUTES

### § 8.1 General

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

**§ 8.1.1** Reserved.

**§ 8.1.3** The Architect and Owner waive consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

### § 8.2 Mediation

**§ 8.2.1** A By mutual agreement of the parties, any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.

**§ 8.2.2** The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of

this Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

**§ 8.2.3** The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

**§ 8.2.4** If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:  
(Check the appropriate box.)

- Arbitration pursuant to Section 8.3 of this Agreement
- Litigation in a court of competent jurisdiction
- Other: (Specify)

## ARTICLE 9 TERMINATION OR SUSPENSION

**§ 9.1** If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. Prior to such suspension, the Architect shall give fourteen days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension for services rendered and incurred. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

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

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

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

**§ 9.5** The Owner may terminate this Agreement or services pursuant to a contract amendment upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

**§ 9.6** If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination and Reimbursable Expenses properly incurred.

**§ 9.8** Except as otherwise expressly provided herein, this Agreement shall continue for two (2) years from the date of this Agreement.

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

## ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the State of Illinois.

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

§ 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.

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement.

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or Architect.

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner may provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination 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. This Section 10.8 shall survive the termination of this Agreement.

§ 10.8.1 This section shall not apply to information in whatever form that comes into the public domain, nor shall it restrict the Architect or Owner from giving notices required by law or complying with an order to provide information or data when such order is issued by a court, administrative agency or other authority with proper jurisdiction, or if it is reasonably necessary for the Architect or Owner to defend itself from any suit or claim.

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

§ 10.9 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and

enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

**§ 10.10** The Architect is not responsible for means, methods, techniques, sequences, installation, scheduling or job-site safety as those are the sole responsibility of the contractor.

**§ 10.11** The Architect shall indemnify and hold the Owner, its Board of Trustees, individual board members, officers, directors, and employees, (collectively, "Indemnitees") harmless from all losses, injuries, damages and expenses arising from claims by third parties, including reasonable attorneys' fees and court costs, that one or more of the Indemnitees incur, but only to the extent caused by the Architect's negligence in performing professional services under this agreement, or material breach of this Agreement. Architect's indemnification obligation under this Paragraph shall not be limited in any way by any limitation on the amount or type of damages, compensation or benefits payable by or for Architect under the Illinois Workers' Compensation Act.

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

#### ARTICLE 11 COMPENSATION

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

For studies, planning, renovation and all other new construction projects or renovations, the Owner will compensate the Architect based upon a stipulated sum as identified in the contract amendment based on the schedule included below which may be amended due to specific project requirements or client requests. The stipulated sum shall be generated and reconciled in accordance with Section 11.5.1. on a percentage basis based on the actual Cost of the Work for each school and each individual bid package, as follows:

Direct Cost of the Work Fee	
\$80.1M and above	6.85%
\$65M - \$80M	7.25%
\$50M - \$64.9M	7.75%
\$35M-\$49.9M	8.25%
\$25M-\$34.9M	8.5%
\$15M-\$24.9M	8.75%
\$3.1M-\$14.9M	8.95%
Less than \$3M	T&M unless otherwise set forth by amendment

For the Middle School Capital Projects (Monroe, Edison and Franklin MS's only), with scope as identified in Conceptual Design, June 2024, the associated professional services fee will be 7% of the Cost of the Work.

**§ 11.2** For the Architect's Supplemental Services designated in Section 4.1.1 and for any Sustainability Services required pursuant to Section 4.1.3, the Owner shall compensate the Architect as follows:

*(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)*

To be included in each contract amendment.

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

*(Insert amount of, or basis for, compensation.)*

To be included in each contract amendment.

**§ 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  $\llcorner\llcorner$  percent ( $\llcorner\llcorner\%$ ), or as follows:  
*(Insert amount of, or basis for computing, Architect's consultants' compensation for Supplemental or Additional Services.)*

To be included in each contract amendment.

**§ 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, unless indicated otherwise in the Contract amendment:

Schematic Design Phase	$\llcorner\llcorner$ Twenty $\llcorner\llcorner$	percent (	$\llcorner\llcorner$ 20 $\llcorner\llcorner$	%)
Design Development Phase	$\llcorner\llcorner$ Thirty Two $\llcorner\llcorner$	percent (	$\llcorner\llcorner$ 32 $\llcorner\llcorner$	%)
Construction Documents Phase	$\llcorner\llcorner$ Thirty $\llcorner\llcorner$	percent (	$\llcorner\llcorner$ 30 $\llcorner\llcorner$	%)
Procurement Phase	$\llcorner\llcorner$ Three $\llcorner\llcorner$	percent (	$\llcorner\llcorner$ 3 $\llcorner\llcorner$	%)
Construction Phase	$\llcorner\llcorner$ Twenty $\llcorner\llcorner$	percent (	$\llcorner\llcorner$ 20 $\llcorner\llcorner$	%)
Total Basic Compensation	One Hundred	percent (	100	%)

**§ 11.5.1** Compensation shall be based on a percentage of anticipated construction cost at project inception, at the end of Design Development the fee will be updated based on the new estimate as a percentage of construction cost.. The final Design Development Construction Cost Estimate for the Cost of the Work will be the basis for the final the compensation calculation. The fee will be modified in Contract Documentation phase if the Owner adds additional scope to the project...

**§ 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.

$\llcorner\llcorner$ As identified in each contract amendment and attached  $\llcorner\llcorner$

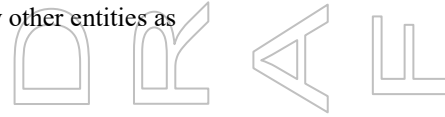
Employee or Category	Rate (\$0.00)

**§ 11.8 Compensation for Reimbursable Expenses**

**§ 11.8.1** Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- .1 Reserved;
- .2 Mileage for all meetings or non-local travel if requested for the Architect to perform its duties for each project;
- .3 Permitting and other fees required by authorities having jurisdiction over the Project;
- .4 Printing, plotting or other expenses for all requested meetings, presentations, distribution, or other
- .5 Postage and, handling or overnight courier costs

- .6 Reserved;
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner;
- .8 Reserved;
- .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.



§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus «five» percent ( «5» %) of the expenses incurred.

« As identified in each contract amendment. Reimbursable expenses shall not exceed the amount set forth in the applicable contract amendment. »

### § 11.10 Payments to the Architect

#### § 11.10.1 Initial Payments

§ 11.10.1.1 An initial payment of «Zero» (\$ «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.

§ 11.10.1.2 If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of «Zero» (\$ «0») shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification.

#### § 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 in accordance with the Local Government Prompt Payment Act, 50 ILCS 505/1, et seq and upon presentation of the Architect's invoice. Amounts unpaid «Sixty» ( «60») 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.)

« .5 » % « one half of one percent 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.

### 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.)

«Not applicable.»

§ 12.1 The LEED Green Building Rating System or similar environmental guidelines ("LEED") utilizes certain design, construction and usage criteria in order to promote environmentally friendly building. The Owner acknowledges and understands that LEED is subject to interpretation, and achieving levels of compliance involves factors beyond the control of the Architect, including, but not limited to, the Owner's use, operation and maintenance of the completed project. If requested, the Architect shall perform its services in a manner consistent with that degree of skill and care ordinarily exercised by design professionals performing similar services in the same locality, and under the same or similar circumstances and conditions. The Architect will use reasonable care



consistent with the foregoing standard in interpreting LEED and designing in accordance with LEED. However, the Architect does not warrant or represent that the Project will actually achieve LEED certification or realize any particular energy savings. The Architect shall not be responsible for any environmental or energy issues arising out of the Owner's use and operation of the completed project."

### ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and Architect.

§ 13.2 This Agreement is comprised of the following documents identified below:

- .1 AIA Document B101™-2017, Standard Form Agreement Between Owner and Architect
- .2 AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, by reference.
- .3 AIA Document E204™-2017, Sustainable Projects Exhibit, by reference.
- .4 AIA Document G802-2017, Amendment to the Standard Form Agreement Between Owner and Architect, by reference.
- .5 Exhibits:
  - **Contract Amendment –Template**
  - **Hourly billing rates**

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

\_\_\_\_\_  
**OWNER** (Signature)

« Brian O'Keefe, Superintendent » « »

(Printed name and title)

\_\_\_\_\_  
**ARCHITECT** (Signature)

« Mark Jolicoeur, AIA Principal »

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