

DRAFT AIA® Document B133™ - 2014

Standard Form of Agreement Between Owner and Architect, Construction Manager as Constructor Edition

AGREEMENT made as of the « _____ » day of « » in the year «2017 »
(In words, indicate day, month and year.)

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

«Charlotte Public Schools»
«378 State St
Charlotte, Michigan 48813-1797 »

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

« »
« »
« »
« »

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

«Charlotte Public Schools 2018 Bond Program, in accordance with the relevant
application for preliminary qualification of bonds, the approved plans and specifications
the Owner's fixed budget, and as otherwise approved by the Owner.»
« »
« »

The Construction Manager (if known):
(Name, legal status, address and other information)

« »
« »
« »
« »

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.

This document is intended to be used in conjunction with AIA Documents A201™-2007, General Conditions of the Contract for Construction; A133™-2009 Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price; and A134™-2009 Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee without a Guaranteed Maximum Price.

AIA Document A201™-2007 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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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.

(Note the disposition for the following items by inserting the requested information or a statement such as "not applicable," "unknown at time of execution," or "to be determined later by mutual agreement.")

§ 1.1.1 The Owner's program for the Project:

(Identify documentation or state the manner in which the program will be developed.)

« The Architect shall assist the Owner in developing the program in accordance with Section 3.3.»

§ 1.1.2 The Project's physical characteristics:

(Identify or describe, if appropriate, size, location, dimensions, or other pertinent information, such as geotechnical reports; site, boundary and topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site; etc.)

«To be determined. »

§ 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.)

«A fixed sum established by the Owner »

§ 1.1.4 The Owner's anticipated design and construction schedule:

.1 Design phase milestone dates, if any:

«To be determined »

.2 Commencement of construction:

«To be determined »

.3 Substantial Completion date or milestone dates:

«To be determined »

.4 Other:

« »

§ 1.1.5 The Owner intends to retain a Construction Manager pursuant to the following agreement:
(Indicate agreement type.)

AIA Document A133–2009, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price.

AIA Document A134–2009, Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee without a Guaranteed Maximum Price.

§ 1.1.6 The Owner’s requirements for accelerated or fast-track scheduling or phased construction are set forth below:
(List number and type of bid/procurement packages.)

« To be determined »

§ 1.1.7 Other Project information:

(Identify special characteristics or needs of the Project not provided elsewhere, such as the Owner’s sustainable objective, if any, or historic preservation requirements.)

« »

§ 1.1.8 The Owner identifies the following representative in accordance with Section 5.5:
(List name, address and other information.)

« »
«Superintendent of Schools »
« »
« »
« »
« »

§ 1.1.9 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 information.)

«Board of Education, State of Michigan, and any others required by law. »

§ 1.1.10 The Owner will retain the following consultants:
(List name, legal status, address and other information.)

.1 Construction Manager:

(The Construction Manager is identified on the cover page. If a Construction Manager has not been retained as of the date of this Agreement, state the anticipated date of retention. If the Architect is to assist the Owner in selecting the Construction Manager, complete Section 4.1.1.)

« »

.2 Cost Consultant (if in addition to the Construction Manager):

(If a Cost Consultant is retained, appropriate references to the Cost Consultant should be inserted in Sections 3.3.6, 3.3.7, 3.4.2, 3.4.3, 3.5.4, 3.5.5, 5.4, 6.3, 6.3.1, 6.4 and 11.6.)

«N/A »« »

« »
« »
« »
« »

.3 Land Surveyor:

« To be determined. »« »

« »
« »
« »
« »

.4 Geotechnical Engineer:

«To be determined. »« »

« »
« »
« »
« »

.5 Civil Engineer:

«To be determined. »« »

« »
« »
« »
« »

.6 Other consultants:

(List any other consultants retained by the Owner, such as a Project or Program Manager, or scheduling consultant.)

« »

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

«»

§ 1.1.12 The Architect will retain the consultants identified in Sections 1.1.12.1 and 1.1.12.2 and any others required to perform Basic Services:
(List name, legal status, address and other information.)

§ 1.1.12.1 Consultants retained under Basic Services:

.1 Structural Engineer:

« To be determined. »« »

« »
« »
« »
« »

.2 Mechanical Engineer:

«To be determined—»
« »
« »
« »
« »

.3 Electrical Engineer:

« »
«To be determined—»
« »
« »
« »

§ 1.1.12.2 Consultants retained under Additional Services:

«To be determined. »

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

«To be determined. »

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Architect may mutually agree to a written agreement in the schedule, the Architect’s services and the Architect’s compensation.

ARTICLE 2 ARCHITECT’S RESPONSIBILITIES

§ 2.1 The Architect shall provide the professional services as set forth in this Agreement.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances and familiar with the school construction industry. 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 provide its services in conjunction with the services of a Construction Manager as described in the agreement identified in Section 1.1.5. The Architect shall not be responsible for actions taken by the Construction Manager.

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

§ 2.5 ~~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.

§ 2.6 Insurance. The Architect shall maintain the following insurance for the duration of this Agreement in the amounts identified below or as required by law, whichever is greater. ~~If any of the requirements set forth below exceed the types and limits the Architect normally maintains, the Owner shall reimburse the Architect for any additional cost as set forth in Section 11.8.3.~~

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

§ 2.6.2 Automobile Liability covering vehicles owned by the Architect and non-owned vehicles used by the Architect with policy limits of not less than « » (\$ « ») per claim and « » (\$ « ») in the aggregate for bodily injury and property damage along with any other statutorily required automobile coverage.

§ 2.6.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess liability insurance, provided such primary and excess insurance policies result in the same or greater coverage as those required under Sections 2.6.1 and 2.6.2.

§ 2.6.4 Workers' Compensation at statutory limits and Employers Liability with policy limits of not less than « » (\$ « »).

§ 2.6.5 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than « » (\$ « ») per claim and « » (\$ « ») in the aggregate.

§ 2.6.6 The Owner shall be an additional insured on the Architect's primary and excess insurance policies for Commercial General Liability and Automobile Liability. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies. The additional insured coverage shall apply to both ongoing operations and completed operations.

§ 2.6.7 The Architect shall provide to the Owner certificates of insurance evidencing compliance with the requirements in this Section 2.6. The certificates will show the Owner as additional insureds on the Commercial General Liability, Automobile Liability, and any excess policies. The Architect's insurance policies and coverages will not be terminated, non-renewed or reduced without at least 30 days' written notice to the Owner.

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services ~~consist of~~include those described in Article 3 and include usual and customary structural, mechanical, civil, and electrical engineering services. Services ~~not~~ set forth in this Article 3 Agreement are Basic Services unless specifically identified as ~~are~~ Additional Services.

§ 3.1.1 The Architect shall manage the Architect's services, consult with the Owner and the Construction Manager, 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 and those of its consultants with those services provided by the Owner, the Construction Manager, and the Owner's consultants. The Architect shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner, the Construction Manager, and the Owner's consultants, subject to the Architect's professional judgment and expertise. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit ~~to the~~ for review by the Owner and the Construction Manager and for the Owner's approval a written schedule of the Architect's services for inclusion in the Project schedule prepared by the Construction Manager. The schedule of the Architect's services shall include design milestone dates, anticipated dates when cost estimates or design reviews may occur, and allowances for periods of time required (1) for the Owner's review and provision of information, (2) for the Construction Manager's review, (3) for the performance of the Construction Manager's Preconstruction Phase services, (4) for the performance of the Owner's consultants, ~~and~~ (5) for approval of submissions by authorities having jurisdiction over the Project, and (6) shall include a master design schedule for planning, schematics, design development, and construction documents phases.

§ 3.1.4 The Architect shall submit information to the Construction Manager and participate in developing and revising the Project schedule ~~as it relates to the Architect's services~~. The Architect shall review and approve, or take other appropriate action upon, ~~the portion of the Project schedule relating to the performance of the Architect's services~~.

§ 3.1.5 Once the Owner, Construction Manager, and Architect agree to the time limits established by the Project schedule, the Owner and Architect shall not exceed them, except for reasonable cause and with the mutual agreement of the Owner and Architect.

§ 3.1.6 The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming work, made without the Architect's approval. The Architect shall advise the Owner before the Owner orders a directive or substitution or accepts non-conforming work.

§ 3.1.7 The Architect shall, at appropriate times, in coordination with the Construction Manager, contact the governmental authorities required to approve the Construction Documents and the entities providing utility services to the Project. In designing the Project, the Architect shall respond to applicable design requirements imposed by such governmental authorities and by such entities providing utility services. The Architect shall have the primary responsibility to complete any required documents requiring governmental approval and ensure that they are properly filed on behalf of the Owner. This responsibility includes the preparation of the preliminary qualification application for the bond issue financing the project, if the project is financed with a bond issue qualified by the School Bond Qualification and Loan Program.

§ 3.1.8 ~~The Architect shall assist the Owner and Construction Manager in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.~~

§ 3.1.9 The Architect shall exercise usual and customary professional care in its efforts to comply with codes, regulations and laws.

§ 3.1.10 The Architect acknowledges that the services to be provided by the Architect under this Agreement shall include assisting the Owner in complying with the Owner's obligations set forth in Public Act No. 306 of 1937, MCL 388.851, et seq., and Public Act 299 of 1980, MCL 339.2011 (collectively, the "Acts"). Therefore, the Architect hereby agrees to perform the services that shall or may be performed by an "architect" or "engineer" pursuant to those Acts. The parties acknowledge that nothing in this Agreement shall be construed to limit the Architect's services, duties or obligations under either of those Acts. Without limiting the breadth of the foregoing, the Architect acknowledges that it shall provide construction supervision as required by the School Building Construction Act, Public Act No. 306 of 1937.

§ 3.2 Evaluation of the Construction Manager's Guaranteed Maximum Price Proposal or Control Estimate

§ 3.2.1 Prior to the Owner's acceptance of the Guaranteed Maximum Price proposal or Control Estimate, as applicable, the Architect shall ~~consider~~ review the Construction Manager's requests for substitutions and, upon written request of the Construction Manager, provide any necessary or requested clarification or interpretations pertaining to the Drawings, Specifications, and other documents submitted by the Architect. The Architect and Construction Manager shall include the Owner on all communications related to substitution requests, clarifications, and interpretations.

§ 3.2.2 During one of the design phases, the Owner will receive a Guaranteed Maximum Price proposal or Control Estimate, as appropriate from the Construction Manager. The Architect shall ~~assist the Owner in reviewing the Construction Manager's proposal or estimate.~~ The Architect's review is not for the purpose of shall be for all purposes, including discovering errors, omissions, or inconsistencies; ~~for the assumption of~~ but the Architect shall not assume any responsibility for the Construction Manager's proposed means, methods, sequences, techniques, or procedures; or for the verification of any estimates of cost or estimated cost proposals. In the event that the Architect discovers any inconsistencies or inaccuracies in the information presented, the Architect shall promptly notify the Owner and Construction Manager.

§ 3.2.3 Upon authorization by the Owner, and subject to Section 4.3.1.15, the Architect shall update the Drawings, Specifications, and other documents to incorporate the agreed upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment or Control Estimate.

§ 3.3 Schematic Design Phase Services

§ 3.3.1 The Architect shall assist the Owner and the Construction Manager in development of the program, schedule and construction budget for final approval by the Owner. ~~The Architect shall review the program and other information furnished by the Owner and Construction Manager, consult with the Owner regarding the same, and shall review and comply with, all laws, codes, and regulations applicable to the Architect's services and the Project.~~

§ 3.3.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, and other Initial Information, each in terms of the other, to ascertain the requirements of

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

§ 3.3.3 The Architect shall present its preliminary evaluation to the Owner and Construction Manager and shall discuss with the Owner and Construction Manager alternative approaches to design and construction of the Project, including the feasibility of incorporating sustainable design approaches, and consideration of the implementation of the Owner's sustainable objective, if any. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.3.4 Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present to the Owner and Construction Manager, for the Owner's approval, a preliminary design illustrating the scale and relationship of the Project components. Approval by the Owner will not constitute approval of the means, techniques or particular material recommended by the Architect for the Project. Selection by the Owner of a "particular material" recommended by the Architect for the Project shall constitute approval of that "particular material" by the Owner for aesthetic purposes only.

§ 3.3.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval and the Construction Manager's review. 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 modeling. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.3.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program, budget and aesthetics, implications of sustainable code requirements enacted in the relevant jurisdiction, if any, 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 other sustainable design services under Article 4.

§ 3.3.5.2 The Architect shall consider with the Owner and the Construction Manager 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 schedule and budget for the Cost of the Work.

§ 3.3.6 The Architect shall submit the Schematic Design Documents to the Owner and the Construction Manager. The Architect shall meet with the Construction Manager to review the Schematic Design Documents.

§ 3.3.7 Upon receipt of the Construction Manager's review comments and cost estimate at the conclusion of the Schematic Design Phase, the Architect shall take action as required under Section 6.4, identify agreed upon adjustments to the Project's size, quality, or budget, and request the Owner's approval of the Schematic Design Documents. If revisions to the Schematic Design Documents are required to comply with the Owner's budget for the Cost of the Work at the conclusion of the Schematic Design Phase, the Architect shall incorporate the required revisions in the Design Development Phase.

§ 3.3.8 In the further development of the Drawings and Specifications during this and subsequent phases of design, the Architect shall ~~be entitled to rely on~~ receive and review the accuracy of the estimates of the Cost of the Work, which are to be provided by the Construction Manager under the Construction Manager's agreement with the Owner and shall prepare such estimates of Construction Cost as the Architect deems necessary to perform Basic Services and to satisfy MCL 339.2011.

§ 3.4 Design Development Phase Services

§ 3.4.1 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 pursuant to Section 5.4, the Architect shall prepare Design Development Documents for the Owner's approval and Construction Manager's review. The Owner's approval shall be for general design concept purposes only and shall not be an approval of technical or design details. The Design Development Documents shall ~~be based upon~~ take into consideration information provided, and estimates prepared by, the Construction Manager and shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to

fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and such other elements as may be appropriate. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels.

§ 3.4.2 Prior to the conclusion of the Design Development Phase, the Architect shall submit the Design Development Documents to the Owner and the Construction Manager. The Architect shall meet with the Construction Manager to review the Design Development Documents.

§ 3.4.3 Upon receipt of the Construction Manager's information and estimate at the conclusion of the Design Development Phase, the Architect shall take action as required under Sections 6.5 and 6.6 and request the Owner's approval of the Design Development Documents. Approval by the Owner will not constitute approval of the means, techniques, or particular material recommended by the Architect for the Project. Selection by the Owner of a "particular material" recommended by the Architect for the Project shall constitute approval of that "particular material" by the Owner for aesthetic purposes only.

§ 3.5 Construction Documents Phase Services

§ 3.5.1 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 and the Construction Manager's review. 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 of materials and systems, their quality levels, and other requirements for the construction of the Work. The Owner and Architect acknowledge that in order to construct the Work the Construction Manager 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.

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

§ 3.5.3 During the development of the Construction Documents, if requested by the Owner, the Architect shall assist the Construction Manager in the development and preparation of (1) the Conditions of the Contract for Construction (General, Supplementary and other Conditions), as modified by the Owner, and (2) a project manual that includes the Conditions of the Contract for Construction, as modified by the Owner, and Specifications and may include sample forms. All such documents shall have been provided in a format that conforms with the terms of this Agreement and the drawings/specifications, including but not limited to dispute resolution provisions, and shall comply with all public bidding, prevailing wage, and contracting laws applicable to Michigan public school districts and this Project.

§ 3.5.3.1 Documents referenced in Section 3.5.3 shall consist of the unabridged AIA contract forms modified as necessary to be consistent with this Agreement. The Architect shall include in bid specifications and in any of the relevant document provisions indicating that modified version(s) of the standard AIA General Conditions A201 - 2007 will be utilized. The Architect shall include a form of the General Conditions of the Contract for Construction provided by the Owner's legal counsel and include that document in bid specifications and the project manual. The Architect is responsible for verifying that such document is included in the bid specifications and the project manual and shall contact the Owner and the Owner's legal counsel to verify that that the documents, as they appear in the bid specifications and project manual, are correct.

§ 3.5.4 Prior to the conclusion of the Construction Documents Phase, the Architect shall submit the Construction Documents to the Owner and the Construction Manager. The Architect shall meet with the Construction Manager to review the Construction Documents.

§ 3.5.5 Upon receipt of the Construction Manager's information and estimate at the conclusion of the Construction Documents Phase, the Architect shall take action as required under Section 6.7 and obtain the Owner's approval of the Construction Documents.

§ 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 Construction Manager as set forth below and in AIA Document A201™-2007, General Conditions of the Contract for Construction, as modified by the Owner. If the Owner and Construction Manager modify AIA Document A201-2007, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement. If there is a conflict or inconsistency between the terms of that Agreement and the General Conditions of the Contract for Construction, the terms of this Agreement shall govern.

§ 3.6.1.2 Subject to Section 4.3, the Architect's responsibility to provide Construction Phase Services commences upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Owner's approval of the Construction Manager's Control Estimate, or the Owner's first award of a competitively bid subcontract, whichever occurs earlier the Owner's issuance of a Notice to Proceed to the Construction Manager. Subject to Section 4.3, Unless otherwise provided in this Agreement, the Architect's responsibility to provide Construction Phase Services terminates on the date the Architect issues the final Certificate for Payment.

§ 3.6.1.3 The Architect shall advise and consult with the Owner and Construction Manager during the services described in this Agreement, Construction Phase. 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 and, except as provided in this Agreement, the Architect shall not be responsible for the Construction Manager'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, including its failure to supervise construction, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Construction Manager or of any other persons or entities performing portions of the Work. Nothing in this Section 3.6.1.3 shall be construed to limit the Architect's responsibilities to supervise construction in MCL 339.2011 or Public Act 306 of 1937, both as may be amended from time to time.

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.3.3, to become generally familiar with the progress and quality of the portion of the Work completed, to guard the Owner against defects and deficiencies 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, subject to Sections, 3.1.10, 3.6.1.3, and 3.6.2.6, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule, and (2) defects and deficiencies observed in the Work.

§ 3.6.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such 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 Construction Manager, Subcontractors, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work.

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

§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and the Contractor Construction Manager, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith and without negligence. The Architect's decisions interpretations on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

§ 3.6.2.5 Unless the Owner and Construction Manager designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201–2007, as modified, the Architect shall render initial written decisions interpretations on Claims between the Owner and Construction Manager as provided in the Contract Documents.

§ 3.6.2.6 Notwithstanding anything contained in this Agreement, particularly Sections 3.6.1.3 and 3.6.2.1, nothing contained in this Agreement shall be construed to limit in any way the Architect’s duties and responsibilities under law, including those duties and responsibilities under 1937 PA 306 and 1980 PA 299. It is understood that the Owner has retained a Construction Manager on this Project. The Agreement between Construction Manager and the Owner shall impose upon the Construction Manager the responsibility for the workmanlike performance of all construction performed on the project and completion of all work required under the subcontract.

The Construction Manager Agreement shall require that the Construction Manager inspect the work of the subcontractors as it is being performed to assure that the work performed and the materials furnished are in accordance with the Construction Documents and provide all supervision, services, utilities, etc., which are necessary for the completion of the Project which are not provided through the subcontracts, or by the Owner, or as a reimbursable item.

The Architect shall visit the site as necessary to ensure Project quality.

§ 3.6.3 Certificates for Payment to Construction Manager

§ 3.6.3.1 The Architect shall review and certify the amounts due the Construction Manager 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 Construction Manager’s Application for Payment, that, to the best of the Architect’s knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the Architect in writing and accompanying the relevant certification. It is acknowledged that the Architect’s certifications shall take into consideration information provided by the Construction Manager, but the Architect shall remain responsible for any certification issued.

§ 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 material suppliers and other data requested by the Owner to substantiate the Construction Manager’s right to payment, or (4) ascertained how or for what purpose the Construction Manager 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, certified copies of which shall be sent to the Owner.

§ 3.6.4 Submittals

§ 3.6.4.1 The Architect shall review the Construction Manager’s submittal schedule and shall not unreasonably delay or withhold approval. 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 In accordance with the Architect-approved submittal schedule, the Architect shall review and approve or take other appropriate action upon the Construction Manager’s submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Construction Manager’s responsibility. The Architect’s review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction

means, methods, techniques, sequences or procedures. The Architect's review and 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 Construction Manager 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 shop drawings and other submittals related to the Work designed or certified by the design professional retained by the Construction Manager that bear such professional's seal and signature when submitted to the Architect. Subject to its professional experience and expertise, ~~the~~ Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals.

§ 3.6.4.4 ~~Subject to the provisions of Section 4.3,~~ ~~the~~ Architect shall timely 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 requests for information. The Architect shall maintain a log of requests for information and the responses thereto.

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

§ 3.6.5 Changes in the Work

§ 3.6.5.1 The Architect may authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to the provisions of Section 4.3, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

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

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; receive from the Construction Manager and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and assembled by the Construction Manager; and issue a final Certificate for Payment based upon a final inspection indicating 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 Construction Manager of Work to be completed or corrected. The Architect shall be solely responsible for the inspection, and the Owner shall be solely an observer.

§ 3.6.6.3 When the Work is found to be substantially complete by the Architect, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Construction Manager, 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 Construction Manager: (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 Construction Manager under the Contract Documents.

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

ARTICLE 4 ADDITIONAL SERVICES

§ 4.1 Additional Services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Additional Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. The Services listed below, other than those identified as Basic Services, may be provided by the Architect as an Additional Service if: (a) required for the Project, (b) the Owner authorizes the performance of same in writing prior to the Architect's provision of any such service, and (c) the Architect provides a good faith estimate of the cost of the same prior to the Owner's authorization. The Owner shall not be obligated to pay for any Additional Service in the absence of the foregoing. For proper Additional Services, the Owner shall compensate the Architect as provided in Section 11.2.

(Designate the Additional Services the Architect shall provide in the second column of the table below. In the third column indicate whether the service description is located in Section 4.2 or in an attached exhibit. If in an exhibit, identify the exhibit.)

Services	Responsibility (Architect, Owner or Not Provided)	Location of Service Description (Section 4.2 below or in an exhibit attached to this document and identified below)
§ 4.1.1 Assistance with selection of the Construction Manager	<u>Architect Basic Service</u>	
§ 4.1.2 Programming (B202™-2009)	<u>Architect Basic Service</u>	
§ 4.1.3 Multiple preliminary designs	<u>Architect Basic Service</u>	
§ 4.1.4 Measured drawings	<u>Architect Basic Service</u>	
§ 4.1.5 Existing facilities surveys	<u>Architect Basic Service</u>	
§ 4.1.6 Site Evaluation and Planning (B203™-2007)	N/A	
§ 4.1.7 Building Information Modeling (E203™-2013)	N/A	
§ 4.1.8 Civil engineering	<u>Architect Basic Service</u>	
§ 4.1.9 Landscape design	<u>Architect Basic Service</u>	
§ 4.1.10 Architectural Interior Design (B252™-2007)	<u>Architect Basic Service</u>	
§ 4.1.11 Value Analysis (B204™-2007)	<u>Architect Basic Service</u>	
§ 4.1.12 Detailed cost estimating	<u>Construction Manager</u>	
§ 4.1.13 On-site project representation (B207™-2008)	<u>Architect Basic Service</u>	
§ 4.1.14 Conformed construction documents	<u>Architect Basic Service</u>	
§ 4.1.15 As-Designed Record drawings	<u>Architect Basic Service</u>	
§ 4.1.16 As-Constructed Record drawings	<u>Architect Basic Service</u>	
§ 4.1.17 Post occupancy evaluation	<u>Architect Basic Service</u>	
§ 4.1.18 Facility Support Services (B210™-2007)	N/A	
§ 4.1.19 Tenant-related services	N/A	
§ 4.1.20 Coordination of Owner's consultants	N/A	
§ 4.1.21 Telecommunications/data design	<u>Owner</u>	

§ 4.1.22	Security Evaluation and Planning (B206™-2007)	Owner	
§ 4.1.23	Commissioning (B211™-2007)	N/A	
§ 4.1.24	Extensive sustainable design services	N/A	
§ 4.1.25	LEED® Certification (B214™-2012)	N/A	
§ 4.1.26	Historic Preservation (B205™-2007)	N/A	
§ 4.1.27	Furniture, Furnishings, and Equipment Design (B253™-2007)	Architect Basic Service	
§ 4.1.28	Statutory Cost Estimates	Architect Basic Service	

§ 4.2 Insert a description of each Additional Service designated in Section 4.1 as the Architect's responsibility, if not further described in an exhibit attached to this document.

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§ 4.3 Additional Services may be provided after execution of this Agreement, in compliance with the first paragraph of Section 4.1, without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.3 shall entitle the Architect to compensation pursuant to Section 11.3 and, if necessary, an appropriate adjustment in the Architect's schedule.

§ 4.3.1 The following Additional Services shall be provided if there has been compliance with the first paragraph of Section 4.1. 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 services until the Architect receives the Owner's written authorization:

- ~~1. Services Subject to Section 6.6, services necessitated by a change in the Initial Information, previous instructions or recommendations given by the Construction Manager or the Owner, approvals given by the Owner, or a material change in the Project including, but not limited to, size, quality, complexity, the Owner's schedule or budget for Cost of the Work, procurement or delivery method, or bid packages in addition to those listed in Section 1.1.6;~~
- ~~2. Making revisions in Drawings, Specifications, or other documents (as required pursuant to Section 6.7), when such revisions are required because the Construction Manager's estimate of the Cost of the Work, Guaranteed Maximum Price proposal, or Control Estimate exceeds the Owner's budget, except where such excess is due to changes initiated by the Architect in scope, capacities of basic systems, or the kinds and quality of materials, finishes, or equipment;~~
- ~~3. Services necessitated by the Owner's request for extensive environmentally responsible sustainable design alternatives, such as unique system designs, in-depth material research, energy modeling, or LEED® certification;~~
- ~~4. Changing or editing previously prepared Instruments of Service necessitated by the enactment or revision of codes, laws or regulations, or official interpretations which occur after the preparation of such Instruments of Service. (The Architect is expected to and shall provide its services in compliance with the most-recent codes, laws, regulations and interpretations.);~~
- ~~5. Services necessitated by decisions of the Owner or Construction Manager not rendered in a timely manner, acknowledging the Owner's obligations under the Open Meetings Act or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;~~
- ~~6. Preparing digital data for transmission to the Owner's consultants and contractors, or to other Owner authorized recipients;~~
- ~~7. Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner or Construction Manager;~~
- ~~8. Preparation for, and attendance at, a public presentation, meeting or hearing;~~
- ~~9. Preparation for, and attendance at a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto or at which the services of the Architect are challenged;~~
- ~~10. Evaluation of the qualifications of bidders or persons providing proposals;~~
- ~~11. Consultation concerning replacement of Work resulting from fire or other cause during construction;~~
or
- ~~12. Assistance to the Initial Decision Maker, if other than the Architect;~~
- ~~13. Services necessitated by replacement of the Construction Manager or conversion of the Construction Manager as constructor project delivery method to an alternative project delivery method;~~

- .14 ~~Services necessitated by the Owner's delay in engaging the Construction Manager; and~~
- .15 ~~Making revisions in Drawings, Specifications, and other documents resulting from substitutions included in the agreed to assumptions and clarifications contained in the Guaranteed Maximum Price Amendment or Control Estimate.~~

~~§ 4.3.2 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 promptly comply with the opening paragraph of Section 4.1 for the following Additional Services. If the Owner subsequently determines that all or parts of those services are not required, the Owner shall give prompt written notice to the Architect, and the Owner shall have no further obligation to compensate the Architect for those services not accepted in writing by the Owner:~~

- .1 ~~Reviewing a Construction Manager's submittal out of sequence from the submittal schedule agreed to by the Architect;~~
- .2 ~~Responding to the Construction Manager's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Construction Manager from a careful study and comparison of the Contract Documents, field conditions, other Owner provided information, Construction Manager prepared coordination drawings, or prior Project correspondence or documentation;~~
- .3 ~~Preparing Change Orders, and Construction Change Directives that require evaluation of the Construction Manager's proposals and supporting data, or the approved by the Owner that exceed the scope of the Work and Project cost and that require substantial preparation or revision of Instruments of Service;~~
- .4 ~~Evaluating an extensive number of Claims as the Initial Decision Maker;~~
- .5 ~~Evaluating substitutions proposed by the Owner or Construction Manager and making subsequent revisions to Instruments of Service resulting therefrom after bids have been awarded; or~~
- .6 ~~To the extent the Architect's Basic Services are affected, providing Construction Phase Services 60 days after (1) the date of Substantial Completion of the Work or (2) the anticipated date of Substantial Completion, identified in Initial Information, whichever is earlier after the time frame identified in Section 3.6.1.2.~~

~~§ 4.3.3 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 ~~« » (« ») reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Construction Manager~~
- .2 ~~« » (« ») visits to the site by the Architect over the duration of the Project during construction~~
- .3 ~~« » (« ») inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents~~
- .4 ~~« » (« ») inspections for any portion of the Work to determine final completion~~

~~§ 4.3.4 If the services covered by this Agreement have not been completed within « » (« ») months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.~~

ARTICLE 5 OWNER'S RESPONSIBILITIES

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

~~§ 5.2 The Owner shall retain a Construction Manager to provide services, duties, and responsibilities as described in the agreement selected in Section 1.1.5.~~

~~§ 5.3 The Owner shall furnish the services of a Construction Manager that shall be responsible for creating the overall Project schedule. The Owner shall adjust the Project schedule, if necessary, as the Project proceeds.~~

~~§ 5.4 The Owner shall establish and 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 furnish the services of a Construction Manager that shall be responsible for preparing all estimates of the Cost of the Work. 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 budget for the Cost of the Work or in the Project's scope and quality.

~~§ 5.4.1 The Owner acknowledges that accelerated, phased or fast track scheduling provides a benefit, but also carries with it associated risks. Such risks include the Owner incurring costs for the Architect to coordinate and redesign portions of the Project affected by procuring or installing elements of the Project prior to the completion of all relevant Construction Documents, and costs for the Construction Manager to remove and replace previously installed Work. If the Owner selects accelerated, phased or fast track scheduling, the Owner agrees to include in the budget for the Project sufficient contingencies to cover such costs.~~

§ 5.5 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project, subject to parameters of authority set by the Owner. 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, subject to the Owner's status as a public body, including being subject to the Open Meetings Act.

~~§ 5.6 The~~ Where required by the circumstances of the Project and requested by the Architect in writing, the Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and 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. The Architect shall assist the Owner in obtaining such services as part of the Architect's Basic Services. The Owner will pay for such services as applicable.

~~§ 5.7 The~~ Where required by the circumstances of the Project and as requested by the Architect in writing, the Owner shall furnish services of geotechnical engineers, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations. The Architect shall assist the Owner in obtaining such services as a part of the Architect's Basic Services, and the Owner will pay for such services as applicable.

§ 5.8 ~~The Owner~~ Architect shall coordinate the services of its own consultants with those services provided by the Architect ~~Owner's consultants~~. 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 in this Agreement, or authorize the Architect to furnish them as an Additional Service in accordance with Article 4, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner and Architect shall require that its consultants maintain professional liability insurance and other liability insurance as appropriate to the services provided.

§ 5.9 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials. The Architect shall assist the Owner in obtaining such services as part of the Architect's Basic Services.

§ 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 and Construction Manager 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, but the Owner's failure to do so does not relieve the Architect of its responsibilities, and the Owner assumes no duty of observation, inspection, or investigation pursuant to this Section or otherwise. The Architect shall give the Owner prompt written notice if it becomes aware of any fault or defect in the Project or the Instruments of Service.

§ 5.12 The Owner shall contemporaneously provide the Architect with any communications provided to the Construction Manager about matters arising out of or relating to the Contract Documents that may affect the Architect's services. 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 shall assist the Owner with coordination of 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 Construction Manager, including the General Conditions of the Contract for Construction.

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

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of cost estimating or tracking under this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include the Construction Manager's compensation, including general conditions costs, overhead, and profit. For purposes of calculating fees or other costs determined on a percentage of the Cost of the Work, ~~The Cost of the Work does not include the compensation of the Architect, the compensation of the Construction Manager for Preconstruction Phase services, the costs of the land, rights-of-way, financing, contingencies for changes in the Work or other costs that are the responsibility of the Owner.~~

§ 6.2 The Owner's budget for the Cost of the Work is provided in the Initial Information, which the Architect acknowledges it fixed. A fixed limit of construction cost shall be established by the Owner as a condition of this Agreement and may be adjusted throughout the Project as required under Sections 5.4 and 6.4. Evaluations of the Owner's budget for the Cost of the Work represent the Architect's judgment as a design professional.

§ 6.3 The Owner shall ~~permit~~ require the Construction Manager to include appropriate contingencies for design, bidding or negotiating, price escalation, and market conditions in estimates of the Cost of the Work. ~~The Architect shall be entitled to rely on the accuracy and completeness of estimates of the Cost of the Work the Construction Manager prepares as the Architect progresses with its~~ prepare its own estimates of the cost of the work as necessary for Basic Services. The Architect shall prepare, as an Additional Service, revisions to the Drawings, Specifications or other documents required due to the Construction Manager's inaccuracies or incompleteness in preparing cost estimates. The Architect may review the Construction Manager's estimates solely for the Architect's guidance in completion of its services, however, the Architect shall report to the Owner any material inaccuracies and inconsistencies noted during any such review.

§ 6.3.1 If the Architect is providing detailed cost estimating services ~~as an Additional Service,~~ and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Architect shall work cooperatively with the Construction Manager to conform the cost estimates to one another. The Architect shall ensure compliance with MCL 339.2011.

§ 6.3.2 Subject to Section 4.3, if the Owner engages a Cost Consultant and a discrepancy exists between the Construction Manager's estimate and the Cost Consultant's estimate, the Architect shall assist the Cost Consultant and Construction Manager as necessary to conform the estimates to one another.

§ 6.4 ~~If, prior to the conclusion of the Design Development Phase, the~~ If at any time, the Architect's or the Construction Manager's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect, in consultation with the Construction Manager and as a Basic Service, shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget, and the Owner shall cooperate with the Architect in making such adjustments.

§ 6.5 If at any time the Construction Manager's estimate of the Cost of the Work ~~at the conclusion of the Design Development Phase~~ exceeds the Owner's budget for the Cost of the Work, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;

- .2 in consultation with the Architect and Construction Manager, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
- .3 implement any other mutually acceptable alternative.

§ 6.6 If the Owner chooses to proceed under Section 6.5.2, the Architect, without additional compensation, shall incorporate the required modifications in the Construction Documents Phase as necessary to comply with the Owner's fixed budget for the Cost of the Work, ~~at the conclusion of the Design Development Phase Services, or the budget as adjusted under Section 6.5.1. The Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility as a Basic Service under this Article 6.~~

§ 6.7 After incorporation of modifications under Section 6.6, the Architect shall, ~~as an Additional Service, make any required revisions to the Drawings, Specifications or other documents necessitated by the Construction Manager's subsequent cost estimates, the Guaranteed Maximum Price proposal or Control Estimates, that exceed the Owner's budget for the Cost of the Work, except when the excess is due to changes initiated by the Architect in scope, basic systems, or the kinds and quality of materials, finishes or equipment.~~ The Architect's revised drawings and/or specifications shall be performed as a Basic Service.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project. If the Owner and Architect intend to transmit Instruments of Service or any other information or documentation in digital form, they ~~shall~~ may endeavor to establish necessary protocols governing such transmissions.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 Upon execution of this Agreement, the Owner shall have irrevocable rights in the Instruments of Service that includes the right to access, use and reproduce the Instruments of Service for purposes of constructing, using, maintaining, altering, and adding to the Project. On behalf of, and for the benefit of the Owner, the Architect shall obtain similar ownership rights from the Architect's consultants consistent with this Agreement. Such rights shall, without limitation, authorize the Owner and the Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers, as well as the Contractor's consultants and separate Contractors and other design professionals, to utilize and to reproduce applicable portions of the Instruments of Service for use in performing services or construction for the Project. Any termination of this Agreement for any reason or under any condition shall in no way terminate or otherwise diminish the licenses described herein. the Architect grants to the Owner a nonexclusive irrevocable license and right to access, use and reproduce the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under this Agreement. In the event that it desires to use the design drawings for new or additional projects unrelated to the Project covered by this Agreement the Owner . In addition, or projects. The Architect shall obtain similar nonexclusive, irrevocable licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Construction Manager, Subcontractors, Sub-subcontractors, and material or equipment suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service for use in performing services or construction for the Project. Any termination of this Agreement for any reason or under any condition shall in no way terminate or otherwise diminish the licenses and rights described herein.

§ 7.3.1 ~~In the event the Owner uses the Instruments of Service for new or additional projects unrelated to the Project covered by this Agreement without retaining the consent of the Architect or Architect's consultant(s) authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from~~

the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

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

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other arising out of or related to this Agreement in accordance with the requirements of the method of binding dispute resolution selected in this Agreement within the period specified by Michigan applicable law, ~~but in any case not more than 10 years after the date of Substantial Completion of the Work~~. No claim by the Owner shall be barred as untimely if filed within six (6) years of Substantial Completion of the Project. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 ~~To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2007, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the Construction Manager, contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.~~

§ 8.1.3 The Architect shall indemnify and hold the Owner and the Owner's officers and employees harmless from and against damages, losses, expenses (including reasonable attorneys' fees and legal expenses), and judgments to the extent the foregoing damages, losses, expenses, and judgments arising from claims by third parties, including reasonable attorneys' fees and expenses recoverable under applicable law, but only to the extent they are caused by the negligent acts or omissions of the Architect, its employees and its consultants in the performance of professional services under this Agreement or the Architect's breach of this Agreement. ~~The Architect's duty to indemnify the Owner under this provision shall be limited to the available proceeds of insurance coverage.~~

§ 8.1.4 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 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to non-binding mediation as a condition precedent to ~~binding dispute resolution~~. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect 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 litigation.

§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by non-binding 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 the Agreement except that either party may, if in good faith, declare a mediation impasse and proceed with litigation after one full day of mediation. A request for mediation shall be made in writing, delivered to the other party to the 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. During the pendency of this alternative dispute resolution process, the parties agree that applicable limitations periods shall be tolled.

§ 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. If the Owner and Architect do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.)

Arbitration pursuant to Section 8.3 of this Agreement

Litigation in a court of competent jurisdiction

Other: (Specify)

« »

§ 8.3 Arbitration

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

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

§ 8.3.2 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

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

§ 8.3.4 Consolidation or Joinder

§ 8.3.4.1 Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 8.3.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 8.3.4.3 The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 8.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make undisputed 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. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services for this reason. 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 Architect shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be ~~equitably adjusted~~ negotiated by the parties.

§ 9.2 If the Owner suspends the Project for more than 30 consecutive days, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for 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~~ negotiated by the parties.

§ 9.3 If the Owner suspends the Project for more than 90 ~~consecutive~~ 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 seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

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

§ 9.6 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due ~~and all Termination Expenses as defined in Section 9.7~~.

~~§ 9.7 Termination Expenses are in addition to compensation for the Architect's services and include expenses directly attributable to termination for which the Architect is not otherwise compensated, plus an amount for the Architect's anticipated profit on the value of the services not performed by the Architect.~~

§ 9.8 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement ~~are shall continue and shall not be terminated or diminished in any manner. set forth in Article 7 and Section 11.9.~~

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the State of Michigan ~~place where the Project is located, except that if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern~~ Section 8.3.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2007, General Conditions of the Contract for Construction, as modified on behalf of the Owner, except as modified in this Agreement. The term "Contractor" as used in A201-2007 shall mean the Construction Manager.

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement.

§ 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 shall provide professional credit for the Architect in the Owner's promotional materials for the Project. The Architect shall obtain the Owner's Approval prior to disclosures of information for purposes of verifying that such disclosures contain no confidential information (including, for example, information protected by FERPA).

§ 10.8 If the Architect or Owner receives information specifically designated by the other party as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information.

§ 10.9 The Architect agrees to retain permanent records relating to the services performed for a period of at least six (6) years following submission of the Construction Documents, during which period the records will be made available to the Owner upon request.

ARTICLE 11 COMPENSATION

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

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

« »

§ 11.2 For Additional Services designated in Section 4.1, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

« »

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.3, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation.)

«See Section 11.2 »

§ 11.4 Compensation for Additional Services of the Architect's consultants when not included in Sections 11.2 or 11.3, shall be the amount invoiced to the Architect at cost without mark-up: plus « » percent (« » %), or as otherwise stated below:

« »

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

Schematic Design Phase	« »	percent (« »	%)
Design Development Phase	« »	percent (« »	%)
Construction Documents Phase	« »	percent (« »	%)
Construction Phase	« »	percent (« »	%)

██████████ one hundred percent (100 %) Total Basic Compensation

The Owner acknowledges that with an accelerated Project delivery, multiple bid package process, or Construction Manager as constructor project delivery method, the Architect may be providing its services in multiple Phases simultaneously. Therefore, ~~the~~ The Architect shall be permitted to invoice monthly in proportion to services performed in each Phase of Services as appropriate.

§ 11.6 When compensation is based on a percentage of the Cost of the Work 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, in accordance with the schedule set forth in Section 11.5 based on (1) the Owner-accepted Guaranteed Maximum Price Amendment or Control Estimate, as applicable, or (2) if the Guaranteed Maximum Price proposal or Control Estimate has not been accepted by the Owner, the most recent estimate of the Cost of the Work prepared by the Construction Manager for such portions of the Project. The Architect shall be entitled to compensation in accordance with this Agreement for all services actually and properly performed whether or not the Construction Phase is commenced but shall not be entitled to any compensation if the Owner's 2017 bond financing the Project fails to close.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants, if any, are set forth below. ~~The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices.~~
(If applicable, attach an exhibit of hourly billing rates or insert them below.)

« See 11.2 »

Employee or Category	Rate (\$0.00)
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§ 11.8 Compensation for Reimbursable Expenses

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

- 1 ~~Transportation and authorized out of town travel and subsistence;~~
- 2 ~~Long distance services, dedicated data and communication services, teleconferences, Project Web sites, and extranets;~~
- 3 Fees paid for securing approval of authorities having jurisdiction over the Project;
- 4 Printing, reproductions, plots, standard form documents;
- 5 Postage, handling and delivery;
- 6 If authorized in advance by the Owner, Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- 7 Renderings, models, mock-ups, professional photography, and presentation materials requested by the Owner;
- 8 Architect's consultants' expense of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits if the Owner requests such insurance in excess of that normally carried by the Architect's consultants;
- 9 All taxes levied on professional services and on reimbursable expenses; In light of the Owner's tax-exempt status, the parties shall discuss major reimbursable items prior to purchase;
- 10 Site office expenses; and
- 11 Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus ~~«zero»~~ percent (« 0 » %) of the expenses incurred. Reimbursable expenses shall not exceed _____ Dollars (\$ _____) without the express written approval of the Owner.

§ 11.8.3 If the insurance requirements listed in Section 2.6 exceed the types and limits the Architect normally maintains and the Architect incurred additional costs to satisfy such requirements, the Owner shall reimburse the Architect for such costs as set forth below:

« »

§ 11.9 Compensation for Use of Architect's Instruments of Service

If the Owner terminates the Architect for its convenience under Section 9.5, or the Architect terminates this Agreement under Section 9.3, the Owner shall pay a licensing fee as compensation for the Owner's continued use of the Architect's Instruments of Service solely for purposes of completing, using and maintaining the Project as follows:

«→»

§ 11.10 Payments to the Architect

§ 11.10.1 An initial payment of «zero dollars» (\$ «0 ») 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.

§ 11.10.2 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. ~~Undisputed~~ payments are due and payable upon ~~presentation~~ receipt of the Architect's invoice. Amounts unpaid «forty-five» («45 ») days after the Owner's receipt of 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.)

«seventy-five hundredths of one percent per annum» % «(0.75%) »

§ 11.10.3 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 for which the Architect is responsible.~~

§ 11.10.4 Records of Reimbursable Expenses, expenses pertaining to 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:

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§ 12.1 The Architect shall perform its responsibilities and services in a manner consistent with the professional standards of the Architectural profession in the State of Michigan.

§ 12.2 The Architect shall not be entitled to additional compensation in the event it is necessary to extend the contract completion date because the Project is delayed due to conditions beyond the control of the Owner.

§ 12.3 Basic Services include assisting the Owner in developing the program requirements of the Project.

§ 12.4 Basic Services include investigations of existing conditions or facilities.

§ 12.5 As a part of Basic Services, the Architect will review, evaluate and accept or reject any substitution proposed by the Contractor prior to receipt of bids. Requests for substitutions following receipt of bids will be reviewed by the Architect as an additional service.

§ 12.6 Basic Services include the preparation and delivery of reproducible record drawings showing significant changes in the work made during construction based on marked up prints, drawings and other data furnished by the Construction Manager to the Architect.

§ 12.7 The Architect shall not be entitled to additional compensation in the event it is necessary to extend the contract completion date because the Project is delayed due to conditions beyond the control of the Owner such as strikes, weather, materials shortages, etc.

§ 12.8 The Architect shall provide the Owner the necessary bidding information. The referenced bid specifications shall consist of the unabridged AIA contract forms which the Architect shall modify as necessary to be consistent

with this Agreement and the laws of the State of Michigan, including, but not limited to dispute resolution procedures. The Architect shall include in bid specifications, and in any of the relevant document provisions indicating that modified version(s) of standard AIA Owner/Contractor Agreement(s) and modified General Conditions will be utilized; such documents shall be subject to the Owner's approval. The Architect shall have the responsibility of amending AIA Document A201 – 2007 to remove all reference to arbitration and to incorporate AIA Document A201 – 2007, as modified by the Owner's legal counsel, into the project manual.

§ 12.9 The Architect hereby agrees that it will be the Architect who is responsible for the construction/remodeling of the school building(s) described in this Agreement pursuant to the provisions to Section 763.99(a) of Part III of the regulation of the Environmental Protection Agency also known as 40 CFR 763.99(a)(7) as published in Federal Register. The Architect shall certify in compliance with said Section that no ACBM (asbestos containing building material) was specified as a building material in any construction document for the building(s); the Architect shall submit a copy of the certification to the Environmental Protection Agency Regional Office and to the Owner, which shall include the certification in its management plan.

§ 12.10 The Architect shall specify in each contract that no ACBM shall be used in the construction of the school building(s).

The Architect also agrees that it will coordinate with the Owner's personnel or the consultant, above referenced, in order to appropriately integrate the replacement of non-hazardous materials, as required under the general contracts, with the asbestos removal and treatment process for the entire construction Project(s). The Owner agrees that it shall place sole reliance upon its personnel and/or the qualified asbestos consultant, and its contractors or subcontractors, as to the means of accomplishing the asbestos removal or treatment process.

Except as expressly provided herein, the Architect shall have no responsibility whatsoever with regard to the identification, analysis, or removal of hazardous materials. The Architect shall require that, upon issuance of the final certificate for payment, each contractor certify to the Owner that to the best of the contractor's knowledge, no ACBM was used in the construction work.

The Architect shall immediately notify the Owner, in writing, of the presence at the Project site of any hazardous substances, construction materials or components of which the Architect is aware.

§ 12.11 (a) If errors and omissions in the Project are detected in the plans and specifications before the Work has been bid, the cost of any re-design required to incorporate the item or feature omitted or to correct the error shall be borne by the Architect. Any additional construction costs in this instance resulting from the inclusion of the omitted item or feature or to correct the error shall be borne by the Owner.

(b) If errors and omissions in the Project are detected in the plans and specifications after the Work has been bid, and if revision, removal or replacement of a portion of the Work is required, the Architect shall pay the cost of redesign and, if the Architect's error or omission was due to professional negligence, then the Architect shall pay for the cost of the revision, removal, and the reconstruction required to incorporate the omission or to correct the error, and the Owner shall be responsible only for the costs it would have incurred had the error or omission not occurred.

(c) The Owner and Architect acknowledge that no set of drawings will be free of errors and that some errors or omissions in the drawings may be within the standard of the industry, and the cost of any such non-negligent errors or omissions may, at the Owner's option, be paid from available construction contingency.

§ 12.12 The Owner reserves the right in its discretion to require consolidation or joinder of mediation arising out of or relating to this Agreement with another mediation involving a person or entity not a party to this Agreement, in the event the Owner believes such consolidation or joinder is necessary in order to resolve a dispute or avoid duplication of time, expense, or effort.

§ 12.13 In the event of mediation arising out of or relating to this Agreement, Owner reserves the right to require that the mediation hearing be conducted in the general area where the Owner's principal place of business is located

§ 12.14. The Architect shall provide the following within its Basic Services:

Services necessitated by recommendations given by the Owner or Construction Manager (as authorized)
Making revisions to drawings because the estimate of the cost of the work exceeds the Owner's budget.
Preparing designs and documentation for alternate bids solely for the purposes of managing the Owner's budget
Preparing for, and attending, public presentations, meetings or hearings.
Preparing for, and attending, a dispute resolution proceeding or legal proceeding.
Evaluating the qualifications of bidders.
Reviewing a contractor's submittal out of sequence from the initial submittal schedule
Responding to all contractor requests for information.
Evaluating all claims as the Initial Decision Maker.

§ 12.15 The Architect, without additional cost to the Owner, shall maintain in force professional liability insurance providing coverage for the Architect for any negligent act in the Architect's rendering of or failure to render Professional services and protecting the Owner for damages arising from results of such errors and omissions. Any "claims made" insurance shall be maintained in force during the life of the Project and for a period of no less than six (6) years following the date of substantial completion. Any "occurrence based" insurance shall be maintained in force during the life of the Project and for a period of no less than twelve (12) months after the date of substantial completion. The Architect shall notify the Owner thirty (30) days in advance if this coverage becomes unavailable or if the coverage amount is substantially changed. The Architect shall provide the Owner with certificates of insurance evidencing the insurance coverage of the Architect, which certificates shall be attached to this Agreement. The Owner shall be listed as "additional insured" on all coverages to the extent reasonably permitted by the carrier.

§ 12.16 The Architect shall produce original drawings and specifications, as well as all construction bulletin drawings and specifications in pdf format acceptable to the Owner as a part of Basic Services. Additionally, the Architect shall assemble and deliver all field drawings used for the Project as a part of Basic Services.

§ 12.17 The Architect shall not utilize photographs of this Project for any advertising or promotional purpose that include the image of any student of the Owner without the express written permission of the parent or guardian of that student if that student is a minor. If the student is of the age of majority or is an emancipated minor, the Architect must obtain express written permission from that student. Such express written permission shall acknowledge the Architect's intent for use of those images. The Owner, in its discretion, may assist the Architect in securing such permission.

§ 12.18 The Architect agrees to provide assistance up to one (1) year beyond the date of substantial completion as a part of Basic Services, as well as a post-occupancy evaluation of the building thirty (30) days prior to the expiration of the last Contractor warranty period. This review shall include architectural, plumbing, mechanical, electrical, civil and structural review of the Project, to determine whether the Project components are performing as specified prior to the expiration of the relevant warranty.

§ 12.19 The Architect shall be accessible to the Owner, either on-site or via communication media, as is necessary to address issues that arise during the Project.

§ 12.20 The Architect will not discriminate against any employee or applicant for employment, to be employed in the performance of this contract, with respect to hire, tenure, conditions or privilege of employment, or any matter directly or indirectly related to employment, because of race, age, sex, color, religion, national origin, ancestry or physical disability. Breach of this covenant may be regarded as a material breach of this Agreement.

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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 Owner and Architect.

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

- .1 AIA Document B133™-2014, Standard Form Agreement Between Owner and Architect, Construction Manager as Constructor Edition, as modified

- .2 AIA Document A201™-2007, General Conditions of the Contract for Construction, as modified. E203™ 2013, Building Information Modeling and Digital Data Exhibit, if completed, or the following:

« »

- .3 Other documents:
(List other documents, if any, including additional scopes of service forming part of the Agreement.)

« »

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

OWNER *(Signature)*

«Charlotte Public Schools
Superintendent of Schools

(Printed name and title)

ARCHITECT *(Signature)*

(Printed name and title)

Modified: