

AGREEMENT made as of the «tenth» day of «December» in the year «two thousand nineteen»
(In words, indicate day, month and year.)

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

«Platte County R-3 School District »« »
«998 Platte Falls Road »
«Platte City, MO 64079 »
« »

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

«DLR Group »« »
«7290 West 133rd Street »
«Overland Park, KS 66213 »
« »

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

«Platte County R-3 School District Architectural/Engineering On-Call Services »
« »
« »

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

«To be determined »« »
« »
« »
« »

The Owner and Architect agree as follows.

TABLE OF ARTICLES

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

WHEREAS Platte County R-3 School District (hereinafter referred to as "Owner") and DLR Group, Inc. (hereinafter referred to as "Architect") desire to enter into a contract under which Architect will perform construction services relating the above-referenced Projects on behalf of Owner;

WHEREAS Owner and Architect have agreed to entered into AIA Document A201™-2017 Contract ("Contract") as the basic form for that contract; and

WHEREAS certain terms and conditions of the contract must be modified to comply with applicable laws and policies affecting Owner and Construction Manager on this project, Owner and Construction Manager hereby agree to the following amendments to the Contract:

ARTICLE 1 INITIAL INFORMATION

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

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

§ 1.1.1 The Owner's program for the Project:

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

«To be determined by Amendment to this Agreement »

§ 1.1.2 The Project's physical characteristics:

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

«To be determined by Amendment to this Agreement»

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

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

«To be determined by Amendment to this Agreement»

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

- .1 Design phase milestone dates, if any:

«To be determined by Amendment to this Agreement»

- .2 Commencement of construction:

«To be determined by Amendment to this Agreement»

- .3 Substantial Completion date or milestone dates:

«To be determined by Amendment to this Agreement »

- .4 Other:

«To be determined by Amendment to this Agreement »

§ 1.1.5 The Owner intends to retain a Construction Manager pursuant to the following agreement:

(Indicate agreement type.)

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

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

§ 1.1.6 The Owner's requirements for accelerated or fast-track scheduling or phased construction are set forth below:

(List number and type of bid/procurement packages.)

«Not applicable. »

§ 1.1.7 Other Project information:

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

«To be determined by Amendment to this Agreement »

§ 1.1.8 The Owner identifies the following representative in accordance with Section 5.5:

(List name, address and other information.)

«Jay Harris, Executive Director of Operations »

«Platte County R-3 School District »

«998 Platte Falls Road »

«Platte City, MO 64079 »

« »

« »

§ 1.1.9 The persons or entities, in addition to the Owner's representative, who are required to review the Architect's submittals to the Owner are as follows:

(List name, address and other information.)

«Platte County R-3 School District Board of Education »

§ 1.1.10 The Owner will retain the following consultants:

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

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

« »

- .2 Cost Consultant (if in addition to the Construction Manager):**
(If a Cost Consultant is retained, appropriate references to the Cost Consultant should be inserted in Sections 3.3.6, 3.3.7, 3.4.2, 3.4.3, 3.5.4, 3.5.5, 5.4, 6.3, 6.3.1, 6.4 and 11.6.)

«Not applicable. »« »

« »

« »

« »

« »

- .3 Land Surveyor:**

«To be determined »« »

« »

« »

« »

« »

- .4 Geotechnical Engineer:**

«To be determined »« »

« »

« »

« »

« »

- .5 Civil Engineer:**

«To be determined »« »

« »

« »

« »

« »

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

«To be determined »

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

«Kevin M. Greischar, AIA, Vice President »

«DLR Group inc. »

«7290 West 133rd Street »

«Overland Park, KS 66213 »

« »

« »

§ 1.1.12 The Architect will retain the consultants identified in Sections 1.1.12.1 and 1.1.12.2:
(List name, legal status, address and other information.)

§ 1.1.12.1 Consultants retained under Basic Services:

.1 Structural Engineer:

«DLR Group inc. »« »
«7290 West 133rd Street »
«Overland Park, KS 66213 »
« »
« »

.2 Mechanical Engineer:

«DLR Group inc. »« »
«7290 West 133rd Street »
«Overland Park, KS 66213 »
« »
« »

.3 Electrical Engineer:

«DLR Group inc. »« »
«7290 West 133rd Street »
«Overland Park, KS 66213 »
« »
« »

§ 1.1.12.2 Consultants retained under Additional Services:

«To be determined by Amendment to this Agreement »

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

«To be determined by Amendment to this Agreement. »

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the schedule, the Architect's services and the Architect's compensation.

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide the professional services as set forth in this Agreement. The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement. The Architect agrees to notify Owner should Architect's registration status change. Architect represents that Architect and Architect's employees and agents are eligible to work under federal, state and local immigration laws and regulations. In a manner consistent with the Standard of Care, the Architect's services shall comply with applicable federal, state and local laws, statutes, ordinances, code rules and regulations (collectively, "Laws").

§ 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 ("Standard of Care"). Nothing in this Agreement shall be deemed to increase, or reduce, the standard of care as applied by Missouri law. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.3 The Architect shall provide its services in conjunction with the services of a Construction Manager as described in the agreement identified in Section 1.1.5. The Architect shall not be responsible for actions taken by the Construction Manager.

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

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

§ 2.6 **Insurance.** Prior to performing Architect's services under this Agreement, Architect shall procure, maintain and provide insurance certificates, policies and endorsements, in at least the following amounts, to protect Architect and Owner from claims arising out of the performance of the Architect's services under this Agreement and caused by any error, omission, negligent act or omission, or design defect by Architect, such insurance to be in a form approved by the Owner, with an effective date prior to the beginning date of design. Such insurance shall be written on an occurrence basis, if available, and on a claims-made basis, if occurrence basis insurance is not available. Architect shall maintain its insurance in full force and effect and uninterrupted during the term of this Agreement and after the completion of services under this Agreement until the completion of any applicable statute of limitations, such period to be not less than one year from Final Completion of all construction of this Project as to workers compensation, two years from the Final Completion of all construction of this Project as to commercial general liability, and comprehensive automobile liability, and not less than ten years from the Final Completion of all construction of this, as to errors and omissions insurance. Architect shall furnish to Owner insurance certificates, policies and endorsements upon request at any time. Architect shall name Owner as an additional insured under his policies for commercial general liability and comprehensive automotive liability. All insurance required herein shall be obtained from a company licensed to do business in the state of Missouri, and shall be underwritten by a company rated not less than A-X in A.M. Best's Key Rating Guide, Property-Casualty, according to the latest posted ratings available on A.M. Best's website, www.ambest.com, and that permits waivers of subrogation. Deductibles or self-insured retention limits for all policies (except Architect's Errors or Omissions insurance) shall not exceed \$25,000 for a project budgeted at \$4 million or less, or \$50,000 for a project budgeted at more than \$4 million. The policies shall include a waiver of subrogation in favor of the Owner. Any deviation from these requirements can only be approved by Owner's Board of Education. To the extent that Architect is unable to procure the insurance designated herein because the insurance is not reasonably available or is cost-prohibitive, then Architect shall provide written notice to Owner's Board of Education. Any nonconformity may be grounds for termination or modification of the Contract. Such policies shall be primary and noncontributory. The limits of liability for such insurance shall be in at least the following amounts.

§ 2.6.1 Workers' Compensation.

- .1 State: Statutory Benefits
- .2 Employers' Liability: \$500,000 per accident; \$500,000 disease, policy limit; \$500,000 disease, each employee

§ 2.6.2 Commercial General Liability with policy limits of not less than one million dollars (\$1,000,000.00).

- .1 Each Occurrence: \$1,000,000 each occurrence, \$2,000,000 aggregate
- .2 Medical Expense (per person): \$5,000 each occurrence
- .3 Products and Completed Operations: \$2,000,000 aggregate (to be maintained for a period of two years after Final Payment; Construction Manager shall continue to provide evidence of such coverage to Owner on an annual basis during this period and Owner shall be named by endorsement as an Additional Insured for such coverage)
- .4 Personal and Advertising Injury: \$2,000,000 aggregate
- .5 Must include explosion, collapse, and underground (X, C, and U) coverage
- .6 Must include Completed Operations coverage
- .7 Must include Contractual Liability Coverage
- .8 Must include General Aggregate per Project Endorsement.

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

Contractual Liability.

- .1 Property Damage shall be included in Commercial General Liability Coverage.
- .2 Insurance sufficient to cover Construction Manager's contractual indemnities.

§ 2.6.4 Business Automobile Liability (including owned, non-owned, hired, or any other vehicles): Such minimum limits shall be stated as follows, or in a combined single limit policy in the amount of at least one million dollars (\$1,000,000.00).

§ 2.6.5 Professional Liability (E&O) Coverage in at least the following amounts. Deductibles or self-insured retention amounts shall not exceed twenty five thousand dollars (\$25,000.00) for a project budgeted at four million dollars (\$4,000,000.00) or less, or fifty thousand dollars (\$50,000.00) for a project budgeted at more than four million dollars (\$4,000,000.00).

- .1 Two million dollars (\$2,000,000.00) or more per claim.
- .2 Four million dollars (\$4,000,000.00) or more per aggregate.

§ 2.6.6 Umbrella Excess Liability coverages shall be:

- .1 Two million dollars (\$2,000,000.00) or more each occurrence.
- .2 Two million dollars (\$2,000,000.00) or more aggregate.
- .3 Included in above coverage; aggregate Per Project Endorsement

§ 2.6.7 Missouri Workers Compensation Insurance. Because Architect will be performing services on-site, a copy of a certificate of insurance, a certificate of authority to self-insure issued by the Missouri Department of Insurance, or a coverage agreement showing statutory workers' compensation insurance coverage for the Architect or his employees providing services on a Project is required for the duration of the Project.

- .1 Duration of the Project includes the time from the beginning of the Work on the Project until the Architect's Work on the Project has been completed and accepted by the Owner.
- .2 Persons providing services on the Project include all persons or entities performing all or part of the services the Architect has undertaken to perform on the Project, regardless of whether that person contracted directly with the Architect and regardless of whether that person has employees. This includes, without limitation, independent contractors, subcontractors, leasing companies, motor carriers, owner-operators, employees of any such entity, or employees of any entity that furnishes persons to provide services on the Project.
- .3 Services include, without limitation, providing, hauling, or delivering equipment or materials, or providing labor, transportation, or other services related to the Project. Services do not include activities unrelated to the Project, such as food/beverage vendors, office supply deliveries, and delivery of portable toilets.
- .4 The Architect shall provide coverage, based on proper reporting of classification codes and payroll amounts and filing of any coverage agreements, which meets the statutory requirements of Missouri labor laws for all employees of the Architect providing services on the Project for the duration of the Project.
- .5 The Architect must provide a certificate of coverage to the Owner prior to being awarded the contract.
- .6 If the coverage period shown on the Architect's current certificate of coverage ends during the duration of the Project, the Architect must, prior to the end of the coverage period, file a new certificate of coverage with the Owner showing that coverage has been extended.
- .7 The Architect shall obtain from each person providing services on a project and provide to the Owner.
 - .a A certificate of coverage, prior to that person beginning work on the Project, so the Owner will have on file certificates of coverage showing coverage for all persons providing services on the Project; and
 - .b No later than seven days after receipt by the Architect, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the Project.
- .8 The Architect shall retain all required certificates of coverage for the duration of the Project and for one year thereafter.
- .9 The Architect shall notify the Owner in writing by certified mail or personal delivery, within ten days after the Architect knew or should have known, of any change that materially affects the provision of coverage of any person providing services on the Project.
- .10 The Architect shall post on each project site a notice, informing all persons providing services on the Project that they are required to be covered, and stating how a person may verify coverage and report lack of coverage.
- .11 The Architect shall contractually require each person with whom it contracts to provide services on a project to;
 - .a Provide to the Architect, prior to that person beginning work on the Project, a certificate of coverage showing that coverage is being provided for all employees of the person providing services on the Project for the duration of the Project;

- .b Provide the Architect, prior to the end of the coverage period, a new certificate of coverage showing extension of coverage, if the coverage period shown on the current certificate of coverage ends during the duration of the Project;
 - .c Obtain from each other person with whom it contracts, and provide to the Architect;
 - 1) A certificate of coverage, prior to the other person beginning work on the Project; and;
 - 2) A new certificate of coverage showing extension of coverage, prior to the end of the coverage period, if the coverage period shown on the current certificate of coverage ends during the duration of the Project;
 - .d Retain all required certificates of coverage on file for the duration of the Project and for one year thereafter;
 - .e Notify the Owner in writing by certified mail or personal delivery, within ten days after the person knew or should have known, of any change that materially affects the provision of coverage for any person providing services on the Project; and
 - .f Contractually require each person with whom it contracts to perform as required by items 1-7, with the certificates of coverage to be provided to the person for whom they are providing services.
- .12 By signing this contract or providing or causing to be provided a certificate of coverage, the Architect is representing to the Owner that all employees of the Architect who will provide services on the Project will be covered by workers' compensation coverage for the duration of the Project, that the coverage will be based on proper reporting of classification codes and payroll amounts, and that all coverage agreements will be filed with the appropriate insurance carrier. Providing false or misleading information may subject the Architect to administrative penalties, criminal penalties, civil penalties, or other civil actions.
- .13 The Architect's failure to comply with any of these provisions is a breach of contract by the Architect that entitles the Owner to declare the contract void if the Architect does not remedy the breach within ten days after receipt of notice of breach from the Owner.

§ 2.6.8 In no event shall the language or requirements of this Agreement constitute or be construed as a waiver or limitation of the Owner's rights or defenses with regard to Owner's applicable sovereign, governmental, or official immunities and protections as provided by federal and state constitutions, statutes, and laws.

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in Article 3 and Article 4 and include usual and customary architectural services, structural, mechanical, plumbing, civil, and electrical engineering services; landscape design; architectural interior design; audio-visual, data, and telecommunications and technology design and distribution; kitchen and food service equipment design; acoustical engineering and design; site feasibility design; programming for new schools and/or scope of work verification for renovations of existing schools; security planning services; graphics/way-finding planning services; roofing consultant services unless otherwise approved by Owner; accessibility services; estimating by the Architect's independent estimating consultant; record drawings; professional renderings; design and construction database management; and internal auditing and accounting services necessary for Architect to fulfill Architect's responsibilities under this Agreement and as necessary to complete the Project. Architect shall provide all plans and specifications for all site development necessary for the Project, which shall include locating any building on-site, and developing all plans and specifications for site drainage, parking, landscaping, walkways, irrigation, playgrounds, staging areas and portable buildings and accompanying infrastructure, when appropriate. Architect certifies that Architect is a registered professional architect or engineer licensed to practice in the State of Missouri any civil, structural, mechanical, or electrical plans, specifications, or opinions of probable cost for construction must be prepared by a registered professional engineer or a registered architect, whichever is appropriate, and who is licensed to practice in Missouri. Architect agrees to notify Owner should Architect's registration status change. Architect certifies that Architect and Architect's employees and agents are eligible to work under federal, state and local immigration laws and regulations. Services not set forth in this Article 3 are Supplemental or Additional Services..

§ 3.1.1 The Architect shall perform and manage the Architect's services and administer the Project, in accordance with this Agreement as amended for this Project, and with the AIA Document A201-2017, General Conditions of the Contract for Construction, as amended for this Project, consult with the Owner and Construction Manager, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner through the issuance of progress reports to Owner and Construction Manager, as more specifically defined hereafter. The Architect shall not be relieved of any obligation to perform in accordance with the standard of care applicable to licensed architects in Missouri under the same or similar circumstances, regardless of whether or not a specific responsibility or task is included or identified in this Agreement.

- .1 Upon request of the Owner's representative, the Architect shall make presentations to Owner's representatives to review the design of the Project. In addition, the Architect shall make monthly presentations to Owner's Board of Education.
- .2 The Architect shall submit design documents to the Owner at intervals appropriate to the design process as designated in this Agreement, as amended, for purposes of evaluation and approval by the Owner's Board of Education, as specified herein. The Architect shall be entitled to rely on approvals received from the Owner's Board of Education in the further development of the design, provided that nothing herein shall relieve Architect of responsibility or liability for design defects, errors, or omissions.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner, the Construction Manager, and the Owner's consultants. The Architect shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner, the Construction Manager, and the Owner's consultants. 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. The Architect shall be responsible to the Owner for the services furnished to Architect by any consultant to the same extent as if Architect has furnished the service itself. Architect will also coordinate and resolve any inconsistencies in its work and the work of its consultants. All of Architect's contracts with its consultants shall be in writing, signed by both parties, and shall include the following provision: "The Owner is intended to be a third party beneficiary of this Agreement. Architect shall also promptly respond in writing to notices from Owner regarding Owner's discovery of errors, omissions, or inconsistencies, and, if requested, shall promptly meet with Owner regarding same. Owner's notice or lack of notice shall not relieve Architect of any responsibility or liability for performance of Architect's contracted services.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's written approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

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

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

§ 3.1.6 The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming work, made without the Architect's approval. The Architect shall review and be responsible for all Laws applicable to the Architect's services, including, without limitation, school facility standards. The Architect shall respond in the design of the Project to requirements imposed by governmental authorities having jurisdiction over the Project. The Architect shall comply with all policies, regulations and rules of the Owner, including, but not limited to, those related to employee conduct (such as prohibitions against alcohol, weapons, drugs, fraternization, harassment, and tobacco on school property), and fraud and financial impropriety. Architect shall certify that he will use best professional judgment and reasonable care consistent with the practice of architecture and/or engineering in the Missouri in executing the Construction Documents. Architect shall design the Project in such a manner that the Project or each part of the Project is readily accessible to and usable by individuals with disabilities, in compliance with the Americans with Disabilities Act, Section 504 of the Rehabilitation Act, federal regulations interpreting the Americans with Disabilities Act and Section 504, and all applicable requirements or standards of the American National Standards Institute in the same manner as Architect is to address all other Laws. It shall be the responsibility of Architect to address revisions or amendments to applicable codes or standards which become effective prior to the date of Substantial Completion. Revisions or amendments to applicable codes or standards shall be addressed by the Architect and shall be compensated as an Additional Service pursuant to Section 3.1.

§ 3.1.7 The Architect shall, at appropriate times, in coordination with the Construction Manager and Owner, contact the governmental authorities required to approve the Construction Documents and the entities providing utility

services to the Project. In designing the Project, the Architect shall respond to applicable design requirements imposed by such governmental authorities and by such entities providing utility services.

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

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

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

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

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

§ 3.3 Schematic Design Phase Services

§ 3.3.1 The Architect shall review the program and other information furnished by the Owner and Construction Manager, and shall review laws, codes, and regulations applicable to the Architect's services.

§ 3.3.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, and 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, and to ascertain that they are consistent with the requirements of the Project. The Architect shall notify the Owner in writing of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project. The Architect shall visit the Owner's Project site and shall provide to Owner a written report evaluating the feasibility of the Owner's site for the Project based on site conditions, and the Owner's program, schedule and budget for the Cost of the Work. The Architect shall include, in the written report, an identification and evaluation of the location, availability, adequacy, capacity, and sufficiency of all utilities necessary to serve the completed Project. The Architect shall address with the Owner any existing easements or rights-of-way which may interfere with Owner's Project.

§ 3.3.3 The Architect shall present its written preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project. The Architect shall reach a written understanding with the Owner regarding the requirements of the Project.

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

§ 3.3.5 Based on the Owner's approval of the preliminary design and Owner's schedule and budget for the Work, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall establish the conceptual design of the Project and illustrate the scale and relationship of the Project components. 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.

§ 3.3.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, implications of sustainable code

requirements enacted in the relevant jurisdiction, if any, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain other sustainable design services under Article 4.

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

§ 3.3.6 The Architect shall submit the Schematic Design Documents to the Owner and request the Owner's approval. Architect shall not proceed to the Design Development Document Phase without the approval of Owner's Board of Education, or the Board's designee; provided, however, this approval shall not relieve Architect of Architect's responsibility and liability to provide documents which are sufficient for Owner to complete the construction of the Project, and are free from material defects or omissions. Architect shall bear full responsibility for, and all resulting excess costs incurred by Architect in, proceeding without required approval. The Architect shall meet with the Construction Manager to review the Schematic Design Documents.

§ 3.3.7 When the Project requirements have been sufficiently identified, including Owner's budgetary constraints, programmatic needs, and expectations as to quality, functionality of systems, maintenance costs, and usable life of equipment and facilities, the Architect and the Construction Manager, shall prepare a preliminary estimate of the Cost of the Work prepared in accordance with Section 6.3. This estimate may be based on current area, volume or similar conceptual estimating techniques.

§ 3.3.8 In the further development of the Drawings and Specifications during this and subsequent phases of design, the Architect shall be entitled to rely on the accuracy of the estimates of the Cost of the Work, which are to be provided by the Construction Manager under the Construction Manager's agreement with the Owner.

§ 3.4 Design Development Phase Services

§ 3.4.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work pursuant to Section 5.4, the Architect shall prepare Design Development Documents for the Owner's approval and Construction Manager's review. The Design Development Documents shall be based upon information provided, and estimates prepared by, the Construction Manager and shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and such other elements as may be appropriate. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels.

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

§ 3.4.3 Upon receipt of the Construction Manager's information and estimate at the conclusion of the Design Development Phase, the Architect shall take action as required under Sections 6.5 and 6.6 and request the Owner's approval of the Design Development Documents.

§ 3.5 Construction Documents Phase Services

§ 3.5.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval and the Construction Manager's review. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that in order to construct the Work the Construction Manager will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4. "Construction Documents" means: all Drawings, specifications, submittals, transmittals, deliverables, instructions to Construction Manager, and other documents, including those in electronic form, prepared by the Architect and the Architect's consultants which shall set forth in detail the requirements for construction of the Project. The Construction Documents shall show all agreements between Owner and Architect concerning Owner's budgetary constraints, programmatic needs and expectations as to quality, functionality of systems, maintenance

costs, and usable life of equipment and facilities. Said Construction Documents shall reflect the Owner's educational program and specifications, and the standards set forth in Section 3.1.4 of this Agreement.

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

§ 3.5.3 During the development of the Construction Documents, if requested by the Owner, the Architect shall assist the Owner and Construction Manager in the development and preparation of (1) the Conditions of the Contract for Construction (General, Supplementary and other Conditions) and (2) a project manual that includes the Conditions of the Contract for Construction and Specifications and may include sample forms.

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

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

§ 3.6 Construction Phase Services

§ 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Construction Manager as set forth below and in AIA Document A201™–2017, General Conditions of the Contract for Construction. While on Owner's property and throughout Architect's services under this Agreement, the Architect shall comply with all policies, regulations, and rules of the Owner, including, but not limited to, those related to employee conduct (such as prohibitions against alcohol, weapons, drugs, fraternization, harassment, and tobacco on school property), and prohibitions against fraud and financial impropriety. The Owner shall notify the Architect if the Owner and Contractor modify AIA Document A201-2017, which will include providing notice of the changes made. The Architect shall immediately notify the Owner if said changes impact the Architect's duties and obligations set forth herein.

§ 3.6.1.2 Subject to Section 4.3, the Architect's responsibility to provide Construction Phase Services commences upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Owner's approval of the Construction Manager's Control Estimate, or the Owner's issuance of a Notice to Proceed to the Construction Manager. Subject to Section 4.3, the Architect's responsibility to provide Construction Phase Services terminates on the date the Architect issues the final Certificate for Payment.

§ 3.6.1.3 The Architect shall advise and consult with the Owner and Construction Manager during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Construction Manager's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Construction Manager or of any other persons or entities performing portions of the Work. Any services by Architect made necessary by Architect's design errors or omissions shall be at no additional cost to Owner, unless they result in betterment or first costs.

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of the Construction Manager's operations (1) to inspect the progress, quantity and quality of the Work completed; (2) to reject any observed nonconforming Work; (3) to become familiar with and to keep the Owner informed about and on time; and (4) to document progress of the Work, in written and photographic form. Furthermore, a minimum of two job site meetings per month from commencement of construction through Final Completion will be initiated by the Construction Manager and attended by the Architect. Attendees will include Owner, the Construction Manager's project manager and/or superintendent, Architect's project representative, and Architect. Architect or his authorized representative will provide on-site observations prior to and during all concrete pours that contribute to the structural integrity of the building, including all pours of concrete piers, footings, grade beams, floor slabs, and concrete superstructure components, if applicable. In addition, Architect or his authorized representative will provide on-site observations prior to covering up or closing up of portions of the construction that, if covered, would conceal

problems with the structural integrity of the Project. To the best of Architects, knowledge, information, and belief, Architect will advise Owner of the need for any third-party laboratory or testing services to assist the Architect, and will assist Owner in development of Requests for Proposals or other solicitations for any required testing services approved by Owner. On the basis of the site visits, on-site observations, or inspections by the Architect, Architect shall keep Owner and Owner's Construction Manager informed of about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Construction Manager, and (3) defects and deficiencies observed in the Work. Architect shall guard Owner against defects and deficiencies in the Work and shall promptly notify Owner and Construction Manager orally regarding the defect or nonconforming Work, which notice shall be followed by notice in writing of defects and nonconforming work noted and corrective actions taken or recommended. The Architect shall neither have control over or charge of, nor be responsible for, the construction means, methods, techniques, sequences or procedures, or safety precautions and programs in connection with the Work, since these are solely the Construction Manager's rights and responsibilities under the Contract Documents.

§ 3.6.2.2 The Architect shall reject Work that, to the best of Architect's knowledge, information, and belief, does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will recommend to Owner additional inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Construction Manager, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work. Architect shall promptly notify Owner and Construction Manager, orally and in writing, of any observed fault or defect in the Project or nonconformance with Contract Documents, upon discovery of the defect or nonconformance, and shall notify Owner of all corrective actions taken or recommended.

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

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

§ 3.6.2.5 Unless the Owner and Construction Manager 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 Construction Manager as provided in the Contract Documents.

§ 3.6.3 Certificates for Payment to Construction Manager

§ 3.6.3.1 The Architect shall review and certify the amounts due the Construction Manager and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Construction Manager's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the Architect.

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

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

§ 3.6.4 Submittals

§ 3.6.4.1 The Architect shall review and approve or take other appropriate action upon the Construction Manager's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. 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. The Architect shall promptly report in writing to the Construction Manager and Owner any errors, inconsistencies and omissions discovered by the Architect in the Shop Drawings, Product Data and Samples. The Architect is not authorized to approve changes involving major systems such as HVAC, roof, foundation, outward appearance, color schemes, floor plans, building materials, or mechanical equipment without Owner's prior written consent.

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

§ 3.6.4.3 If the Contract Documents specifically require the Construction Manager to provide professional design services or certifications by a design professional related to systems, materials or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review shop drawings and other submittals related to the Work designed or certified by the design professional retained by the Construction Manager that bear such professional's seal and signature when submitted to the Architect. The Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals.

§ 3.6.4.4 Subject to the provisions of Section 4.3, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth in the Contract Documents the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to requests for information.

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

§ 3.6.5 Changes in the Work

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

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

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall:

- .1 conduct inspections to determine the date or dates of Substantial Completion and the date of Final Completion;
- .2 issue Certificates of Substantial Completion and of Final Completion, using Owner's forms;
- .3 receive from the Construction Manager and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents; and;

- 4 issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents;

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

§ 3.6.6.3 When the Work is found to be substantially complete, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Construction Manager, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

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

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

ARTICLE 4 ADDITIONAL SERVICES

§ 4.1 Additional Services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Additional Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2.

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

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

§ 4.1.18	Facility Support Services (B210™-2007)	Not provided	
§ 4.1.19	Tenant-related services	Not provided	
§ 4.1.20	Coordination of Owner's consultants	Not provided	
§ 4.1.21	Telecommunications/data design	Not provided	
§ 4.1.22	Security Evaluation and Planning (B206™-2007)	Not provided	
§ 4.1.23	Commissioning (B211™-2007)	Not provided	
§ 4.1.24	Extensive sustainable design services	Not provided	
§ 4.1.25	LEED® Certification (B214™-2012)	Not provided	
§ 4.1.26	Historic Preservation (B205™-2007)	Not provided	
§ 4.1.27	Furniture, Furnishings, and Equipment Design (B253™-2007)	Not provided	

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

§ 4.2.1 As-constructed record drawings. These drawings are a consolidation of the Record of the Work As-constructed prepared by the contractor and the As-designed record drawings prepared by the Architect. The Architect is entitled to rely on, and shall not be responsible for, the accuracy or completeness of Record of the Work As-constructed prepared by the contractor.

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

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

- .1 Services necessitated by a change in the Initial Information, previous instructions or recommendations given by the Construction Manager or the Owner, approvals given by the Owner, or a material change in the Project including, but not limited to, size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or bid packages in addition to those listed in Section 1.1.6;
- .2 Making revisions in Drawings, Specifications, or other documents (as required pursuant to Section 6.7), when such revisions are required because the Construction Manager's estimate of the Cost of the Work, Guaranteed Maximum Price proposal, or Control Estimate exceeds the Owner's budget, except where such excess is due to changes initiated by the Architect in scope, capacities of basic systems, or the kinds and quality of materials, finishes, or equipment;
- .3 Services necessitated by the Owner's request for extensive sustainable design alternatives, such as unique system designs, in-depth material research, energy modeling, or LEED® certification;
- .4 Changing or editing previously prepared Instruments of Service necessitated by the enactment or revision of codes, laws or regulations, or official interpretations;
- .5 Services necessitated by decisions of the Owner or Construction Manager 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;
- .6 Preparing digital data for transmission to the Owner's consultants and contractors, or to other Owner authorized recipients;
- .7 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner or Construction Manager;
- .8 Preparation for, and attendance at, a public presentation, meeting or hearing;
- .9 Preparation for, and attendance at a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .10 Evaluation of the qualifications of bidders or persons providing proposals;

- .11 Consultation concerning replacement of Work resulting from fire or other cause during construction;
- .12 Assistance to the Initial Decision Maker, if other than the Architect;
- .13 Services necessitated by replacement of the Construction Manager or conversion of the Construction Manager as constructor project delivery method to an alternative project delivery method;
- .14 Services necessitated by the Owner's delay in engaging the Construction Manager; and
- .15 Making revisions in Drawings, Specifications, and other documents resulting from substitutions included in the agreed to assumptions and clarifications contained in the Guaranteed Maximum Price Amendment or Control Estimate.

§ 4.3.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If the Owner subsequently determines that all or parts of those services are not required, the Owner shall give prompt written notice to the Architect, and the Owner shall have no further obligation to compensate the Architect for those services:

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

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

- .1 «Two» («2») reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Construction Manager
- .2 «Two» («2») visits to the site by the Architect during construction as part of basic services. Up to two (2) additional visits per month to be billed at an hourly rate during construction, not to exceed twelve thousand dollars (\$12,000.00).
- .3 «Two» («2») 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 «Two» («2») inspections for any portion of the Work to determine final completion.

§ 4.3.4 If the services covered for each scope of work under this Agreement have not been completed within «thirty» («30») days of the date of Substantial Completion as set forth in the Construction Documents for each scope of work under this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements. Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of or enforce lien rights.

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

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

§ 5.4 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall furnish the services of a Construction Manager that shall be responsible for preparing all estimates of the Cost of the Work. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the budget for the Cost of the Work or in the Project's scope and quality.

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

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

§ 5.6 Upon written request of the Architect, the Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. Because these documents are based on unverified information provided by other parties, which the Owner shall assume will be reliable; the Owner cannot and does not warrant their accuracy.

Architect shall not be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work. Owner does not guarantee the accuracy of surveys provided, including the locations of utility lines, cables, pipes or pipelines or the presence or absence of easements. Architect shall review this information and shall provide to Owner a written request for additional information needed, if any, for Architect to adequately perform services hereunder. Upon receipt of this request, the Owner will procure and provide to the Architect the information requested.

§ 5.7 The Owner may furnish services of geotechnical engineers, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 5.8 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon Architect's request, the Owner shall require that its consultants maintain professional liability insurance and other liability insurance as appropriate to the services provided.

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

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

§ 5.11 The Owner shall provide prompt written notice to the Architect and Construction Manager if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.12 Communications by and with the Owner's consultants shall be through the Owner. Communications by and with the Architect's consultants shall be through the Architect. The Owner shall not be liable for failure to provide said notice or for failure to become aware of any fault or defect in the Project. Further, the Owner's failure to provide said notice or become aware of any fault or defect in the Project will not relieve the Architect of its duties and obligations set forth herein.

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

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

ARTICLE 6 COST OF THE WORK

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

§ 6.2 The Owner's budget for the Cost of the Work is provided in the Initial Information, and may be adjusted throughout the Project as required under Sections 5.4 and 6.4. Evaluations of the Owner's budget for the Cost of the Work represent the Architect's judgment as a design professional.

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

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

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

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

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

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

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

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

ARTICLE 7 COPYRIGHTS AND LICENSES

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

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

§ 7.2 Architect shall provide to Owner all drawings, specifications, submittals, transmittals, deliverables, instructions to Construction Manager (including the necessary number of paper and electronic copies) and other documents hereinafter referred to as “Construction Documents,” that are within Architect’s scope of services and that are sufficient for Owner to complete construction of the Project and are free from material defects or omissions. 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, provided, however, Architect and Architect’s consultants shall not use the Instruments of Service on another project without Owner’s written permission. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect’s consultants.

§ 7.3 Upon execution of this Agreement, the Architect grants to the Owner a nonexclusive license to use, reproduce and distribute the Architect’s Instruments of Service solely and exclusively for constructing, using, maintaining, and renovating the Project. 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 Construction Manager, Subcontractors, Sub-subcontractors, and material or equipment suppliers, as well as the Owner’s consultants and separate contractors, to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services for the Project.

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

§ 7.4 This nonexclusive license shall survive termination of this Agreement, and Architect hereby grants permission to Owner to use the Instruments of Service for future renovations, repairs, additions or alterations to the Project. In the event the Owner uses the Instruments of Service without retaining the author 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.

§ 7.5 Except for the licenses granted in this Article 3, 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.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other arising out of or related to this Agreement in accordance with the requirements of the method of binding dispute resolution selected in this Agreement within the period specified by applicable 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 AIA Document A201–2017, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the Construction Manager, contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect shall indemnify and hold the Owner and the Owner’s officers and employees harmless from and against damages, losses and judgments arising from claims by third parties, including reasonable attorneys’ fees

and expenses recoverable under applicable law, but only to the extent they are caused by the negligent acts or omissions of the Architect, its employees and its consultants in the performance of professional services under this Agreement. The Architect's duty to indemnify the Owner under this provision shall be limited to the available proceeds of insurance coverage.

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

§ 8.1.5 Design Contingency Reserve. The Standard of Care requires the Architect perform its services consistent with the professional skill and care provide by architects practicing in the same or similar locality under the same or similar circumstances. The Standard of Care does not require perfection, and the Architect does not guarantee or warrant perfection. The Architect is only liable for the failure to perform in accordance with the Standard of Care. Some errors and omissions may occur without a breach of the Standard of Care, and the Architect is not responsible for errors or omissions that do not constitute a breach of the Standard of Care. The Owner shall establish a design contingency reserve in an amount equal to three percent (3%) of the Cost of the Work and shall neither have nor make any claim for breach of the Standard of Care to the extent that the cumulative total of errors and omissions constituting a breach of the Standard of Care do not exceed that design contingency reserve.

8.1.6 Betterment. In no event shall the Architect be liable to the extent that damages constitute first costs or betterment. First costs or betterment are costs that the Owner would have incurred if an error or omission had not been made. Betterment also results to the extent that errors or omissions are remedied with a more expensive alternative design, higher quality materials, or with repairs that increase useful life.

§ 8.1.7 Disputed Supplemental or Additional Services. To the extent that the Owner authorizes the Architect to proceed with Supplemental or Additional Services, but in that authorization disputes the characterization of these services as supplemental or additional, the compensation adjustment and/or the schedule adjustment, the Owner shall pay the undisputed portions of the compensation adjustment requested by the Architect and 50% of the disputed compensation adjustment requested, with Owner and Architect reserving their rights to resolve the differences pursuant to the dispute resolution procedures of this Agreement.

§ 8.1.8 Limitation of Liability. The Architect's cumulative total liability for claims arising from or relating to this Agreement shall not exceed one million dollars (\$1,000,000).

§ 8.1.9 Direct Negotiation. Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to a written request to seek to resolve such through direct negotiation at a meeting of the senior management of the Owner and the Architect as a condition precedent to mediation. The parties shall endeavor to schedule a meeting within two weeks of such request.

§ 8.2 Mediation

§ 8.2.1 If permitted by the Owner's and Architect's insurers, and 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. 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, unless the filing deadlines under applicable statutes of limitation and/or repose would otherwise expire. If suit is filed before mediation in order to avoid expiration of limitations and/or repose, then the parties agree to submit the matter to mediation as soon as reasonably possible. Claims for injunctive relief shall not be subject to this Section.

§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation. A request for mediation may be made in writing, delivered to the other party to this Agreement, and filed with the mutually-acceptable person or entity administering the mediation. The request may be made within 30 days after the completion of Owner's grievance process. In no event shall the request for mediation be made after the date when institution of legal or equitable proceedings based on such claim, dispute, or other matter in controversy would be barred by applicable statutes of limitation. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

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

§ 8.2.4 The parties agree that any claim, dispute, or other matter in controversy between them shall not be subject to mandatory arbitration. The parties may, however, mutually agree in writing to submit such claims, disputes, or matters in controversy to arbitration. Neither party may compel the other to arbitrate any claim, dispute, or matter in controversy between them:

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

[] Arbitration pursuant to Section 8.3 of this Agreement

[] Litigation in a court of competent jurisdiction

[] Other: *(Specify)*

«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 Architect stipulates that Owner is a political subdivision of the State of Missouri, and, as such, may enjoy immunities from suit and/or liability under the Constitution and laws of the State of Missouri. By entering into this Agreement, Owner does not waive any of its immunities from suit and/or liability, except as otherwise specifically provided herein and as specifically authorized by law.

§ 8.2.6 **Waiver of Jury Trial.** The Owner and Architect each waive any right to trial by jury for any claims or causes of action against the other and arising out of or related to this Agreement.

§ 8.3 Intentionally Deleted.

ARTICLE 9 TERMINATION OR SUSPENSION

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

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

§ 9.3 If the Owner suspends the Project for more than ninety (90) consecutive 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 and opportunity to cure, within the seven days' notice.

§ 9.4 Either party may terminate this Agreement upon not less than twenty-one (21) days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 9.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause. The Owner may also terminate this Agreement on seven days' written notice if the budget for the Cost of the Work, prior to commencement of the Work, is exceeded by the lowest bona fide bid or negotiated proposal.

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

§ 9.7 Termination Expenses are in addition to compensation for the Architect's services and include expenses directly attributable to termination for which the Architect is not otherwise compensated.

§ 9.8 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 11.9.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, except that if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3. Venue of any litigation arising out of this Agreement shall be in Platte County, Missouri.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201–2017, General Conditions of the Contract for Construction, except as modified in this Agreement. The term "Contractor" as used in A201–2017 shall mean the Construction Manager.

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

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

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

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site, unless Architect knew, directed, or specified that, or allowed such hazardous materials be used in the Project. Architect shall promptly disclose in writing to Owner any hazardous materials specified for the Project or discovered on site, regardless of the date of discovery or the date on which Architect learns of the hazardous nature of the materials.

§ 10.7 With prior written consent of the Owner, the Architect may include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary, but may not photograph students without prior written parental consent. Owner provides notice that confidential and proprietary information shall include, but shall not be limited to, all items listed in Section 10.8.

§ 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 to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information. Notwithstanding, this Section does not apply to any information that must be disclosed by the Owner pursuant to the Missouri Open Records Act, Mo. Rev. Stat. § 610.010 *et seq.* The Owner shall give Architect as much notice as reasonably practicable prior to any such disclosure. The Architect shall maintain the confidentiality of information specifically designated as confidential by the Owner, unless withholding such information would violate the law, create the risk of significant harm to the public, or prevent the Architect from establishing a claim or defense in an adjudicatory proceeding. The Architect

shall require of the Architect's consultants' similar written agreements to maintain the confidentiality of information specifically designated as confidential by the Owner. Owner herein designates the following as confidential information: security measures; security access codes; pending real estate purchases, exchange, lease or value; any information pertaining to litigation; student likenesses and student record information; employee information; and any other information deemed confidential by law.

§ 10.9 Prior to the commencement of the work, the Architect shall provide to the Owner a sworn affidavit and other sufficient documentation to affirm its enrollment and participation in the Federal Work Authorization Program. Federal Work Authorization Programs means the E-very program maintained and operated by the United States Department of Homeland Security and the Social Security Administration, or any successor program. The Architect shall also provide the Owner a sworn affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the contracted services.

ARTICLE 11 COMPENSATION

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

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

«Negotiated architectural/engineering on-call services fee schedule: All fees assume full architectural and engineering services performed by DLR Group (with the exception of civil engineering), one project site, one construction documents package per project, and construction delivery method of Design/Bid/Build to a General Contractor or Construction Manager Constructor with a GMP.

Construction Cost Value	New Construction	Renovation
Construction cost value of \$0 to \$500,000:	7.5%	8.5%
Construction cost value of \$501,000 to \$1,500,000	7.0%	8.0%
Construction cost value of \$1,500,001 to \$3,000,000	6.5%	7.5%
Construction cost value of \$3,000,001 and greater	6.0%	7.0%»

§ 11.2 Intentionally Deleted:

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

« »

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.3, the Owner shall compensate the Architect as follows:

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

«As mutually agreed upon by the parties. »

§ 11.4 Compensation for Additional Services of the Architect's consultants when not included in Sections 11.2 or 11.3, shall be the amount invoiced to the Architect plus «ten» percent («10» %), or as otherwise stated below:

« »

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

Schematic Design Phase	«fifteen»	percent («15»	%)
Design Development Phase	«twenty»	percent («20»	%)
Construction Documents Phase	«thirty-five»	percent («35»	%)
Bidding Phase	five	percent (5	%)
Construction Phase	«twenty-five»	percent («25»	%)
Total Basic Compensation	one hundred	percent (100	%)

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

§ 11.6 When compensation is based on a percentage of the Cost of the Work and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions, in accordance with the schedule set forth in Section 11.5 based on (1) the Owner-accepted Guaranteed Maximum Price Amendment or Control Estimate, as applicable, or (2) if the Guaranteed Maximum Price proposal or Control Estimate has not been accepted by the Owner, the most recent estimate of the Cost of the Work prepared by the Construction Manager for such portions of the Project. The Architect shall be entitled to compensation in accordance with this Agreement for all services 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, if any, are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices.

(If applicable, attach an exhibit of hourly billing rates or insert them below.)

«See Exhibit B, Hourly Rates »

Employee or Category	Rate (\$0.00)
See Exhibit B, Hourly Rates	

§ 11.8 Compensation for Reimbursable Expenses

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

- .1 Intentionally deleted;
- .2 Intentionally deleted;
- .3 Permitting and other fees required by authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, and standard form documents used during Design and Construction for the Architect, Consultants and Owners;
- .5 Postage, handling and delivery; of Construction Documents, other than those required to be provided by Architect under this Agreement
- .6 Intentionally Deleted;
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner;
- .8 Intentionally Deleted;
- .9 Intentionally Deleted.
- .10 Intentionally Deleted.
- .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 Intentionally Deleted.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus «fifteen» percent («15» %) of the expenses incurred.

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

«At Architect's cost. »

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

The parties agree that Architect's compensation for Basic Services includes all licensing fees for Owner's use of the Construction Documents, including use after termination of this Agreement.

§ 11.10 Payments to the Architect

§ 11.10.1 Initial Payments.

§ 11.10.1.1 Intentionally Deleted.

§ 11.10.1.2 Intentionally Deleted.

§ 11.10.2 Progress Payments

(Insert rate of monthly or annual interest agreed upon.)

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments for undisputed amounts are due and payable within ___ () days after receipt of the Architect's invoice to Owner's designated representative. Undisputed amounts unpaid more than thirty (30) days after Owner's receipt of the invoice 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:

Prime rates as established from time to time by Bank of America

§ 11.10.2.2 The Owner may withhold payments after appropriate notice as to the reasons for the withholding, to the Architect or the purposes of reimbursing Owner for any damages caused by the Architect for changes in the Cost of the Work which result in Architect's compensation being reduced, for Architect's failure to comply with the provisions of any part of this Agreement. If a claim has been filed against Architect, or to secure performance of Architect's services and obligations under any part of this Agreement.

§ 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 provided to the Owner upon presentation of Architect's progress payment applications.

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

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

§ 11.11 Architect shall reasonably cooperate with Owner, at no additional cost to Owner, in connection with a legal proceeding against Owner that relates to the Project.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

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

§ 12.1 INDEMNITY. Approval of any Construction Documents by Owner shall not constitute and shall not be deemed to be a release of the responsibility and liability of Architect, its agents, employees, and subcontractors, for Construction Documents which are sufficient for Owner to complete the construction of the Project and are free from material defects or omissions, nor shall such approval be deemed to be an assumption of such responsibility and liability by Owner for any defect in the Construction Documents prepared by Architect, its agents, employees, subcontractors, or consultants, it being the intent of the parties that the approval by Owner signifies Owner's approval of only the general design concept of the improvements to be constructed. In this connection, ARCHITECT SHALL, DURING THE CONSTRUCTION OF SAID PROJECT AND FOR A PERIOD OF TEN YEARS AFTER SUBSTANTIAL COMPLETION INDEMNIFY AND HOLD HARMLESS OWNER AND ALL OF ITS OFFICERS, TRUSTEES, AGENTS, REPRESENTATIVES, SERVANTS, AND EMPLOYEES FROM ANY LOSS, DAMAGE, LIABILITY, OR EXPENSE, INCLUDING ATTORNEY'S FEES, INCURRED BY OWNER ON ACCOUNT OF DAMAGE OR DESTRUCTION TO PROPERTY AND INJURIES, INCLUDING DEATH, TO ANY OR ALL PERSONS, INCLUDING INVITEES AND EMPLOYEES OF THE OWNER, CONSTRUCTION MANAGER, ARCHITECT, OR SUBCONTRACTORS AND OF ALL OTHER PERSONS PERFORMING ANY PART OF THE WORK, THAT IS CAUSED BY AN ACT OF NEGLIGENCE, INTENTIONAL TORT, INTELLECTUAL PROPERTY INFRINGEMENT, OR FAILURE TO PAY A SUBCONTRACTOR OR SUPPLIER, COMMITTED BY THE ARCHITECT, OR THE ARCHITECT'S AGENT, CONSULTANT UNDER CONTRACT, OR ANOTHER ENTITY OVER WHICH THE ARCHITECT EXERCISES CONTROL; provided and except, however, that this indemnification provision shall not be construed as requiring Architect to indemnify or hold Owner harmless for any loss, damage, liability, or expense on account of

damaged property or injuries, including death to any person, which may arise out of or may be caused by any act of negligence or breach of obligation under this Agreement by Owner or Owner's employees or agents, except Architect.

§ 12.2 THE PROVISIONS OF SECTION 12.1 IN ITS ENTIRETY SHALL SURVIVE THE COMPLETION, TERMINATION OR EXPIRATION OF THIS CONTRACT.

§ 12.3 It is agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of the indemnification obligations under Paragraph 12.1, such legal limitations are made a part of the indemnification obligation and shall operate to amend the indemnification obligation to the minimum extent necessary to bring the provision into conformity with the requirements of such limitations, and as so modified, the indemnification obligations shall continue in full force and effect.

§ 12.4 The Architect shall ensure that any final Construction Documents, including necessary Drawings and Specifications, are reasonably substantially accurate, and not substantially deficient or defective, so that construction of the project pursuant to the Construction Documents will be viable, feasible, and otherwise constructible, taking into account the conditions of the site, the budget for the Cost of the Work, all applicable Laws, and any other conditions to which the project is subject. For purposes of this paragraph, defective shall mean so faulty as to prevent or unreasonably delay completion of the contract performance by Owner's Contractor. To the extent any final Construction Documents are not reasonably substantially accurate, or are substantially deficient or defective, then Architect shall correct the same and shall bear the costs to the Owner related to such changes in the Work.

§12.5 Any proposed financial statements requested by the Owner, a lender providing financing for the project (a "Lender") or any third-party must be submitted to Architect with sufficient notice to allow Architect a reasonable opportunity to review it. All statements including Certifications of Payment or of Substantial or Final Completion shall be "to the best of Architect's knowledge, information and belief" or "in its professional opinion" and based upon the performance of its duties as set forth in the Agreement. The issuance of any statement shall not be a representation that the Work is without defects or that Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, schedules, sequences or procedures; (3) reviewed data to substantiate contractor's rights to payment, or (4) ascertained how or for what purposes contractor has used money previously paid. Architect shall have the right to refuse to provide any certification that does not conform to the requirements of this paragraph or would require knowledge, services, or responsibilities beyond the scope of this Agreement. 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. The Architect shall not be required to execute certificates that would require knowledge, services or responsibilities beyond the scope of this Agreement.

§ 12.5.1 The Owner and the Architect agree, that due to the nature of construction, certain costs and changes may be required during the project and that a Design and Construction Contingency be included in the Cost of the Work as outlined in Section 5.2.

§ 12.5.2 Owner agrees to establish a Design and Construction Contingency of five percent (5%) of the Cost of the Work for changes in the construction of the project and for omissions, ambiguities or inconsistencies in the construction documents. The Design and Construction Contingency shall be allocated, respectively, to construction changes, three-fourths (3/4) and to construction documents, one-fourth (1/4). The Design and Construction Contingency will be used, as required, to pay for any such increased cost and changes due to construction modifications or adjustments to the construction documents.

§ 12.5.3 Upon completion of the Work, the Architect shall compile for and deliver to the Owner a reproducible set of Record Documents based upon the marked-up record drawings, addenda, change orders and other data furnished by the contractor. These Record Documents will show significant changes made during construction. Because these Record Documents are based on unverified information provided by other parties, which the Architect shall assume will be reliable; the Architect cannot and does not warrant their accuracy.

§ 12.5.4 The Owner agrees that the Architect is not responsible for damages arising directly or indirectly from any delays for causes beyond the Architect's control. For purposes of this Agreement, such causes include, but are not limited to, severe weather disruptions other natural disasters; fires, riots, acts of terrorism, war or other emergencies or acts of God; failure of any government agency to act in timely manner; failure of performance by the Owner or the Owner's contractors or consultants; or discovery of any hazardous substances or differing site conditions, unless Architect directed, specified that, or allowed such hazardous materials be used in the project. In addition, if the

delays resulting from any such causes increase the cost or time required by the Architect to perform its services in an orderly and efficient manner, the Architect shall be entitled to an equitable adjustment in schedule or compensation.

§ 12.5.5 In no event will the Architect be responsible for any cost or expense that provides betterment or upgrades or enhances the value of the Project.

§ 12.5.6 Any term or provision of this Agreement found to be invalid under any applicable statute or rule of law shall be deemed omitted and the remainder of this Agreement shall remain in full force and effect.

§ 12.5.7 Architect is not responsible to Owner or any third-parties for errors, omissions or other deficiencies in the services of any other design professional or design-build contractor rendering design, engineering or related services for Owner not employed by Architect. Architect's sole liability in connection with the services of Owner's consultants or design-build contractors shall be to coordinate Owner's consultant's portion of the Instruments of Service.

§ 12.5.8 Architect is not responsible to Owner or any third-parties for errors, omissions or other deficiencies in the services of any other design professional or design-build contractor rendering design, engineering or related services for benefit of Owner or the Project, if retained by Owner. Architect's sole liability in connection with the services of consultants or design-build contractors shall be to coordinate the consultant's portion of the Instruments of Service. Architect shall take whatever action is reasonably necessary, including, if necessary, an assignment of rights, to enable Owner to pursue its claims for errors, omissions and deficiencies directly against any consultant retained by Architect. Owner shall require consultants or design-build contractors retained by Owner to coordinate their services and documents with those of Architect and Architect's consultants.

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ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral unless specifically provided for otherwise in this Agreement, as amended. This Agreement may be amended only by written instrument approved by the Owner's Board of Education and signed by both the Owner's designated representative and Architect.

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

- .1 AIA Document B133™-2014, Standard Form Agreement Between Owner and Architect, Construction Manager as Constructor Edition
- .2 Exhibit C, AIA Document C106™-2013, Digital Data Licensing Agreement, as amended:

« »

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

«Exhibit A, Reimbursable Expenses

Exhibit B, Hourly Rates »

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

OWNER (Signature)

«Sharon Sherwood, President, Board of Education,
Platte County R-3 School District »« »

(Printed name and title)

ARCHITECT (Signature)

«Kevin M. Greischar, AIA, Vice President, DLR
Group inc. »« »

(Printed name and title)