



AIA[®] Document B101[™] – 2017

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the 22nd day of February in the year Two Thousand Twenty-One
(In words, indicate day, month and year.)

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

Central Kitsap Fire & Rescue
5300 Newberry Hill Road, Suite 101
Silverdale, Washington 98383

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

Rice Fergus Miller, Inc.
275 5th Street, Suite 100
Bremerton, Washington 98337

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

Central Kitsap Fire & And Rescue – Fire Station 57
Northwest corner of the intersection of NW Holly Rd and NW Coho Run near
Camp Union, Washington (Kitsap County Parcel 052401-3-049-1001)
RFM Project Number: 2020110.02
CKFR Job Code: CFB57

The Owner and Architect agree as follows.

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

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ARTICLE 1 INITIAL INFORMATION

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

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

The Architect shall design the Project consistent with the Central Kitsap Fire & Rescue Capital Facility Plan and as updated through the execution of this Agreement.

Subject to the Standard of Care, the Project shall be designed and permitted to conform to all applicable State, county, city, and other jurisdictional requirements, standards, and regulations in effect as of the date of the building permit submittal.

§ 1.1.1 The Owner's program for the Project:

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

The design for Fire Station 57 will follow the District's "prototype" plan.

§ 1.1.2 The Project's physical characteristics:

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

Program requirements for the Owner's Prototype Fire Station Plan are described in the Owner's Capital Facilities Plan as modified herein. That plan, as currently modified, envisions this station to be 8,161 square feet in size and include 3 apparatus bays, living and sleeping quarters for 4 personnel, a small public lobby, and commensurate working areas for station personnel.

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§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in ~~Section 6.1~~ Article 6, excluding without limitation the Architect's compensation, is:
(Provide total and, if known, a line item breakdown.)

Construction Budget, including inflation: \$5,793,250.

Total Project Budget, including anticipated soft costs and contingencies: \$7,994,685.

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

.1 Design phase milestone dates, if any:

Completion of Design:	Fourth Quarter 2021
Completion of Construction Documents:	First Quarter 2022

.2 Construction commencement date:

Anticipated Commencement of Construction: Third Quarter 2022

.3 Substantial Completion date or dates:

Anticipated Substantial Completion: Third Quarter 2023

.4 Other milestone dates:

N/A.

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

Competitive bidding pursuant to statutory requirements, including RCW 52.14.110-.120 and Chapter 39.04 RCW.
Prevailing wages are required pursuant to RCW 39.12. The parties do not anticipate fast-track scheduling.

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

None.

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Architect shall complete and incorporate AIA Document E204™ 2017, Sustainable Projects Exhibit, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E204 2017 is incorporated into this agreement, the Owner and Architect shall incorporate the completed E204 2017 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective. [Not used.]

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

Mike Tague, Assistant Chief
Central Kitsap Fire & Rescue
5300 Newberry Hill Road, Suite 101
Silverdale, Washington 98383
(360) 447-3587
mtague@ckfr.org

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

Kitsap County, jurisdictional utility providers, and others as required to review the Architect's submittals.

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

.1 Geotechnical Engineer:

N/A (report already provided)

.2 Civil Engineer:

N/A; to be contracted by the Architect.

.3 Other, if any:

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

Project Manager:
Shannon Thompson, Barker Creek Consulting, LLC.
P.O. Box 20111
Silverdale, WA 98383

All information provided by any Owner's consultants shall be reviewed and coordinated by the Architect and its consultants, and incorporated at no added cost into the Project design as a part of the Architect's Basic Services.

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

Dave Fergus, Principal
Lorie Limson Cook, Project Manager
Jason Ritter, Project Architect
Angie Tomisser, Interior Designer
Rice Fergus Miller, Inc.
275 5th Street, Suite 100
Bremerton, Washington 98337

§ 1.1.11 The Architect shall ~~retain~~ engage consultants qualified by training and experience in their respective fields to address the requirements of the Project. All consultants of the Architect shall be acceptable to Owner. Upon request by the Owner, the Architect shall furnish the Owner with a copy of the Architect's contracts with its consultants. These contracts shall not be inconsistent with the terms of this Agreement. The Architect shall retain, as a part of the Architect's Fee, the consultants identified in Sections 1.1.11.1 and 1.1.11.2; and 1.1.11.2, and the Architect represents that they constitute all consultants reasonably necessary for the performance of the Architect's services. Any individuals identified below with each consultant shall remain actively involved in the Project; to the extent that any such individual is no longer actively involved with the Project, then the Owner has the right to approve the individual's replacement:

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

§ 1.1.11.1 Consultants retained by the Architect under Basic Services:

.1 Structural Engineer:

Reid Middleton, Inc.
728 134th Street SW, Suite 200
Everett, WA 98204

.2 Mechanical Engineer:

Sider & Byers, Inc.
192 Nickerson, Suite 300
Seattle, WA 98109

.3 Electrical Engineer:

Sider & Byers, Inc.
192 Nickerson, Suite 300
Seattle, WA 98109

§ 1.1.11.2 Consultants retained under Supplemental Services:

Civil Engineer:
N.L. Olson & Associates:
2453 Bethel Avenue
Port Orchard, WA 98366

Cost Estimating:
Prodims
520 Kirkland Way, Suite 301
Kirkland, WA 98033

Landscape Architecture:
Lyon Landscape Architects
1015 Pacific Avenue, Suite 203
Tacoma, WA 98402

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

.1 Any services previously provided by the Architect to the Owner specific to this Project (prior to the execution of this Agreement) and not specifically related to preparing the Capital Facilities Plan shall be governed by this Agreement and shall be Basic Services hereunder. The Architect's services hereunder will be consistent with and further develop the services that the Architect previously provided to the Owner.

.2 All references to "days" in this Agreement are to calendar days unless the reference specifically states that it is business or working days.

.3 The Architect and its consultants will undertake and participate in on-going informal value engineering and constructability-review during all phases of the design.

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.4 Documents previously prepared:

Topographic and Boundary Survey previously prepared by Ford Engineering

Conceptual Civil Site Plan previously prepared by N.L.Olson & Associates

Storm Drainage Report previously prepared by N.L.Olson & Associates

Geotechnical Report previously prepared by Cobalt Geosciences

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Architect shall provide prompt notice to the Owner and the Owner and the Architect shall appropriately adjust the Architect's services, schedule for the Architect's services, and the Architect's compensation. ~~The Owner shall compensation and to the extent consistent with this Agreement. The Owner may adjust the Owner's budget for the Cost of the Work or the scope of the Project and the Owner's anticipated design and construction milestones, as necessary, to accommodate market conditions or material changes in the Initial Information.~~

§ 1.3 The parties shall agree upon protocols governing the transmission and use of Instruments of Service and Building Information Models or any other information or documentation in digital form. ~~The parties will use AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data form as set forth in this Section 1.3 and elsewhere in this Agreement:~~

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without written agreement to protocols governing the use of, and reliance on, the information contained in the model ~~and without having those protocols set forth in AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™ 2013, Project Building Information Modeling Protocol Form,~~ shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

§ 1.3.2 The Construction Documents shall be two-dimensional plans and specifications printed and delivered in hard copy or transmitted electronically in a format that will not allow modification of such Construction Documents.

§ 1.3.3 If requested by Owner, Architect shall provide its Revit or other 3D-model to Owner or its Contractor, Subcontractors or Consultants or other third-parties. The Contractor and its Subcontractors or other third-parties, but not the Owner, may be required to sign the Architect's standard Electronic Document Release, or agree to a written BIM Execution Plan, to receive such electronic documents. Architect shall not be liable to the Owner or its Contractor, Subcontractors or Consultants or other third-parties for such entities' use of the Architect's Revit or other 3D-model in lieu of the stamped drawings. Any modifications by Architect that are requested in writing by the Owner to the Revit or 3D models provided to Owner or its Contractor, Subcontractors or Consultants or other third-parties, or any technical assistance with such models, shall be provided as an Additional Service or subject to a written amendment to this Agreement that describes the scope and limitations of such service.

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide professional services as set forth in this ~~Agreement.~~ Agreement during all phases of the Project. The Architect will perform the services through itself, its employees and consultants. The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar ~~circumstances.~~ circumstances (the "Standard of Care"). The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project. The Architect shall cooperate with the Owner, the Contractor, authorities having jurisdiction, and others for the benefit of the Project and shall maintain good working relationships among all members of the Project team and other persons or entities employed by each of them, to the fullest extent possible in order to further the interests of the Owner and effect prompt completion of the Project within the requirements of the Contract Time and the Contract Sum. The Architect's design shall fit the Owner's program within the physical environment of the Project site.

§ 2.3 ~~The Architect shall identify a representative~~ has identified a representative in Section 1.1.10 who is authorized to act on behalf of the Architect with respect to the Project. The representative shall not be removed from any phase of the Project without the prior written consent of the Owner. The individual(s) listed in Section 1.1.10 shall be actively involved in all phases of the Project, shall be the prime contact with the Owner, and so long as that individual is employed by Architect, shall not be changed without the Owner's consent, which shall not be unreasonably withheld. Changing the Architect's representative without the Owner's consent shall constitute cause for termination for cause under this Agreement.

§ 2.3.1 Each person who performs the services shall be experienced and qualified to perform the services he or she performs, and the Owner shall be entitled to rely upon any assistance, guidance, direction, advice, or other services provided by any such person. If requested by the Owner, the Architect shall remove from the services, without cost to the Owner or delay to the Project, any person whose removal the Owner reasonably requests.

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

§ 2.5 ~~The Architect shall maintain the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9, shall, at its sole cost and expense, maintain the following insurance as described below until termination of this Agreement. All insurance placed in order to comply with this Agreement shall be with an insurance company with a Best Rating of A- XI or better. The Owner must approve in writing any deviation from these requirements.~~

§ 2.5.1 Commercial General Liability with policy limits of not less than ~~(\$) two million dollars (\$2,000,000)~~ for each occurrence and ~~(\$) two million dollars (\$2,000,000)~~ in the aggregate for bodily injury and property damage.

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

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

§ 2.5.4 To the extent required by law, Workers' Compensation at statutory limits.

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

§ 2.5.6 Professional Liability ~~covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than (\$) per claim and (\$) in the aggregate as set forth below.~~

The Architect will maintain during the six (6) years after Substantial Completion professional errors and omissions insurance in an amount no less than \$5,000,000 per claim and \$5,000,000 aggregate (deductible of up to \$75,000 permitted) for damages that may result in any way from the Architect's professional negligence. The Architect shall promptly notify the Owner of any material changes to, interruption of, or termination of this insurance. The Architect shall contractually require its consultants of any tier to maintain professional errors and omissions insurance in an amount of at least \$1,000,000, unless otherwise agreed by the Owner. If professional errors and omissions insurance is

not reasonably available for a class of consultants, or not reasonably available in the future to the Architect, the Architect must so notify the Owner immediately.

§ 2.5.7 Additional Insured Obligations. To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner ~~as an additional insured~~ and its commissioners, directors and employees as insureds for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations. Such certificates of insurance shall have additional endorsements attached (including renewal or replacement certificates) acceptable to the Owner and signed by the insurer or its authorized representative, certifying that the policies providing insurance of this kind and coverage are in full force and effect. The certificates shall further certify that the policies shall not expire, be cancelled or be materially changed by either party without giving the Owner thirty (30) days' prior notice of such expiration, cancellation or change. The foregoing requirements as to insurance and acceptability to the Owner of insurers shall not in any manner limit or qualify the liabilities or obligations assumed by the Architect under this Agreement.

§ 2.5.8 ~~The All~~ such insurance shall be placed with such insurers and under such forms and limits of policies as are reasonably acceptable to the Owner. Within ten days of execution of this Agreement and annually thereafter, the Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5.

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 and ~~include usual and customary structural, mechanical, and electrical engineering services, as otherwise stated in this Agreement and the Capital Facility Plan as it relates to this Project, and including those provided by the consultants identified in Section 1.1.12.1,~~ and include usual and customary structural, civil, landscape, mechanical, electrical, and the other engineering services that, subject to the Standard of Care, are necessary to produce a reasonably complete and accurate set of Construction Documents. Services not set forth in this Article 3 ~~are Supplemental or Additional Services or otherwise in this Agreement are Supplemental or Additional Services.~~ Only Additional or Supplemental Services that are not already required by this Agreement shall entitle the Architect to an increase in its Fee. The Architect shall provide to the Owner the submittals required by this Agreement. The Architect's submittals shall include both hard copy documents and electronic .PDF files (to be provided on USB flash drive) and shall be provided in the quantities identified by the Owner. .PDF files shall include bookmarks for each design discipline and sheet.

§ 3.1.1 The Architect shall manage the Architect's services, and the services of the Architect's consultants, and administer the Project to the extent specified in this Agreement. The Architect shall consult with the Owner, research applicable design criteria, attend and prepare minutes for public and private community, utility, authorities having jurisdiction, pre-construction, bidding, and construction progress Project meetings, communicate with members of the Project team, and report progress to the Owner. The Architect shall promptly provide the Owner with field reports in a mutually agreed format for all site visits and review and comment on meetings with the Contractor, Subcontractors of any tier, suppliers, governmental authorities having jurisdiction or the Owner's consultants. The Architect shall also provide (as it relates to the Architect's Services and not for the Contractor's services) an organization chart, management plan for the Project, an account of its quality control procedures, and a monthly status report and schedule in a format approved by the Owner. During construction, the Architect will maintain and provide construction logs for submittal reviews, Requests for Information, Architect's Supplemental Instructions, Requests for Proposal, and Construction Change Directives, on a weekly basis. During construction, the Architect will review the Contractor's and Subcontractors' as-built mark-up drawings on a monthly basis in sequence with the Architect's and Owner's monthly review of payment applications. Such review and approval of the Contractor's as-builts does not make the Architect responsible for ensuring that the Contractor's as-builts are accurate or complete.

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

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The Architect's initial schedule shall be consistent with the milestones identified in Section 1.1.4 and may be adjusted in writing by mutual consent of the parties as the Project proceeds. The schedule initially shall include anticipated dates for the commencement of construction-construction, for milestones, for costs estimates and design services, and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. The schedule shall also include milestone dates for required progress printing, utility coordination meetings, and milestone dates for required utility and AHJ submittals. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

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

§ 3.1.5 The Architect shall, subject to the Standard of Care, review and comply with currently existing laws, codes, and regulations applicable to the Architect's services, including without limitation the Americans with Disabilities Act ("ADA"). The Architect shall contractually require that the services of all the Architect's consultants also comply, subject to the Standard of Care, with currently existing laws, codes, regulations and governmental authorities. The Architect shall promptly notify the Owner of the nature and impact of any conflict between laws, codes, and regulations applicable to their services and with the requirements of various governmental entities having jurisdiction over the Project, and the Owner will cooperate with the Architect in an effort to resolve the conflict. The Architect shall at appropriate times and consistent with the schedule approved by the Owner contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities.

§ 3.1.5.1 The Architect's Basic Services include coordinating and attending regular meetings with the Owner's staff and consultants to gather information and ideas from appropriate stakeholders. Initial meetings should occur in the earliest stages of design. The ideas and suggestions generated in these meetings will be considered and, if accepted by the Owner, implemented by the Architect in the design. The Architect will include an appropriate staff member of the Owner in all stakeholder meetings. The Architect will also inform the Owner of all communications between the Architect (including its consultants) and stakeholders, and will present all design drawings, sketches, product information, and specifications to the Owner for review and comment prior to any presentation to stakeholders.

§ 3.1.6 The Architect shall, in a timely manner to not delay the orderly progress of the Project, prepare and file appropriate Instruments of Service and shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project, jurisdiction over the Project and in obtaining such required approvals. The Architect and its consultants as appropriate shall coordinate and attend meetings with governmental bodies and utility providers. The Architect shall provide separate packages of documents for local, state and other applicable permit applications as necessary, shall coordinate and attend meetings with governmental bodies, and shall make application for and coordinate all necessary all necessary master use, zoning, land use, right-of-way, building permits, and utility applications. As part of Basic Services, the Architect shall make all revisions to the Construction Documents required by state, local and other applicable reviews by authorities with jurisdiction over the Project as required to comply with their interpretations of applicable codes and laws in effect as of the date of permit application. The Owner shall fully cooperate in all of these endeavors.

§ 3.1.7 The Architect shall, at no cost to the Owner, promptly and satisfactorily correct any services which are defective or not in conformity with the requirements of this Agreement unless the Owner directs the Architect to not perform corrective action. If the Architect fails to make such correction within a reasonable time of written notice from the Owner, the Owner may do so, by contract or otherwise, and recover (e.g., by offset against the compensation otherwise payable under this Agreement) the cost from the Architect. The obligations of the Architect to correct defective or nonconforming services shall not in any way limit any other obligations of the Architect. The Owner's right to make corrections and charge the Architect therefore is in addition to any and all other rights and remedies available to the Owner under this Agreement or otherwise by law and shall in no event be construed or interpreted as obligating the Owner to make any correction of defective or nonconforming services. Nothing in this paragraph

constitutes a waiver of Architect's right to dispute any assertion that its services are defective or not in conformity with the requirements of this Agreement. In the event Architect disputes such an assertion, the dispute shall be resolved as provided in Article 8 of this Agreement.

§ 3.1.8 Any subcontracting of the services shall not relieve the Architect from its responsibility for the performance of the services in accordance with the terms of this Agreement nor from its responsibility for the performance of any of its other obligations under this Agreement.

§ 3.1.9 The Architect shall be and operate as an independent contractor in the performance of the Services and shall be responsible for its own personnel, the Services it provides, and the services provided by its consultants. Nothing contained in this Agreement shall be deemed to create any association, partnership, joint venture or relationship of principal and agent or master and servant between or among the parties to this Agreement or their affiliates or subsidiaries. The Architect shall perform the services in accordance with its own methods in an orderly and professional manner. In no event shall the Architect be authorized to act on behalf of the Owner to: create any duties or obligations, enter into any agreements or undertakings, waive any provisions of the Contract Documents; receive or accept notice under the Contract for Construction, execute any Certificate for Payment, Change Order or other document; initiate any direction (such as an RFI response or ASI) that results in a change in the Contract Sum or Time; authorize any payments or accept or approve any documents, Work, services, goods or materials which result in a change in the construction Contract Sum or Contract Time, or act as or be an agent or employee of the Owner.

§ 3.1.10 The Architect shall enforce strict discipline and good order among the Architect's employees, consultants, and other persons carrying out the Agreement, including observance of drug testing and all smoking, tobacco, alcohol, parking, safety, weapons, background checks, sexual harassment, and other rules governing the conduct of personnel on the Owner's property. The Architect shall not permit employment of unfit persons or persons not skilled in tasks assigned to them. The Architect shall ensure that all persons performing the Services under this Agreement comply with the Owner's tobacco-free use policy and will not and do not engage in inappropriate conduct or inappropriate contact with staff.

§ 3.1.11 Any employees of the Architect and its consultants of any tier performing Services on the Owner's property on the site shall be free from drug and alcohol impairments. If the Owner reasonably believes that a person may be under the influence of any such drugs or alcohol, the Owner may require that testing take place immediately and failure to do so may be grounds for the immediate termination of the offending consultant/Architect.

§ 3.1.12 The Architect shall submit design and review documents to the Owner as described in this Agreement as well as at intervals appropriate to the design process for purposes of evaluation, review, and approval by the Owner. Upon request of the Owner, the Architect shall make presentations as described in this Agreement to explain the design of the Project to representatives of the Owner. The Architect shall be entitled to rely on written approvals received from the Owner in the further development of the design. However, the Owner's approval of design documents shall in no way be construed as a waiver of any rights or requirements as set forth in this Agreement.

§ 3.2 Schematic Design Phase Services

§ 3.2.1 The Architect shall review the program and other information furnished by the ~~Owner~~, Owner and otherwise known to the Architect, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, the proposed procurement and delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner in a timely manner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the ~~Owner~~ Owner, which the Architect shall confirm in writing, regarding the requirements of the Project.

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

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

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

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

§ 3.2.5.3 The Schematic Design Documents shall include:

- .1 Studies of the site plan; floor plans and elevations (including floor-to-floor dimensions), which shall be sufficient to indicate site topography, plan arrangements (including all rooms and areas, entrances, exits, elevators, corridors, toilet rooms, and major mechanical and electrical areas) and the general scope and character of the Project,
- .2 A summary of total net and gross areas of the building,
- .3 Schematic plans and studies and design analyses of the mechanical, electrical, civil, landscape and structural systems, including all design disciplines,
- .4 An analysis of surface water, parking, setbacks, street improvements and access, and other zoning and land use issues;
- .5 An identification of utility locations based upon site surveys and other known information; and
- .6 A description of possible alternates.

§ 3.2.5.4 During this phase, the Architect will meet with applicable building and planning officials, the Fire Marshal, health officials, gas, power, water and sewer providers, and potential staff and neighborhood community groups, and the consultants of any of them, as required.

§ 3.2.6 The Architect shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3. The Architect shall meet with the Owner to review the Architect's estimate of the Cost of the Work based on 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.

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

§ 3.3 Design Development Phase Services

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

- .1 A proposed time schedule for the Project through Final Completion;
- .2 Confirmation of the net and gross areas of the building;
- .3 An outline specifications in C.S.I. format:
 - (1) Architectural—revised and expanded general description of the construction, including interior finishes, types and locations of acoustical treatment, typical and special floor coverings,

- (2) Mechanical—description of the heating and ventilation systems and controls, duct and piping systems,
- (3) Electrical—description of electrical services, including voltage, type and number of feeders, and lighting system and levels;
- (4) Civil—earthwork and utility connections; and
- (5) Landscape—planting plan, irrigation, play fields/areas, and equipment;
- .4 Architectural Drawings:**
 - (1) floor plans, including space assignment, sizes, and location of installed or fixed and moveable equipment that affects the design of the spaces,
 - (2) elevations, including exterior design elements and features, such as windows, materials, and mechanical and electrical features on walls and roofs, and interior elevations establishing the Owner's functional requirements, equipment and systems locations, and
 - (3) building and wall sections, including floor-to-floor dimensions, materials, openings and major features;
- .5 Structural Drawings:**
 - (1) plans and sections to show the extent and type of foundations and framing, and
 - (2) details and notes to show the structure's conformance to the provisions of applicable codes;
- .6 Mechanical Drawings:**
 - (1) plans showing single-line layouts with approximate sizing of major duct and piping systems on architectural plan backgrounds, and space assignment, sizes, and outline of central heating, cooling, and ventilation requirements, and
 - (2) section through critical areas and corridors, showing coordination of architectural, structural, mechanical and electrical elements;
- .7 Electrical Drawings:**
 - (1) plans showing space assignments, sizes, and outline of fixed equipment such as transformers, switch gear and generator sets;
 - (2) typical lighting layout coordinated with the established ceiling system; and
 - (3) layout for power, low-voltage, data, security, telecommunications, and fire alarm systems.
- .8 Civil Drawings:**
 - (1) site plan;
 - (2) grading plan; and
 - (3) utility plan;
- .9 Landscape Drawings:**
 - (1) site landscaping plan;
 - (2) planting plan; and
 - (3) irrigation plans.

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

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval. Before the Architect proceeds with the Construction Documents phase, the Architect shall present its design to the Owner, and the Owner must approve in writing completion of the Design Development Phase.

§ 3.3.4 During this phase, the Architect will meet with the Owner's maintenance staff, applicable building and planning officials, electricity, natural gas, water, and sewer providers, the Fire Marshal, health officials, and its consultants as required. The Architect will also meet with the Owner at least weekly or as required to facilitate the completion of the design. The agenda of these meetings will be determined by the Architect as appropriate to the stage of design and will include topics of specific interest or concern, such as budget, schedule and permits.

§ 3.4 Construction Documents Phase Services

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the coordinated design requirements for construction of the Project, the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Architect shall incorporate the Owner's consultants' documents into the Construction Documents as a part of Basic

Services. The Owner and Architect acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3-6.4.3.6.4 and this Agreement.

- .1 The Construction Documents in a 95% complete condition shall be provided to the Owner at least fifteen (15) days prior to the first planned bidding advertisement date. The Owner will provide its comments within ten (10) days of receipt.
- .2 The Owner will provide the Architect with a draft of the proposed "front-end documents" for comment; the Owner will provide the Contract for Construction and Instructions to Bidders.
- .3 The Construction Documents shall, consistent with the standard of care, comply with applicable federal, state and local laws and regulations and shall set forth sufficient information to provide proper guidance for all Divisions of the Work.
- .4 At a minimum, all architectural and consultants plans, with their respective structural, civil, landscape, utility, mechanical, and electrical components, shall be provided to the Owner in an electronic medium that is compatible and usable by the Owner. In addition, all schedules and schematic diagrams should also be included.

§ 3.4.2 During this Phase, the Architect will respond to comments from the building and planning officials and meet with the Owner and its consultants. The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of prepare the (1) procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms; and shall assist the Owner in the development and preparation of (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include bidding requirements and sample forms. The Architect shall endeavor to ensure that the portions of the specification that it provides do not conflict with the Agreement, Instructions to Bidders, and General and Supplemental Conditions provided by the District.

§ 3.4.4 The Architect shall update the estimate for the Cost of the Work prepared in accordance with Section 6.3. This adjusted estimate shall include a base cost that is intended not to exceed the budget and shall also include an itemization of Owner-approved alternate bids proposed and the estimated cost increase or deduction for each.

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

§ 3.5 Procurement Phase Services

§ 3.5.1 General

The Architect shall assist the Owner in establishing a list of prospective ~~contractors~~ contractors and in attracting, promoting, educating potential bidders, and obtaining competitive bids. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner in (1) obtaining ~~either competitive bids or negotiated proposals~~; (2) ~~confirming responsiveness of bids or proposals~~; (3) ~~determining the successful bid or proposal~~; competitive bids; (2) confirming responsiveness of bids; (3) determining the successful bid, if any; and, (4) awarding and preparing contracts for construction. The Architect shall assist the Owner in bid validation and determination of the successful bid, if any. If requested by the Owner, the Architect shall notify all prospective bidders of the bid results.

§ 3.5.2 Competitive Bidding

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

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

- .1 facilitating the distribution or on-line communication of Bidding Documents to prospective bidders;
- .2 organizing and conducting a pre-bid conference for prospective bidders;
- .3 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to the prospective bidders whether written or asked during the pre-bid meeting in the form of addenda; and,

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

The Owner shall, at its option, pay directly for the cost of reproduction or shall reimburse the Architect for such expenses procuring the reproduction of Bidding Documents for distribution to prospective bidders. Further, if requested by the Owner, the Architect shall distribute, or assist in the distribution of, the Bidding Documents to prospective bidders and request their return upon completion of the bidding process. The reproduction company shall maintain a log of distribution and retrieval, and the amounts of deposits, if any, received from and returned to prospective bidders. The Architect shall assist in preparing the required advertisements for bids and shall provide necessary bidding documents for issuance to potential bidders. The reproduction company shall maintain a list of plan holders and regularly inform the Owner of their identities. The Architect shall prepare and issue necessary addenda, attend training sessions, the pre-bid conference and bid opening, tabulate the bids and generally assist in evaluating the bids. The Architect shall provide the Owner with a Bid Tabulation form with dollar figures for each line item filled in consistent with the Architect's estimate at least two days prior to the Bid Opening.

§ 3.5.2.3 If the Bidding Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions, shall submit substitutions for the Owner's consideration, and if the Owner approves the substitution in writing, shall prepare and distribute addenda identifying approved substitutions to the reproduction company or to all prospective bidders.

§ 3.5.3 Negotiated Proposals

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

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

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

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

§ 3.5.2.4 The Architect shall in a timely manner prepare responses to questions from prospective bidders and provide written clarifications and interpretations of the Bidding Documents to all prospective bidders in the form of addenda. The Architect shall consult with the Owner prior to issuing any addenda. The Architect shall not approve substitution requests during bidding or after contract award unless written permission from the Owner is obtained. The Architect must make a written recommendation to the Owner for all Substitution Requests that they would like approved. The recommendation must include the perceived benefit to the Owner.

§ 3.5.2.5 If requested by the Owner and at the Owner's direction, the Architect shall: (1) participate in or organize and conduct the opening of the bids; (2) document and distribute the bidding results; and (3) participate in a pre-award conference with the Contractor.

§ 3.5.2.6 The Architect shall assist the Owner in undertaking a reasonable investigation of the "responsibility" of the apparent lowest bidder regarding:

- .1 The ability, capacity, and skill of the bidders to perform the contract;
- .2 The character, integrity, reputation, judgment, experience, and efficiency of the bidders;
- .3 Whether the bidders can perform the contract within the time specified;
- .4 The quality of performance of previous contracts;
- .5 The previous and existing compliance by the bidders with laws relating to the contract;
- .6 Such other information as may be secured having a bearing on the decision to award the contract; and
- .7 Any other responsibility requirements listed in the bidding documents or Instructions to Bidders.

The Architect shall report its findings to the Owner, which will release defend, indemnify, and hold the Architect harmless from any claim by a disappointed bidder arising out of these findings. The Architect does not warrant or guarantee the bidder's ability, performance or financial solvency.

§ 3.5.2.7 Following the bid opening, as a part of Basic Services, the Architect shall issue a Conformed Set of Contract Documents, consisting of the Bidding Documents with all Addenda items inserted. The Owner shall, at its option, pay directly for the cost of reproduction or reimburse the Architect for such expenses. The Architect shall, as part of its Basic Services, provide the Owner with a digital copy of the Conformed Documents, consisting of .PDF files, Drawings and Project Manual, indexed by Specification section, Drawing sheet and title. The Drawing file shall include bookmarks for each discipline and for each sheet. The Auto CAD files shall be named to correspond to sheet name and number. The Project Manual file shall include bookmarks for each Division and Section.

§ 3.6 Construction Phase Services

§ 3.6.1 General

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

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

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

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site and issue reports, and not less than on average once per week for the weekly Construction Progress Meeting, while the Work is in progress, and at intervals appropriate to the stage of construction, or as otherwise required in this Agreement and Section 4.2.3, to become generally familiar with and to keep the Owner informed about the progress and quality of the portion of the Work completed, and to determine, in general, and for the Owner's benefit and protection, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not in accordance with the Contract Documents and the Contractor's construction schedule. The Architect shall contractually require its consultants to visit the site while their portion of the Work is underway, as often as appropriate to the stage of construction related to their services or as otherwise agreed by the Owner and Architect in writing to observe the Work; to become familiar with the progress and quality of the Work; and to determine for the Owner's benefit and protection if the Work is proceeding in general accordance with the requirements established in the Contract Documents and with the construction schedule. However, neither the Architect nor its consultants shall be required to make exhaustive or continuous on-site observations or any inspections to check the quality or quantity of the Work. Work, unless as mutually agreed by Architect and Owner. On the basis of the site visits, the Architect shall document and keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and Work, shall endeavor to guard the Owner against defects and deficiencies in the Work, and shall promptly report to the

Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

§ 3.6.2.2 ~~The Architect has the authority to reject Work~~ shall consult with the Owner about whether to reject any Work coming to the attention of the Architect that does not conform to the Contract Documents. The Architect shall communicate the Owner's decision regarding rejection of Work to the Contractor. Whenever the Architect considers it necessary or advisable, the Architect ~~shall have the authority to require~~ will recommend to the Owner inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. ~~However, neither this authority~~ The Architect's monitoring of such additional testing or inspection would be provided as an Additional Service if required or requested. However, neither recommendations of the Architect nor a decision made in good faith either to ~~exercise~~ make or not to ~~exercise~~ such authority ~~make such recommendations~~ shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Architect shall interpret and initially decide matters concerning performance under, and requirements of, the Drawings and Specifications and shall assist the Owner in the interpretation of all other Contract Documents and the Contractor's performance thereunder on written request of either the Owner or Contractor. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness. The Architect (or its applicable consultants) shall take the lead role with code agencies in resolving questions, interpretations and conflicts.

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

§ 3.6.2.5 ~~Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201-2017, the Architect shall render initial decisions on Claims between the Owner and Contractor.~~ Upon the Owner's written request, the Architect shall provide advice within a reasonable time on all claims, disputes or other matters in question between the Owner and Contractor relating to the physical execution of the Work or the interpretation of the Drawings or Specifications. Such interpretations shall not be attributable to the Owner and shall be subject to dispute resolution as provided in the Contract Documents. Such advice and interpretations shall be paid as an Additional Service unless such claims, disputes or other matters in question were the result of errors or omissions in the Architect's design documents.

§ 3.6.2.6 The Architect and Owner shall schedule and attend, and the Contractor shall run, Project status meetings. The Architect shall secure the attendance of its consultants at these meetings when such attendance may be required to facilitate advancement of the Project. The Architect shall submit to the Owner within two working days of the relevant event copies of all field reports.

§ 3.6.3 Certificates for Payment to Contractor

§ 3.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall promptly 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 of the Contractor's construction schedule, schedule of values, updates, monthly review of as-builts, and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) made exhaustive or continuous on-site observations or inspections to check the quality or quantity of the Work, (2) reviewed

construction means, methods, techniques, sequences or procedures, (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 3.6.3.3 The Architect shall maintain a written record of the Applications and Certificates for Payment for Payment for the Owner's benefit.

§ 3.6.3.4 The Architect shall issue a final certificate for payment representing to the Owner to the best of the Architect's knowledge and belief the Work is completed and in compliance with the requirements of the construction contract documents.

§ 3.6.4 Submittals

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

§ 3.6.4.2 The Architect shall review and approve, or take other diligently review, attempting to identify inconsistencies or discrepancies between submittals and the requirements of the Contract Documents, and take appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall prepare a log of all required submittals and shall provide an update of the log at each weekly construction meeting. The Architect shall not change the Contract Documents, the Contract Sum, or Contract Time through review comments on a submittal or an RFI, but only through a Change Order or Construction Change Directive signed by the Owner. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's review or approval of a specific item shall not indicate approval of an assembly of which the item is a component. The Architect shall not approve substitution requests during bidding or after contract award unless written permission from the Owner is obtained.

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

§ 3.6.4.4 Subject to Section 4.2, As part of Basic Services, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the Documents with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. The Contract Documents shall set forth the requirements for requests for information. Requests for information shall include, at a minimum, a detailed-written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information. The Architect shall not change the Contract Documents, the Contract Sum, or Contract Time through an RFI response, but only through a Change Order or Construction Change Directive signed by the Owner, or a supplemental instruction approved by Owner. The Architect shall endeavor to issue a complete written response to

each Request for Information from the Contractor (along with necessary drawings, specifications, and other documents) with the promptness necessary to avoid unnecessary delay and cost. The Architect's response to the Contractor, when applicable, shall include the Owner's concurrence when provided by the Owner in writing. If deemed necessary and/or appropriate by the Owner or Architect, the Architect shall prepare and issue supplemental Drawings and Specifications in response to requests for information. The Architect shall maintain written records and logs relative to requests for information for the Owner's benefit. The Architect shall submit weekly logs to the Owner categorizing all requests for information and the Architect's responses.

§ 3.6.4.5 The Architect shall review the schedule of submittals furnished by the Contractor, verify its completeness, and require any changes to that schedule that it determines to be appropriate, maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents. Copies of submittal logs shall be provided to the Owner regularly.

§ 3.6.5 Changes in the Work

§ 3.6.5.1 The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, Article 4, the Architect shall prepare Proposal Requests, Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents. If necessary, the Architect shall prepare, reproduce and distribute Drawings and Specifications and other necessary supporting documentation and data to describe Work to be added, deleted, or modified. Basic Services shall include providing recommendations concerning proposed Change Orders or Construction Change Directives, and all aspects of the preparation and processing of Change Orders and Construction Change Directives to the extent resulting from errors, omissions or deficiencies in the Contract Documents prepared by the Architect.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work-written records and logs relative to changes in the Work for the Owner's benefit. These shall include records relating to approved changes requested by the Contractor. The Architect shall submit weekly logs to the Owner categorizing all Proposal Requests, Construction Change Directives, Change Orders, and Submittals processed. Logs shall include the status of documents and any cross-references and dollar amounts associated with the particular document.

§ 3.6.5.3 The Architect shall review and, through the Owner, promptly respond to requests for changes in the Work, including Contractor requested adjustments to the Contract Sum or Contract Time. If the Architect determines that requested changes in the Work are not materially different from the requirements of the Contract Documents, the Architect may issue an order for a minor change in the Work pursuant to Section 3.6.5.1 or recommend to the Owner that the requested change be denied. If the Architect determines that implementation of the requested changes would result in a material change to the Contract Time or Contract Sum, the Architect shall make a recommendation to the Owner, who may authorize further investigation by the Architect of such change and of the Contractor's representation regarding changes in Contract Time and Contract Sum. Further investigation by the Architect shall be provided as an Additional Service pursuant to Section 4.2.2.3. Upon such authorization, and based upon information furnished by the Contractor, if any, the Architect shall review the Contractor's estimate and recommend to the Owner the additional cost and time that might result from such change, including any additional costs attributable to Additional Services of the Architect. With the Owner's approval, the Architect shall incorporate those estimates into a Change Order or other appropriate documentation for the Owner's review and confirmation, and execution or negotiation with the Contractor.

§ 3.6.5.4 All approved modifications (Change Orders, Construction Change Directives, Supplemental Instructions) as well as drawings issued in response to RFI, provided by the Architect during the course of construction shall be incorporated into the Architect's record drawings as provided Section 3.6.6.3.1.

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect and its consultants shall:

- .1 conduct inspections to determine reviews regarding the date or dates of Substantial Completion and the date of final completion;Final Completion;
- .2 issue Certificates of Substantial Completion;Completion with the Owner's consent;

- .3 forward to the Owner, for the Owner's review and records, written warranties and related close-out documents required by the Contract Documents and received from the Contractor; Contractor (reviewed for completeness against the requirements of the Contract Documents by the Architect); and,
- .4 issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The Architect's inspections-reviews shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected. The Architect shall report known deviations or inaccuracies of the Contractor's list, but shall not be responsible for Contractor's failure to provide an accurate list or complete the work in accordance with the Contract Documents.

§ 3.6.6.3 When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work. At Substantial Completion the Architect, in conjunction with applicable consultants, shall augment the Contractor's "punch list" of observed items requiring correction, completion or replacement by the Contractor.

§ 3.6.6.3.1 As part of Basic Services, the Architect shall specify that the Contractor provide at Final Completion one complete set of all Shop Drawings, related product data, and other submittals, bound and organized according to the relevant Specification. As part of Basic Services, the Architect shall review the Contractor's as-built drawings to determine whether they include the locations of water, sewer, telephone, electric, gas, and any other utility lines. Based on the Contractor's as-built plans and specifications, and as an Additional Services, the Architect shall prepare and provide the Owner with the following Record Documents. Record Documents shall include all significant changes made during the construction process and known to the Architect or its consultants (including without limitation supplemental drawings such as RFI responses, ASIs, and CCDs), including changes to electrical service panel schedules.

- .1 One electronic copy of the complete Record Drawings in .PDF format with bookmarks for each Section (discipline) and Sheet.
- .2 Three full-sized, edge bound, hard copies of the complete Record Drawings.
- .3 One electronic copy of the complete Record Project Manual in a single .PDF file, with bookmarks for each Division and Section.
- .4 The Contractor's field set (as received from the Contractor) showing notations and edits made during construction.

The Record Drawings shall include all Contract drawings, including without limitation all floor plans, doors and finish schedules, reflected ceiling plans, mechanical/ electrical/ structural plans, site plans, and all drawings modified by ASIs, RFIs, COPs, CCDs, and Change Orders.

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

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting-visit the site as reasonably requested by the Owner, participate in a meeting or meetings with the Owner to review the facility operations and performance and performance, to review correction-period items, and to make appropriate recommendations to the Owner. At the beginning of the final month of the one-year correction period, the Architect shall review the Project and report in writing any discrepancies observed. This review does not require an inspection or any testing. The Architect shall cooperate with the Owner to actively pursue and resolve issues regarding discrepancies or defects in the Work.

§ 3.6.6.6 As a part of the Architect's Basic Services, the Architect and its consultants, in particular its mechanical and electrical consultants, shall actively participate in commissioning and be a part of the commissioning team. The

Architect and its consultants shall provide information and assistance to the Owner and the Owner's commissioning agent as needed for the commissioning process, consult and cooperate with the Owner's commissioning agent, including attendance at all Commissioning meetings by the Architect and Mechanical and Electrical Engineers. The Contractor will be responsible to coordinate the commissioning of all designated systems. Commissioning shall demonstrate that each designated system operates as designed and specified. The Contractor will also be responsible to prepare for Owner approval a checklist of operations and tests to illustrate that each designated system is operational and to measure the performance of such systems. In addition to these Basic Services, the Architect's Mechanical Engineer shall, as part of Basic Services, attend commissioning meetings, track the commissioning agent's log of the commissioning, coordinate the comparison of performance with specification, and assist the commissioning agent in training Owner representatives.

§ 3.6.6.7 The Architect shall further receive and forward to the Owner for the Owner's review and use, all written warranties, O&M manuals, and related documents required by the Contract Documents and assembled by the Contractor. The Architect shall assist in supplying information, advice and communication with respect to the warranty or correction periods of the Contract for Construction. The Architect and the Owner shall cooperate in reviewing and securing the correction of defective work.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

§ 4.1.1 The services listed below, unless listed as the Architect's responsibility, are not included in the Basic Services or Additional Services Fee but may be required for the Project. The Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect's responsibility, and Services listed below designated as the Architect's responsibility or which require the Architect's cooperation are included within the Architect's Fee. If the Responsibility column lists "Owner" or "N/A," and if the Architect is required by the Owner to perform the Service, then it becomes a Supplemental Service entitling the Architect to an additional Fee. The Architect shall provide Supplemental Services only if specifically requested in writing by the Owner, in which case the Owner shall compensate the Architect as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project. This list is not intended to change duties specified in other provisions of this Agreement.

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

Supplemental Services	Responsibility (Architect, Owner, or not provided)
§ 4.1.1.1 Programming	Previously Provided by Architect
§ 4.1.1.2 Multiple preliminary designs	Previously Provided by Architect
§ 4.1.1.3 Measured drawings	N/A
§ 4.1.1.4 Existing facilities surveys	N/A
§ 4.1.1.5 Site evaluation and planning	Previously Provided by Architect
§ 4.1.1.6 Building Information Model management responsibilities	N/A
§ 4.1.1.7 Development of Building Information Models for post construction use	N/A
§ 4.1.1.8 Civil engineering	Architect
§ 4.1.1.9 Landscape design	Architect
§ 4.1.1.10 Architectural interior design	Architect
§ 4.1.1.11 Value analysis	N/A
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	Architect
§ 4.1.1.13 On-site project representation	Owner; Architect to the extent described herein

Supplemental Services	Responsibility (Architect, Owner, or not provided)
§ 4.1.1.14 Conformed documents for construction	<u>N/A</u>
§ 4.1.1.15 As-designed record drawings	<u>N/A</u>
§ 4.1.1.16 As-constructed record drawings	<u>Contractor</u>
§ 4.1.1.17 Post-occupancy evaluation	<u>N/A</u>
§ 4.1.1.18 Facility support services	<u>N/A</u>
§ 4.1.1.19 Tenant-related services	<u>N/A</u>
§ 4.1.1.20 Architect's coordination of the Owner's consultants	<u>N/A</u>
§ 4.1.1.21 Telecommunications/data design	<u>Owner</u>
§ 4.1.1.22 Security Systems evaluation and planning	<u>Owner</u>
§ 4.1.1.23 Commissioning	<u>Owner</u>
§ 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3	<u>N/A</u>
§ 4.1.1.25 Fast-track design services	<u>N/A</u>
§ 4.1.1.26 Multiple bid packages	<u>N/A</u>
§ 4.1.1.27 Historic preservation	<u>N/A</u>
§ 4.1.1.28 Furniture, furnishings, and equipment design	<u>Architect, if requested, as an Additional Service</u>
§ 4.1.1.29 Other services provided by specialty Consultants	<u>As provided in this Agreement</u>
§ 4.1.1.30 Other Supplemental Services	<u>As provided in this Agreement</u>

§ 4.1.2 Description of Supplemental Services

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

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

As described in this Agreement and Exhibits.

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

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

N/A.

§ 4.1.3 If the Owner identified a Sustainable Objective in Article 1, the Architect shall provide, as a Supplemental Service, the Sustainability Services required in AIA Document E204™-2017, Sustainable Projects Exhibit, attached to this Agreement. The Owner shall compensate the Architect as provided in Section 11.2. [Not used.]

§ 4.2 Architect's Additional Services

The Architect may provide Additional Services beyond those listed as the Architect's responsibility in this Agreement after execution of this Agreement without invalidating the Agreement, if mutually agreed in writing by the Owner and Architect. The Architect shall not move forward in rendering such Additional Services without the written permission of the Owner. In the absence of mutual agreement in writing, but subject to Section 4.2.2 below, the Architect shall promptly notify the Owner prior to providing any services requiring an adjustment in the Architect's compensation and shall specify the proposed adjustment. Failure to provide such timely written notice shall be a waiver of any compensation for Additional Services. If requested by the Owner in writing, the Architect shall proceed

with Additional Services even if the parties have not yet agreed to the change in compensation; and in the absence of agreement, compensation shall be on a time and materials basis at Architect's or its consultants' hourly rates as provided in Exhibit A. If the Owner deems that all or a part of such Additional Services is not required, the Owner shall give prompt written notice to the Architect, and the Architect shall have no obligation to provide, and the Owner shall have no obligation to compensate the Architect for, those services. Except for services required due to the fault, negligence, wrongdoing, or responsibility of the Architect, any Additional Services provided in accordance with this Agreement and Section 4.2 beyond those already listed as the Architect's responsibility in this Agreement shall entitle the Architect to a reasonable adjustment in compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

§ 4.2.1 Upon recognizing the need to perform the following Additional Services, ~~Services not caused by the fault or negligence of the Architect,~~ the Architect shall notify the Owner in writing with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following Additional Services until the Architect receives the Owner's written ~~authorization; authorization; items that are deleted~~ are not Additional Services but are included as a part of Basic Services:

- .1 Services necessitated by a substantial change in the Initial Information, a material change to previous instructions or approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the unexpected enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;
- .3 Changing or editing previously prepared Instruments of Service necessitated by unexpected official interpretations of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b) contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 ~~Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner-authorized recipients;~~
- .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner; requests, except for any alternates required elsewhere by this Agreement;
- .7 Preparation for, and attendance at, a public presentation, meeting or ~~hearing; hearing other than~~ presentations, meetings or hearings with the City, County, or the Owner;
- .8 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto; or
- .9 ~~Evaluation of the qualifications of entities providing bids or proposals;~~
- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or,
- .11 ~~Assistance to the Initial Decision Maker, if other than the Architect construction.~~

§ 4.2.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner in writing with reasonable promptness, and explain the facts and circumstances giving rise to the need. These Additional Services will be performed at no cost to the Owner to the extent caused by the fault or negligence of the Architect. If, upon receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Architect of the Owner's determination. The Owner shall compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice only if the Owner had previously approved of the Additional Services in writing. Items that are deleted are not Additional Services but are included as a part of Basic Services.

- .1 ~~Reviewing a Contractor's submittal. Repeatedly reviewing and responding to a Contractor's submittals that are out of sequence from the submittal schedule approved by the Architect;~~
- .2 ~~Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation; Architect, as well as uncoordinated or incomplete submittals, submittals that were not reviewed or approved by Contractor, or submittals which do not bear the Contractor's submittal stamp, but only to~~

the extent the Architect demonstrates an actual and material increase in the service it must provide as a result;

.2 ;

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

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

.5 ~~Evaluating substitutions proposed by the Owner or Contractor and making~~ Making subsequent revisions to Instruments of Service resulting ~~therefrom~~ from substitution proposals that are approved by the Owner.

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

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

.2 ~~(—)Weekly~~ visits to the site by the Architect during construction

.3 ~~(—)Two~~ inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents

.4 ~~(—)One~~ inspections for any portion of the Work to determine final completion.

.5 As reasonably required and consistent with the Standard of Care, visits to the site by the Architect's mechanical, electrical, structural, and civil engineers over the duration of the Project during construction in accordance with Section 3.6.2.1 and as agreed by the Owner and Architect.

§ 4.2.4 Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided more than ~~60-90~~ days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and Contractor, whichever is ~~earlier~~, earlier or issuance of the punch list, whichever is the later, and which services are not within the original scope of services, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

§ 4.2.5 If the services covered by this Agreement have not been completed within ~~(—)thirty-six (36)~~ 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, the Capital Facilities Plan,~~ 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.

§ 5.2 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in ~~Section 6.1; Article 6;~~ (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner ~~shall~~ may update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly and materially increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality. Any increase to the budget to respond to anticipated market conditions shall neither constitute Additional Services nor entitle the Architect to additional compensation, nor shall there be Additional Services because an accepted bid exceeds the budget. For the purposes of this Section, a "significant" increase or decrease shall be an Owner-directed adjustment or cumulative adjustments to the budget exceeding 5% of the budget identified in this Agreement, the purpose of which was to increased design requirements and not to simply account for increased costs of construction.

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

§ 5.4 ~~The Owner~~ Architect as an Additional Service shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions, and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark. The Architect shall review the information provided by the Owner and timely advise the Owner of any additional information or data that is germane to the Project and necessary from the Owner. The Architect's design shall not require the Owner to obtain any easements without the Owner's prior written consent.

§ 5.5 ~~The Owner~~ Architect as an Additional Service shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations. The Architect will utilize this information in the Construction Documents. The Architect shall be entitled to rely on the technical sufficiency and timely delivery of documents and services furnished by the Owner's geotechnical engineers, as well as the computations performed by the geotechnical engineer in connection with such documents and services, and shall not be required to review or verify those computations. The Architect and Architect's consultants will copy the Owner's Project Manager on any correspondence with the Owner's Geotechnical Engineer.

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

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

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

§ 5.9 ~~The Unless otherwise provided in this Agreement, the~~ Owner shall furnish tests, inspections and reports during design and construction as 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 and soils compaction, as listed in Section 1.1.10. The Architect's review of such tests, inspections and reports shall be included as a part of the Architect's compensation for Basic Services unless otherwise defined in this Agreement. Results of these tests are the property of the Owner.

§ 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. The Owner is not required to furnish these services for the Architect's benefit.

§ 5.11 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service. The Owner's failure to so notify shall not relieve the Architect of its responsibilities under this Agreement, and the Owner shall have no duty of observation, inspection or investigation.

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

§ 5.13 The Owner shall provide the Architect with a copy of its proposed modified AIA Document A201, General Conditions for the Contract for Construction. Before executing the Contract for Construction, the Owner shall coordinate the Architect may review the proposed form of Contract and provide comments to the Owner for the purpose of coordinating the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Architect shall provide administration of the Contract between the Owner and Contractor as set forth herein and in AIA Document A201, General Conditions of the Contract for Construction, as revised by the Owner. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

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

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

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work shall include the cost projected to the time of bid opening of labor and materials to be provided by the Contractor under the Contract for Construction. In addition, a reasonable allowance for contingencies shall be included for market conditions at the time of bidding and for changes in the Work related to design. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; equipment furnished by the Owner through separate contracts, the costs of the land, rights-of-way, sales tax, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and shall be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Information and defined below, and may be adjusted throughout the Project. When the Project requirements have been sufficiently identified, the Architect shall prepare a preliminary estimate of the Cost of the Work. The Architect shall advise the Owner of any adjustments to previous estimates of the Cost of the Work indicated by changes in Project requirements or general market conditions. This estimate shall represent the Architect's judgment as a design professional familiar with the construction industry and should be based on current area, volume or similar conceptual estimating techniques. As the design process progresses through the end of the preparation of the Construction Documents, and no less frequently than as provided in Section 1.1.4, the Architect and Contractor shall update and refine the preliminary estimate of the Cost of the Work and analyze changes in estimated costs to monitor changes in quantity, quality, prices and assumptions. The Architect and Contractor shall advise the Owner of any material adjustments to previous estimates of the Cost of the Work indicated by changes in Project requirements or general market conditions. If at any time the Architect's estimate of the Cost of the Work exceeds the budget, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget, and the Owner shall cooperate with the Architect in making such adjustments. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work, prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials, or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market, or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Architect.

§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding, Covid-19, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1.1, as a Supplemental-an Additional Service.

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

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

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

- .1 ~~give written approval of an increase in the budget for the Cost of the Work;~~
- .2 ~~authorize rebidding or renegotiating of the Project within a reasonable time;~~
- .3 ~~terminate in accordance with Section 9.5; this Agreement;~~
- .4 ~~in consultation with the Architect, revise the Project program, scope, or quality as required and/or quality to the extent consistent with the requirements of the program and the Project to reduce the Cost of the Work; or,~~
- .5 implement any other mutually acceptable alternative-alternative, including protective alternate bids proposed by the Architect for the Owner's consideration as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget for the Cost of the Work.

The Architect's compensation shall only be increased under any of these five options to the extent described in Section 6.7 below, even if the Construction Cost increases.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise the Architect's services for modifying the Construction Documents shall be without additional compensation. In any event, the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 Drawings, specifications, materials, models, renderings, and other documents, including those in electronic form, prepared by the Architect and the Architect's consultants and delivered to Owner pursuant to this Agreement are Instruments of Service. 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. Any information on computer media provided to the Owner and the Contractor is for informational purposes only. Upon request by the Owner, the Architect shall provide electronic copies, including CADD, Word, and similar files to the Owner for the Owner's and Contractor's use at no additional cost. If for any reason a conflict occurs between information on the computer media and the stamped, signed documents, the information on the signed, stamped documents shall govern.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official

regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 ~~The~~ Upon execution of this Agreement, and regardless of any termination except as specifically set forth below, the Architect grants to the Owner a nonexclusive license to use and reproduce, in any medium and without additional cost, the Architect's Instruments of Service solely and exclusively for purposes of constructing, completing, using, expanding, modernizing, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums due pursuant to Article 9 and Article 11. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce at no additional cost applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. ~~If the Architect rightfully terminates or constructing, completing, using, expanding, modernizing, maintaining, altering and adding to the Project or subsequent projects of the Owner on this site. If the Architect is adjudged to have rightfully terminated this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.~~ terminate until such time as the Owner pays all amounts adjudicated as due to the Architect.

§ 7.3.1 In the event the Owner uses the Instruments of Service for other projects or for any purpose following a termination of this Agreement other than for cause under Section 9.4 without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

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

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

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of this Agreement and of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. law. 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 the revised AIA Document A201-2017, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect and Owner waive incidental, indirect, punitive, special and 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. This waiver does not, however, limit a party's ability to recover from the other party damages asserted by a third-party.

§ 8.1.4.1 The Architect hereby agrees to indemnify and hold harmless the Owner, its successors and assigns, and the commissioners, directors, employees and agents of each of the foregoing ("Indemnified Parties"), from and against losses, harm, costs, liabilities, damages and expenses arising out of or resulting from claims of third parties to the extent arising out of any willful malfeasance, bad faith, negligence, or reckless disregard of: (i) the performance of the services by, (ii) the obligations of, or (iii) the acts or omissions of, the Architect or any of its consultants of any tier, their respective successors and assigns, the commissioners, directors, officers, and employees of each of the foregoing, or anyone acting on the Architect's behalf in connection with this Agreement or its performance. This indemnification includes but is not limited to reasonable attorneys' fees incurred on such claims. The Owner is entitled to attorneys' fees incurred in proving the right to indemnification upon tender of such a claim and opportunity of the Architect to respond to such claim.

§ 8.1.4.2 The Architect shall not, however, be required to so indemnify or hold harmless any of the Indemnified Parties against liability for damages caused by or resulting from the sole negligence of any one or more of the Indemnified Parties. If such damages are caused by or result from the concurrent negligence of any one or more of the Indemnified Parties and of the Architect or its agents, consultants or employees, then the Architect's indemnity and hold harmless obligations hereunder shall be limited to the extent of the negligence of the Architect or its agents, consultants or employees.

§ 8.1.4.3 This Section 8.1.4 has been mutually drafted by the parties. In the event of any ambiguity in its interpretation, this Section 8.1.4 shall be construed without regard to the drafter.

§ 8.2 Mediation

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. ("Dispute") shall be exclusively subject to the following alternative dispute resolution procedure in an effort to reduce the incidence and costs of extended disputes and as a condition precedent to the institution of binding dispute resolution by either party. This requirement cannot be waived except by an explicit written waiver signed by the Owner and the Architect. 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. The parties will cooperate in good faith and attempt to resolve any Dispute that arises prior to mediation.

§ 8.2.2 The Owner and Architect shall A Principal of the Architect and the Owner's Fire Chief or designee shall meet informally and attempt to resolve any claims, disputes, or other matters in question prior to initiating the mediation process. If unsuccessful, the Owner and Architect shall then endeavor to resolve claims, disputes and other matters in question between them by mediation, which, unless the parties mutually agree otherwise, otherwise or cannot themselves agree to the selection of a mediator within thirty days of the request for mediation, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of this Agreement. A request for mediation shall be made in writing, writing and delivered to the other party to this Agreement, and Agreement. If the parties are unable to select a mutually acceptable mediator within thirty days of the request for mediation, the request may be 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-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. mediation if binding dispute resolution proceedings are initiated before the mediation A principal of the Architect and the Fire Chief or designee of the Owner, both having full authority to settle the Dispute (subject only to approval by the Owner's Commissioners), must attend the mediation session. To the extent there are other parties in interest, such as the Contractor, Subcontractors, suppliers, and/or consultants, their representatives, with full authority to settle all pending Disputes or claims, may also attend the mediation session. Unless the Owner and the Architect mutually agree in writing otherwise, all unresolved claims shall be considered at a single mediation session which, for disputes that arise prior to completion of the Project, shall occur prior to Final Acceptance of the Project by the Owner. Neither party may bring any litigation on a Dispute unless the Dispute has been properly raised and considered in the above mediation procedure.

§ 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 or if the mediation involves the Contractor and that Contract requires a different location. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:

(Check the appropriate box.)

☐ Arbitration pursuant to Section 8.3 of this Agreement

☐ Litigation in a court of competent jurisdiction

☒ Other: (Specify)

Litigation in Superior Court in Kitsap County, Washington

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

§ 8.2.5 In the event of a claim, dispute, or other matter in question arises between the Owner and Architect, the Architect shall continue to perform the services required by this Agreement without interruption or delay provided that the Owner continues to pay all undisputed amounts owing to the Architect.

§ 8.3 Arbitration

§ 8.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by, mediation shall be subject to arbitration, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. 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. [Not used.]

§ 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. [Not used.]

§ 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. [Not used.]

§ 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. [Not used.]

§ 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). [Not used.]

§ 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.~~[Not used.]

~~§ 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.~~[Not used.]

§ 8.4 The provisions of this Article 8 shall survive the termination of this Agreement.

ARTICLE 9 TERMINATION OR SUSPENSION

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

§ 9.2 If the Owner suspends the Project, 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~~ as a result of the interruption and resumption of the Architect's services and only if the Owner suspends the Project for more than sixty consecutive days. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted. The Owner acknowledges that Architect may reassign its staff after a thirty day suspension, and such reassignment shall not be a breach of this Agreement for cause for termination by Owner.

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

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially or materially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination, during which seven-day period the party responding to the notice shall have the right to cure the default. If, through any cause, either the Architect fails to fulfill in a timely and proper manner its material obligations under this Agreement; or the Architect materially violates any of the covenants, agreements or stipulations of this Agreement; or the Architect becomes insolvent or the subject of any proceeding under bankruptcy, insolvency or receivership law or makes an assignment for the benefit of creditors; or the Architect's representative whose principal services are required in Section 1.1.11 departs from the Architect's firm (unless a suitable replacement, acceptable to the Owner, is provided), the Owner shall thereupon have the right (but not the obligation) to terminate this Agreement for cause by giving written notice of such termination and specifying the effective date thereof as a date certain at least seven days after the notice. In the event of a termination by the Owner for cause:

- .1 The Architect shall be compensated for services satisfactorily performed prior to termination (that portion of the basic compensation for the terminated services satisfactorily performed prior to termination), together with Reimbursable Expenses then due, but in no event shall this compensation exceed the percentage of total services satisfactorily completed at the time of termination times the total compensation payable under this Agreement. The Owner shall not be liable for any consequential or incidental damages, including but not limited to loss of profits on other projects or of reputation incurred by the Architect as a result of such termination.
- .2 The Owner shall have the right (but not the obligation) to take over performance of the architectural services and prosecute the same to completion, by contract or otherwise, and all finished or unfinished Instruments of Service, including without limitation documents, data, studies, surveys, drawings, maps, models, photographs and reports prepared by or for the benefit of the Architect shall, at the option of the Owner, become the Owner's property.
- .3 The Owner may withhold any payments to the Architect for the purpose of offset or setoff until such time as the amount of damages due the Owner from the Architect is determined.

§ 9.5 The Owner may terminate this Agreement or a portion thereof upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause. In that event, the Owner shall be entitled to use and/or assign the rights to use all finished and unfinished Instruments of Service and other materials, and the Owner shall indemnify and hold harmless the Architect, its agents and employees from any claims arising from the Owner's subsequent use of such documents and other materials.

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect solely for services satisfactorily performed prior to termination (that portion of the basic compensation for the terminated services satisfactorily performed prior to termination, termination), Reimbursable Expenses incurred, and costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements to the extent such costs are consistent with this Article 9. In no event shall this compensation exceed the percentage of total services satisfactorily completed at the time of termination times the total compensation payable under this Agreement. The Architect shall not be entitled to any additional compensation, including without limitation profit and overhead, and the Owner shall not be liable for any consequential or incidental damages, including but not limited to loss of profits on other projects or of reputation incurred by the Architect as a result of such termination.

§ 9.7 In addition to any amounts paid under Section 9.6, if If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Architect the following fees:

(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)

.1 — Termination Fee:

.2 — Licensing Fee if the Owner intends to continue using the Architect's Instruments of Service: neither be required to pay any licensing fee as compensation for the Owner's continued use of the Architect's Instruments of Service nor be required to pay to the Architect any termination fee, except any direct costs incurred by the Architect as a direct result of the termination for convenience.

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion. [Not used.]

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

ARTICLE 10 MISCELLANEOUS PROVISIONS

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

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

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

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests

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

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

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

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such ~~representations~~ representations but the Owner must approve of the time and date for when any photographs are taken after occupancy. The Architect must provide the Owner with usable digital copies (without watermarks) of all photographs taken or used for promotional or professional materials. 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 endeavor to provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section ~~10.8.1~~ 10.8.1, unless withholding such information would violate the law, create the risk of significant harm to the public, or prevent a party from establishing a claim or defense in an adjudicatory proceeding, in which cases the receiving party will disclose only to the extent necessary to comply with the law or alleviate the risk of significant harm. This Section 10.8 shall survive the termination of this Agreement.

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

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

§ 10.10 The Architect assures the Owner that it endeavors to comply with all state and federal guidelines and/or regulations and does not discriminate on the basis of race, creed, color, national origin, sex, sexual orientation, marital status, age, veteran status, or disability. This is in accordance with Title VI of the 1964 Civil Rights Act; Section 504 of the Rehabilitation Act, 1973, as amended; Americans with Disabilities Act, July 26, 1990, P.L. 101-336, and RCW 49.60.

ARTICLE 11 COMPENSATION

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

.1 — Stipulated Sum
(Insert amount)

Init.

.3 Other
(Describe the method of compensation)

.2 Percentage Basis Fee. Basic Compensation of the Architect shall be on a lump-sum basis for all Basic Services of the Architect and its Consultants as noted in Sections 1.1.11.1 and .2 for the Stipulated Sum of Seven Hundred Fifty-Three Thousand One Hundred Twenty-Three Dollars (\$753,123.00). Reimbursable Expenses according to Section 11.8 are in addition to this amount.
(Insert percentage value)

() % of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6. The lump-sum amounts established above shall not be changed if the accepted bids exceed the Owner's budget. The Architect will not be entitled to additional compensation for costs incurred because of the fault or negligence of the Architect or its consultants. The Architect shall include with each invoice documentation as reasonably requested by the Owner supporting any additional compensation under this Article 11.

.3 Other Jurisdictional Approvals. Compensation for preparing and submitting applications and seeking approvals from Kitsap County shall be provided on a Time & Expense basis and are in addition to the lump-sum fee noted above.
(Describe the method of compensation)

Change Orders. Compensation for additive Change Orders shall be negotiated as an Additional Service and as provided in this Agreement. The Architect will not, however, be entitled to additional compensation for change order costs incurred because of the negligent act or omission of the Architect or its Consultants.

§ 11.2 For the Architect's Supplemental Services designated in Section 4.1.1 and for any Sustainability Services required pursuant to Section 4.1.3, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

N/A; all services are included in the Fee.

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

Compensation for Additional Services that may arise during the course of the Project, including those under Section 4.2, shall be calculated according to Section 11.7 or on a mutually agreed-upon fixed fee. The Architect's entitlement to such additional compensation shall be subject to the provisions of this Agreement.

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

§ 11.5 Payments on account of services rendered and for Reimbursable Expenses incurred shall be made monthly upon presentation of the Architect's statement of services and shall total the following percentages of the total Basic Compensation payable in each phase, except that payment for Completion of Correction Period shall be made in one payment at the end of that Period. When compensation for Basic Services is based on a stipulated sum or a percentage basis, sum, the proportion of compensation for each phase of services shall be as follows:

Schematic Design Phase	<u>Fifteen</u>	percent (<u>15</u>	%)
Design Development Phase	<u>Twenty</u>	percent (<u>20</u>	%)
Construction Documents Phase	<u>Thirty-Four</u>	percent (<u>34</u>	%)
Procurement Phase	<u>Four</u>	percent (<u>4</u>	%)
Construction Phase	<u>Twenty-Five</u>	percent (<u>25</u>	%)

Init.

Punch List / Close-Out Phase	One point Five	percent (1.5	%)
Completion of Correction Period	Zero point Five	percent (0.5	%)
Total Basic Compensation	one hundred	percent (100	%)

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

§ 11.6.1 ~~When compensation is on a percentage basis and~~ If 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, portions,~~ in accordance with the schedule set forth in Section 11.5. The Architect shall be entitled to compensation in accordance with this Agreement for all services satisfactorily and properly performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants are set forth below. The rates shall be adjusted not more frequently than annually in accordance with the Architect's and Architect's consultants' normal review ~~practices, practices and shall not exceed the rates charged to similar public clients.~~
(If applicable, attach an exhibit of hourly billing rates or insert them below.)

See Exhibit A, Rice Fergus Miller 2021 Standard Billing Rates.

Employee or Category

Rate (\$0.00)

§ 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include reasonable 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;~~ Pre-authorized out-of-town travel (greater than 200 miles) and subsistence; the Architect shall not be reimbursed for travel between its office and the Project site;
- ~~.2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;~~ Dedicated data and communication services, Project web sites, and Project extranets, if required at the Project site and with the Owner's approval;
- ~~.3 Permitting~~ Pre-authorized permitting and other fees required by authorities having jurisdiction over the Project;
- ~~.4 Printing, reproductions, plots, and standard form documents;~~ Printing and reproduction for all documents required for submittal to the Owner or requested by the Owner for its own use or use by the Owner's consultants (but not reproduction for office use of the Architect or its consultants), sets required by authorities having jurisdiction, and bidding documents for which the Owner does not directly pay;
- ~~.5 Postage, handling, and delivery;~~ Postage and delivery of reproductions that are reimbursable pursuant to Section 11.8.1.4;
- ~~.6 Expense of overtime work requiring higher than regular rates, if authorized in advance and in writing by the Owner;~~
- ~~.7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;~~
- ~~.8 If required by the Owner, and with the Owner's prior written approval, the Architect's consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect's consultants;~~ in writing by the Owner, and excluding renderings, models, and mockups prepared by the Architect's in-house staff during the course of design;
- ~~.9 All sales but not B & O or income or other taxes levied on professional services and on reimbursable expenses;~~

- .10 Site office ~~expenses; expenses when pre-approved by the Owner;~~
- .11 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and,
- .12 Other similar Project-related ~~expenditures; expenditures pre-approved in writing by the Owner.~~

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus ten percent (10 %) of the expenses incurred. The Architect must submit receipts for Reimbursable Expenses.

§ 11.9 **Architect's Insurance.** If the Owner requires the Architect to purchase and maintain insurance beyond the types and limits of coverage required in Section 2.5 and if those new requirements are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below:

(Insert the additional coverages the Architect is required to obtain in order to satisfy the requirements set forth in Section 2.5, and for which the Owner shall reimburse the Architect.)

§ 11.10 Payments to the Architect

§ 11.10.1 Initial Payments

§ 11.10.1.1 An initial payment of zero (\$ 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.

§ 11.10.1.2 ~~If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of (\$ —) shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.~~ [Not used.]

§ 11.10.2 Progress Payments

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. ~~Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid—(performed within each phase, and shall not exceed the percentages of the total Basic Compensation payable in each phase. Payments are due and payable thirty days from the date of receipt of the Architect's invoice in an acceptable form, provided that the Architect is entitled to payment as provided in this Agreement. Amounts unpaid forty-five (45) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect below.~~
(Insert rate of monthly or annual interest agreed upon.)

~~%—Amounts unpaid shall bear interest at the Bank of America prime rate plus two percent per annum, unless RCW 39.76 requires interest at a higher rate.~~

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

§ 11.10.2.3 ~~Records of Reimbursable Expenses, expenses pertaining to Supplemental and Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times. Upon request, the Architect shall provide the Owner with access to its records for inspection, audit, and reproduction and with an accounting of any services of the Architect or of any of its consultants of any tier. The accounting of services shall detail the services performed, the amounts paid to a consultant (supported by copies of all paid invoices) and such other information as the Owner may reasonably request. The Owner shall not be obligated to make any payment to any consultant, and the Owner is not obligated to reimburse the Architect for such payments if the amount thereof has been taken into account in determining the basic compensation payable to the Architect under this Agreement. If the Owner makes any such payment following a default on the part of the Architect and after reasonable notice from the Owner,~~

the Architect shall reimburse the Owner upon demand for the same, together with all related costs and expenses incurred by the Owner.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

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

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

§ 12.1 The Architect's liability to the Owner shall not exceed two hundred percent (200%) of the total of all Fees payable under this Agreement, or available insurance proceeds, whichever is greater.

§ 12.2 Notwithstanding any other provision contained herein, nothing shall be construed or interpreted in such a way that would void, vitiate or adversely affect any insurance coverages held by the Owner or the Architect.

ARTICLE 13 SCOPE OF THE AGREEMENT

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

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

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

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

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

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

Exhibit A, Rice Fergus Miller 2021 Standard Billing Rates.

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

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

OWNER (Signature)

John Oliver, Fire Chief

(Printed name and title)

ARCHITECT (Signature)

David A Fergus, Principal

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

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Graehm Wallace, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with this certification at 15:12:40 PT on 02/16/2021 under Order No. 2573503930 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B101™ – 2017, Standard Form of Agreement Between Owner and Architect, as published by the AIA in its software, other than changes shown in the attached final document by underscoring added text and striking over deleted text.

(Signed)

(Title)

(Dated)