

# AIA® Document B101® – 2017

## ***Standard Form of Agreement Between Owner and Architect***

**AGREEMENT** made as of the 25 day of June in the year 2025  
(*In words, indicate day, month and year.*)

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

Davidson County  
Casey Smith, Manager  
913 Greensboro Street  
Lexington, NC 27292

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

Providence Partners II, Inc.  
Brian Cone, Principal  
8101 Tower Point Road, STE 200  
Charlotte, NC 28227

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

Davidson County Sportsplex  
Parcel: 0603400000005  
Lexington, NC 27292

The Owner and Designer agree as follows.

### **ADDITIONS AND DELETIONS:**

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

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

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### ARTICLE 1 INITIAL INFORMATION

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

*This agreement is for the design and construction management of the new Davidson County Sportplex*

§ 1.1.1 The Owner's program for the Project:

*(Paragraph deleted)*

This project is based on the concept plan voted on by the board of commissioners on March 3, 2025.

§ 1.1.2 The Project's physical characteristics:

*This is a +/- 358.63-acre parcel located west of Southmont Elementary School. Approximately 125 acres are included in the project scope.*

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

*The overall budget of this project is 65 million US dollars.*

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

.1 See attachment #1 at the end of this document.

.2 Construction commencement date:

To Be Determined

.3 Substantial Completion date or dates:

See Attachment #1

.4 Other milestone dates:

§ 1.1.5 The Owner intends the following procurement and delivery method for the Project:

*The procurement of the various components of this project are to be competitively bid according to the requirements of applicable North Carolina statutes and instructions from the Owner.*

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:

*Not Applicable*

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

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

Sportsplex Review Committee

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

Thomas Marshburn and/or Dwayne Childress both with Davidson County

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

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

.1

*(Paragraphs deleted)*

Not Applicable

*(Paragraphs deleted)*

§ 1.1.10 The Designer identifies the following representative in accordance with Section 2.3:

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

Brian Cone, PE  
bcoone@providencepartnersinc.com  
704-773-2925 (mobile)

§ 1.1.11 The Designer shall retain the consultants identified in Sections 1.1.11.1 and 1.1.11.2:  
(List name, legal status, address, and other contact information.)

§ 1.1.11.1 Consultants retained under Basic Services:

.1 Architect:

Jeff Sherer of Architecture Unlimited  
131 Matthews Station Street, Suite 2A  
Matthews, NC 28105

.2 Structural Engineer:

Laredo Williams Providence Partners II, Inc.  
8101 Tower Point Drive, STE 200  
Charlotte, NC 28227

.3 MEP and Pool Design Firm:

Schultz Engineering Group Tammy Ellis and Billy Austin  
212 North McDowell Street, STE 204  
Charlotte, NC 28204

.4 Civil Engineer

Sloan Civil Solutions Cory Sloan  
258 E. Broad Street  
Statesville, NC 28677

§ 1.1.11.2 Consultants retained under Supplemental Services:

To Be Determined

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

Not Applicable

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

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

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to written protocols governing the use of, and reliance on, the information contained in the model shall be at the using or relying

party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

## **ARTICLE 2 DESIGNER'S RESPONSIBILITIES**

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

**§ 2.2** The Designer shall perform its services consistent with the professional skill and care ordinarily provided by Designers practicing in the same or similar locality under the same or similar circumstances. The Designer 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 Designer shall identify a representative authorized to act on behalf of the Designer with respect to the Project.

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

**§ 2.5** The Designer shall maintain the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Designer normally maintains, the Owner shall pay the Designer as set forth in Section 11.9.

**§ 2.5.1** Commercial General Liability with policy limits of not less than two million (\$ 2,000,000.00 ) for each occurrence and four million (\$ 4,000,000.00 ) in the aggregate for bodily injury and property damage.

**§ 2.5.2** Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Designer with policy limits of not less than two million (\$ 2,000,000.00 ) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

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

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

**§ 2.5.5** Employers' Liability with policy limits not less than one million (\$ 1,000,000.00 ) each accident, one million (\$ 1,000,000.00 ) each employee, and one million (\$ 1,000,000.00 ) policy limit.

**§ 2.5.6** Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than one million (\$ 1,000,000.00 ) per claim and one million (\$ 1,000,000.00 ) in the aggregate.

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

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

### **ARTICLE 3 SCOPE OF DESIGNER'S BASIC SERVICES**

**§ 3.1** The Designer's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services.

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

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

**§ 3.1.3** As soon as practicable after the date of this Agreement, the Designer shall submit for the Owner's approval a schedule for the performance of the Designer'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 Designer or Owner. With the Owner's approval, the Designer shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

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

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

**§ 3.1.6** The Designer shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

#### **§ 3.2 Schematic Design Phase Services**

**§ 3.2.1** The Designer shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Designer's services.

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

**§ 3.2.3** The Designer shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project. The Designer shall reach an understanding with the Owner regarding the requirements of the Project.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **§ 3.5 Procurement Phase Services**

### **§ 3.5.1 General**

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

### **§ 3.5.2 Competitive Bidding**

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

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

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

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

### **§ 3.5.3 Negotiated Proposals**

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

**§ 3.5.3.2** The Designer shall assist the Owner in obtaining proposals by:

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

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

## **§ 3.6 Construction Phase Services**

### **§ 3.6.1 General**

**§ 3.6.1.1** The Designer shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™-2017, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201-2017, those modifications shall not affect the Designer's services under this Agreement unless the Owner and the Designer amend this Agreement.

**§ 3.6.1.2** The Designer shall advise and consult with the Owner during the Construction Phase Services. The Designer shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Designer 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 Designer be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Designer shall be responsible for the Designer's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

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



### **§ 3.6.2 Evaluations of the Work**

**§ 3.6.2.1** The Designer shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Designer shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Designer shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

**§ 3.6.2.2** The Designer has the authority to reject Work that does not conform to the Contract Documents. Whenever the Designer considers it necessary or advisable, the Designer shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Designer 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 Designer to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

**§ 3.6.2.3** The Designer shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Designer'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 Designer 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 Designer shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Designer's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents; however, the owner reserves the right to engage a neutral third party to render an interpretation in any specific matter. If invoked, the neutral third party's decision would then be considered final as long as it is consistent with the intent expressed in the contract documents.

**§ 3.6.2.5** Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201–2017, the Designer shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

### **§ 3.6.3 Certificates for Payment to Contractor**

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

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

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

#### **§ 3.6.4 Submittals**

**§ 3.6.4.1** The Designer shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Designer'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 Designer's professional judgment, to permit adequate review.

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

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

**§ 3.6.4.4** Subject to Section 4.2, the Designer shall review and respond to requests for information about the Contract Documents. The Designer 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 Designer's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Designer shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

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

#### **§ 3.6.5 Changes in the Work**

**§ 3.6.5.1** The Designer may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, the Designer 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 Designer shall maintain records relative to changes in the Work.

#### **§ 3.6.6 Project Completion**

**§ 3.6.6.1** The Designer shall:

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

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

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

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

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

#### ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

##### § 4.1 Supplemental Services

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

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

Supplemental Services	Responsibility <i>(Designer, Owner, or not provided)</i>
§ 4.1.1.1 Programming	Designer
§ 4.1.1.2 Multiple preliminary designs	Designer
§ 4.1.1.3 Measured drawings	Designer
§ 4.1.1.4 Existing facilities surveys	Owner
§ 4.1.1.5 Site evaluation and planning	Designer
§ 4.1.1.6 Building Information Model management responsibilities	Not Provided
§ 4.1.1.7 Development of Building Information Models for post construction use	Not Provided
§ 4.1.1.8 Civil engineering	Designer
§ 4.1.1.9 Landscape design	Designer
§ 4.1.1.10 Architectural interior design	Designer
§ 4.1.1.11 Value analysis	Designer
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	Not Provided
§ 4.1.1.13 On-site project representation	Designer
§ 4.1.1.14 Conformed documents for construction	Designer
§ 4.1.1.15 As-designed record drawings	Designer
§ 4.1.1.16 As-constructed record drawings	Designer
§ 4.1.1.17 Post-occupancy evaluation	Not Provided
§ 4.1.1.18 Facility support services	Not Provided

Supplemental Services	Responsibility (Designer, Owner, or not provided)
§ 4.1.1.19 Tenant-related services	Not Provided
§ 4.1.1.20 Architect's coordination of the Owner's consultants	Not Provided
§ 4.1.1.21 Telecommunications/data design	Designer
§ 4.1.1.22 Security evaluation and planning	Designer (gate placement)
§ 4.1.1.23 Commissioning	Designer
§ 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3	Not Provided
§ 4.1.1.25 Fast-track design services	Not Provided
§ 4.1.1.26 Multiple bid packages	Designer
§ 4.1.1.27 Historic preservation	Not Provided
§ 4.1.1.28 Furniture, furnishings, and equipment design	Designer (equipment design)
§ 4.1.1.29 Other services provided by specialty Consultants	Designer (Lighting/Irrigation)
§ 4.1.1.30 Other Supplemental Services	Not Provided

#### § 4.1.2 Description of Supplemental Services

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

*See Attachment #1 for Scope of Services and Additional Notes. The stipulated sum of this contract includes a 100,000.00 US dollar allowance for testing and special inspections.*

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

*(Paragraph deleted)*

See Attachment #1 for Scope of Services and Additional Notes

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

#### § 4.2 Designer's Additional Services

The Designer may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Designer, any Additional Services provided in accordance with this Section 4.2 shall entitle the Designer to compensation pursuant to Section 11.3 and an appropriate adjustment in the Designer's schedule.

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

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;
- .3 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b)

- contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
  - .5 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner-authorized recipients;
  - .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;
  - .7 Preparation for, and attendance at, a public presentation, meeting or hearing;
  - .8 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Designer is party thereto;
  - .9 Evaluation of the qualifications of entities providing bids or proposals;
  - .10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or,
  - .11 Assistance to the Initial Decision Maker, if other than the Designer.

§ 4.2.2 To avoid delay in the Construction Phase, the Designer shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of the Designer's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Designer of the Owner's determination. The Owner shall compensate the Designer for the services provided prior to the Designer's receipt of the Owner's notice.

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule approved by the Designer;
- .2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating an extensive number of Claims as the Initial Decision Maker; or,
- .5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom.

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

- .1 No Limit ( ) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
- .2 Min. of Bi Monthly ( ) visits to the site by the Designer during construction
- .3 20 ( ) 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 20 ( ) inspections for any portion of the Work to determine final completion.

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

§ 4.2.5 If the services covered by this Agreement have not been completed within two years ( 24 ) months of the date of this Agreement, through no fault of the Designer.

## 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.

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

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

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

§ 5.5 The Owner shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

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

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

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

§ 5.9 The Owner shall 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 Designer if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Designer's Instruments of Service.

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

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

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

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

## ARTICLE 6 COST OF THE WORK

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

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

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

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

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

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

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

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

## ARTICLE 7 COPYRIGHTS AND LICENSES

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

§ 7.2 Upon payment of all amounts due under this Agreement for the production of the Instruments of Service, the Owner shall be deemed the owner of the Instruments of Service, including the Drawings and Specifications, and shall have all common law, statutory and other reserved rights, including copyrights.

§ 7.3 The Owner grants to the Designer a perpetual nonexclusive license to use the Designer's Instruments of Service for any lawful purpose.

§ 7.3.1 Reserved

§ 7.4 Reserved

7.5 Designer's Indemnification for Use of Instruments of Service. If the Designer completes design of the project pursuant to this Agreement or is the sole responsible party to perform all additional design, Designer is required to indemnify Owner based on the use of the Instruments of Service. Designer shall defend, indemnify, and hold harmless Owner from and against any and all claims, damages, liabilities, losses, and expenses, including attorneys' fees, arising out of or resulting from the use of the Instruments of Service, to the fullest extent permitted by applicable law.

7.6 Owner's Indemnification Upon 100% Completion of the work under this Agreement. Owner has an express understanding that its material alteration of the Instruments of Service without the involvement of Designer is at Owner's sole risk and without liability or legal exposure to Designer or anyone working by or through Designer, including design consultants of any tier. Any portions of the work not materially altered remain the sole responsibility of the Designer.

*(Paragraph deleted)*

§ 7.7 The provisions of this Article 7 shall survive the termination of this Agreement.

## ARTICLE 8 CLAIMS AND DISPUTES

### § 8.1 General

§ 8.1.1 The Owner and Designer shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the Agreement and within the period specified by applicable law.

*(Paragraph deleted)*

§ 8.1.3 The Designer and Owner waive consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement. The limitations and exclusions of liability in this section shall not apply to limit Designer's liability to the extent that Owner is required to pay any special damages, incidental damages, indirect damages, consequential damages, punitive damages, or attorney's fees to a third party in connection with a third party claim proximately caused by the Designer.

### § 8.2 Mediation

8.2.2 It is understood and agreed that projects subject to NCGS 143-128(f1) require that disputes arising under an agreement would be subject to a dispute resolution process specified by the Owner. In compliance with this statutory provision, the Owner specifies this section as the dispute resolution process to be used on this Project, regardless if the Project is or is not subject to NCGS 143-128(f1). It is further understood and agreed that this dispute resolution process is based on non-binding mediation and will only be effective to the extent that the parties to any mediated dispute participate in the mediation in good faith. It is also understood and agreed that the Owner is under no



obligation under any circumstance to secure or enforce the participation of any other party in the mediation of any dispute subject to this Article and NCGS 143-128(f1).

8.2.2.1 Any dispute arising between or among the parties that arises from an agreement to perform services in conjunction with the Project, including without limitation a breach of such agreement, shall be subject to non-binding mediation administered by the American Arbitration Association under the industry appropriate Mediation Rules ("Rules"). To the extent any provision of the Rules is inconsistent with the provisions of this section, the provisions of this section shall control. The mediation provided in this section shall be used pursuant to this Agreement and NCGS 143-128(f1) and is in lieu of any dispute resolution process adopted by any other government entity, which process shall not apply to this Project.

8.2.2.2 The Owner and any party contracting with the Owner or with any first-tier or lower-tier subcontractor for the performance of the Project agree to participate in good faith in any mediation of a dispute subject to this Article and NCGS 143-128(f1), including without limitation the following Parties (if any): Contractor, independent contractor(s) of the Owner, surety(ies), subcontractor(s), and supplier(s).

8.2.2.3 The Designer and all other parties shall include this section in every agreement to which it (any of them) is a party in performing the Services of the Project without variation or exception. Failure to do so will constitute a breach of this Contract, and the Designer or other party failing to include this section in any agreement required by this section shall indemnify and hold harmless the remaining parties from and against any and all claims, including without limitation reasonable attorney fees and other costs of litigation, arising in any manner from such breach. Notwithstanding the foregoing provisions of this section, it is expressly understood and agreed that the parties are intended to be and shall be third-party beneficiaries of the provisions of this section and can enforce the provisions hereof.

8.2.2.4 The following disputes are not subject to mediation: (i) a dispute seeking a non-monetary recovery; and (ii) a dispute seeking a monetary recovery of \$15,000 or less.

8.2.2.5 A dispute seeking the extension of any time limit set forth in an agreement to perform the Services for the Project shall be subject to mediation pursuant to this section and NCGS 143-128(f1), but only if the damages which would be suffered by the party seeking the extension would exceed \$15,000 if the disputed extension is denied. To the extent that liquidated damages are set forth in such agreement as the measurement of damages for failure by such party to meet such time limit, such liquidated damages shall be the exclusive standard for determining the amount of damages associated with such dispute.

8.2.2.6 For purposes of this section, a dispute is limited to the recovery of monetary damages from the same transaction or occurrence against a single party or two or more parties alleged to be liable jointly, severally or in the alternative. Two or more disputes may not be consolidated or otherwise combined without the consent of all parties to such disputes.

8.2.2.7 In addition to such matters as are required by the Rules, a request for mediation shall include the amount of the monetary relief requested.

8.2.2.8 Prior to requesting mediation, a party must form a good faith belief that it is entitled under applicable law to recover the monetary amount to be included in the request from one or more of the remaining parties. Such belief must be based on a reasonable and prudent investigation into the dispute that is the subject of the request. The request for mediation must be based on such investigation and may not include any amount or the name of any remaining party, unless supported by such investigation and good faith belief by the party requesting the mediation.

8.2.2.9 If a party breaches any provision of Section I of this Article, it shall indemnify and hold harmless all other parties from any costs, including reasonable attorney fees and other costs of litigation, and damages incurred by such other parties that arise from such breach.

8.2.2.10 All expenses incurred by a party to a dispute in preparing and presenting any claim or defense at the mediation shall be paid by the party. Such expenses include without limitation preparation and production of witnesses and exhibits and attorney fees. All other expenses of the mediation, including filing fees and required traveling and other expenses of the mediator, shall be borne as follows: one half by the party requesting the

mediation, with the remaining parties paying equal shares of the remaining expenses and costs; provided that, if the Owner is named as a party to the mediation, the Owner shall pay at least one-third of the mediation expenses and costs divided among the parties. If more than one party to a dispute requests a mediation, the mediation expenses and costs to be divided among the parties shall be borne equally by the parties to the dispute; provided that, if the Owner is named as a party to the mediation, the Owner shall pay at least one-third of the mediation expenses and costs divided among the parties.

8.2.2.11 The mediation shall be held at a location agreeable to the mediator and all of the parties; provided that, if no agreement can be reached, the mediation will be held at such location in Davidson County as the mediator shall determine.

8.2.2.12 The provisions of this section are subject to any other provision of this Agreement concerning the submission, documentation and/or proof of any claim or dispute. Such other provisions shall apply in full force and shall be satisfied as a condition precedent to mediation pursuant to this section.

8.2.2.13 The parties understand and agree that mediation in accordance with this section shall be a condition precedent to institution of any legal or equitable proceeding seeking monetary recovery based on any dispute that is subject to mediation pursuant to this section

*(Paragraphs deleted)*

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

*(Check the appropriate box.)*

☐ Arbitration pursuant to Section 8.3 of this Agreement

☒ Litigation in a court of competent jurisdiction

☐ Other: *(Specify)*

If the Owner and Designer 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.

### § 8.3 Reserved

*(Paragraphs deleted)*

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

## ARTICLE 9 TERMINATION OR SUSPENSION

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

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

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

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

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

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Designer terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Designer for services performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the costs attributable to the Designer's termination of consultant agreements.

§ 9.7  
(Paragraphs deleted)  
Reserved

§ 9.8 Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.

§ 9.9 The Owner's rights to use the Designer's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 9.7.

#### ARTICLE 10 MISCELLANEOUS PROVISIONS

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

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

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

§ 10.4 If the Owner requests the Designer to execute certificates, the proposed language of such certificates shall be submitted to the Designer for review at least 14 days prior to the requested dates of execution. If the Owner requests the Designer to execute consents reasonably required to facilitate assignment to a lender, the Designer shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Designer for review at least 14 days prior to execution. The Designer 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 Designer.

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

§ 10.7 The Designer shall have the right to include photographic or artistic representations of the design of the Project among the Designer's promotional and professional materials. The Designer shall be given reasonable access to the completed Project to make such representations. However, the Designer's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Designer in writing of the specific

information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Designer in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

**§ 10.8** If the Designer or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement.

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

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

## **ARTICLE 11    COMPENSATION**

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

**.1    Stipulated Sum**

Four million, one hundred fifty-five thousand, two hundred fifty dollars and zero cents US dollars.  
(4,155,250.00 US dollars).

**.2    Percentage Basis**  
*(Insert percentage value)*

N/A % of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6.

**.3    Other**  
*(Describe the method of compensation)*

N/A

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

Not Applicable

**§ 11.3** For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the Designer as follows:

To Be Determined Prior to Undertaking the Additional Services

§ 11.4 Compensation for Supplemental and Additional Services of the Designer's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Designer plus zero percent ( 0 %), or as follows:  
*Additional Services Notes are found in Attachment #1*

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

Programming	two and one half	percent (	2.5	%)
Schematic Design Phase	fifteen	percent (	15	%)
Design Development Phase	twenty five	percent (	25	%)
Construction Documents	fourty	percent (	40	%)
Permitting	two and one half	percent (	2.5	%)
Bidding	two and one half	percent (	2.5	%)
Construction Admin.	ten	percent (	10	%)
Closeout Documents.	two and one half	percent (	2.5	%)
<hr/>				
Total Basic Compensation	one hundred	percent (	100	%)

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

§ 11.6.1 When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions. The Designer 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 Designer and the Designer's consultants are set forth below. The rates shall be adjusted in accordance with the Designer's and Designer's consultants' normal review practices.

Employee or Category	Rate (\$0.00)
Lead Architect or Engineer	175.00 per hour
Architect or Engineer	150.00 per hour
Project Architect or Engineer	125.00 per hour
Architectural or Engineering Drafter	75.00 per hour
Office Administration	75.00 per hour

#### § 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 Designer and the Designer's consultants directly related to the Project, as follows:

- .1 Transportation and authorized out-of-town travel and subsistence;
- .2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;
- .3 Permitting and other fees required by authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, and standard form documents;
- .5 Postage, handling, and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;

- .8 If required by the Owner, and with the Owner's prior written approval, the Designer's consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Designer's consultants;
- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses;
- .11 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and,
- .12 Other similar Project-related expenditures.

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

§ 11.9 **Designer's Insurance.** If the types and limits of coverage required in Section 2.5 are in addition to the types and limits the Designer normally maintains, the Owner shall pay the Designer for the additional costs incurred by the Designer for the additional coverages as set forth below:

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

## § 11.10 Payments to the Designer

### § 11.10.1 Initial Payments

§ 11.10.1.1 An initial payment of ( \$ ) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.1.2 If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Designer of ( \$ ) shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The Designer's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.

### § 11.10.2 Progress Payments

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Designer's invoice. Amounts unpaid sixty ( 60 ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Designer.  
*(Insert rate of monthly or annual interest agreed upon.)*

1.0 % per month

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

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

## ARTICLE 12 SPECIAL TERMS AND CONDITIONS

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

12.1 *E-Verify.* Designer shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Furthermore, if Designer utilizes a subconsultant, Designer shall require the subconsultant to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes.

12.2 *NC Prohibition on Contracts with Companies that Invest in Iran or Boycott Israel.* Designer certifies that: (i) it is not identified on the Final Divestment List or any other list of prohibited investments created by the NC State Treasurer pursuant to N.C.G.S. 147- 86.58 (collectively, the "Treasurer's IDA List"); (ii) it has not been designated by

the NC State Treasurer pursuant to N.C.G.S. 147-86.81 as a company engaged in the boycott of Israel (such designation being referred to as the "Treasurer's IB List"); and (iii) it will not take any action causing it to appear on the Treasurer's IDA List or the Treasurer's IB List during the term of this Agreement.

#### ARTICLE 13 SCOPE OF THE AGREEMENT

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

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

- .1 AIA Document B101™-2017, Standard Form Agreement Between Owner and Designer
- .2 Building Information Modeling Exhibit, if completed:

Approved Concept Plan as Basis of Design with the addition of a maintenance building and a larger baseball field (400' fence)

- .3 Attachments:

Attachment #1 includes the following:

- a. Scope of Work with notes and other amenities
- b. Items outside the scope of work
- c. General Schedule
- d. Defined Additional Services

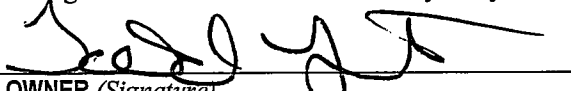
(Check the appropriate box for any exhibits incorporated into this Agreement.)


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

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

(Paragraph deleted)

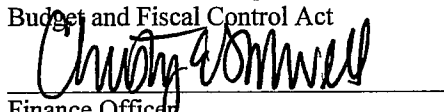
This Agreement entered into as of the day and year first written above.

  
OWNER (Signature)  
Todd Yates, Board Chair  
(Printed name and title)

  
DESIGNER (Signature)  
K. Brian Cone, PE, Principal, NC# 36791  
(Printed name, title, and license number, if required)

#### PRE-AUDIT CERTIFICATE

This contract has been pre-audited by the County Finance Officer in a manner required by the Local Government Budget and Fiscal Control Act

  
Finance Officer

# Additions and Deletions Report for AIA® Document B101® – 2017

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 08:15:15 ET on 06/25/2025.

## PAGE 1

AGREEMENT made as of the 25 day of June in the year 2025

...

BETWEEN the ~~Architect's~~Designer's client identified as the Owner:

...

Davidson County  
Casey Smith, Manager  
913 Greensboro Street  
Lexington, NC 27292

and the ~~Architect~~Designer:

...

Providence Partners II, Inc.  
Brian Cone, Principal  
8101 Tower Point Road, STE 200  
Charlotte, NC 28227

...

Davidson County Sportsplex  
Parcel: 0603400000005  
Lexington, NC 27292

The Owner and ~~Architect~~Designer agree as follows.

## PAGE 2

### 2 ARCHITECT'S ~~DESIGNER'S~~ RESPONSIBILITIES

### 3 SCOPE OF ARCHITECT'S ~~DESIGNER'S~~ BASIC SERVICES

...

*(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.") This agreement is for the design and construction management of the new Davidson County Sportplex*

...



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

This project is based on the concept plan voted on by the board of commissioners on March 3, 2025.

...

*(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)*This is a +/- 358.63-acre parcel located west of Southmont Elementary School. Approximately 125 acres are included in the project scope.

...

*(Provide total and, if known, a line item breakdown.)*The overall budget of this project is 65 million US dollars.

...

- .1 Design phase milestone dates, if any:See attachment #1 at the end of this document.

PAGE 3

To Be Determined

...

See Attachment #1

...

*(Identify method such as competitive bid or negotiated contract, as well as any requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction.)*The procurement of the various components of this project are to be competitively bid according to the requirements of applicable North Carolina statutes and instructions from the Owner.

...

*(Identify and describe the Owner's Sustainable Objective for the Project, if any.)*Not Applicable

...

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

Sportsplex Review Committee

...

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

Thomas Marshburn and/or Dwayne Childress both with Davidson County

...

- .1 Geotechnical Engineer:

~~.2~~ — Civil Engineer:

Not Applicable

...

~~.3~~ — Other, if any:

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

...

§ 1.1.10 The ~~Architect-Designer~~ identifies the following representative in accordance with Section 2.3:  
PAGE 4

Brian Cone, PE  
bcoone@providencepartnersinc.com  
704-773-2925 (mobile)

...

§ 1.1.11 The ~~Architect-Designer~~ shall retain the consultants identified in Sections 1.1.11.1 and 1.1.11.2:

...

~~.1 Structural Engineer:~~Architect:  
Jeff Sherer of Architecture Unlimited  
131 Matthews Station Street, Suite 2A  
Matthews, NC 28105

~~.2~~ Structural Engineer:

Laredo Williams Providence Partners II, Inc.  
~~.2 Mechanical Engineer:~~8101 Tower Point Drive, STE 200  
Charlotte, NC 28227

~~.3~~ MEP and Pool Design Firm:

Schultz Engineering Group Tammy Ellis and Billy Austin  
212 North McDowell Street, STE 204  
Charlotte, NC 28204

~~.3 Electrical Engineer:~~

~~.4~~ Civil Engineer

Sloan Civil Solutions Cory Sloan  
258 E. Broad Street  
Statesville, NC 28677

...

To Be Determined

...

Not Applicable

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

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## ARTICLE 2 — ARCHITECT'S RESPONSIBILITIES

### ARTICLE 2 DESIGNER'S RESPONSIBILITIES

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

§ 2.2 The ~~Architect-Designer~~ shall perform its services consistent with the professional skill and care ordinarily provided by ~~architects-Designers~~ practicing in the same or similar locality under the same or similar circumstances. The ~~Architect-Designer~~ 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-Designer~~ shall identify a representative authorized to act on behalf of the ~~Architect-Designer~~ with respect to the Project.

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

§ 2.5 The ~~Architect-Designer~~ shall maintain the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the ~~Architect-Designer~~ normally maintains, the Owner shall pay the ~~Architect-Designer~~ as set forth in Section 11.9.

§ 2.5.1 Commercial General Liability with policy limits of not less than two million (\$ 2,000,000.00 ) for each occurrence and four million (\$ 4,000,000.00 ) in the aggregate for bodily injury and property damage.

§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the ~~Architect-Designer~~ with policy limits of not less than two million (\$ 2,000,000.00 ) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

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

...

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

§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than one million (\$ 1,000,000.00 ) per claim and one million (\$ 1,000,000.00 ) in the aggregate.

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

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

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

### **ARTICLE 3 SCOPE OF DESIGNER'S BASIC SERVICES**

**§ 3.1** The ~~Architect's-Designer's~~ Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services.

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

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

**§ 3.1.3** As soon as practicable after the date of this Agreement, the ~~Architect-Designer~~ shall submit for the Owner's approval a schedule for the performance of the ~~Architect's-Designer'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-Designer~~ or Owner. With the Owner's approval, the ~~Architect-Designer~~ shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

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

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

**§ 3.1.6** The ~~Architect-Designer~~ shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

### **PAGE 6**

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

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

**§ 3.2.3** The ~~Architect-Designer~~ shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project. The ~~Architect-Designer~~ shall reach an understanding with the Owner regarding the requirements of the Project.

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

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

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

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

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

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

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

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

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

...

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

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

§ 3.4.3 During the development of the Construction Documents, the ~~Architect-Designer~~ shall assist the Owner in the development and preparation of (1) procurement information that describes the time, place, and conditions of bidding,

including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect-Designer shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include bidding requirements and sample forms.

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

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

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

...

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

...

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

...

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

...

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

...

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

§ 3.6.1.2 The Architect-Designer shall advise and consult with the Owner during the Construction Phase Services. The Architect-Designer shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect-Designer 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-Designer be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect-Designer shall be responsible for the Architect's-Designer's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

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

§ 3.6.2.1 The ~~Architect-Designer~~ shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the ~~Architect-Designer~~ shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the ~~Architect-Designer~~ shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

§ 3.6.2.2 The ~~Architect-Designer~~ has the authority to reject Work that does not conform to the Contract Documents. Whenever the ~~Architect-Designer~~ considers it necessary or advisable, the ~~Architect-Designer~~ shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the ~~Architect-Designer~~ 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-Designer~~ to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 3.6.2.3 The ~~Architect-Designer~~ shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The ~~Architect's-Designer'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-Designer~~ 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-Designer~~ shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The ~~Architect's-Designer's~~ decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents. however, the owner reserves the right to engage a neutral third party to render an interpretation in any specific matter. If invoked, the neutral third party's decision would then be considered final as long as it is consistent with the intent expressed in the contract documents.

§ 3.6.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201-2017, the ~~Architect-Designer~~ shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

...

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

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

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

§ 3.6.4.1 The ~~Architect-Designer~~ shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The ~~Architect's-Designer'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-Designer's~~ professional judgment, to permit adequate review.

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

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

§ 3.6.4.4 Subject to Section 4.2, the ~~Architect-Designer~~ shall review and respond to requests for information about the Contract Documents. The ~~Architect-Designer~~ 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-Designer'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-Designer~~ shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

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

...

§ 3.6.5.1 The ~~Architect-Designer~~ may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, the ~~Architect-Designer~~ 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-Designer~~ shall maintain records relative to changes in the Work.

...

§ 3.6.6.1 The ~~Architect-Designer~~ shall:

...

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



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

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

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

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

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§ 4.1.1 The services listed below are not included in Basic Services but may be required for the Project. The ~~Architect Designer~~ shall provide the listed Supplemental Services only if specifically designated in the table below as the ~~Architect's Designer's~~ responsibility, and the Owner shall compensate the ~~Architect Designer~~ as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the ~~Architect Designer~~ is designated, the parties agree that the listed Supplemental Service is not being provided for the Project. *(Designate the ~~Architect's Designer's~~ Supplemental Services and the Owner's Supplemental Services required for the Project by indicating whether the ~~Architect Designer~~ or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.)*

Supplemental Services	Responsibility <i>(<del>Architect, (Designer, Owner, or not provided)</del>)</i>
§ 4.1.1.1 Programming	<u>Designer</u>
§ 4.1.1.2 Multiple preliminary designs	<u>Designer</u>
§ 4.1.1.3 Measured drawings	<u>Designer</u>
§ 4.1.1.4 Existing facilities surveys	<u>Owner</u>
§ 4.1.1.5 Site evaluation and planning	<u>Designer</u>
§ 4.1.1.6 Building Information Model management responsibilities	<u>Not Provided</u>
§ 4.1.1.7 Development of Building Information Models for post construction use	<u>Not Provided</u>
§ 4.1.1.8 Civil engineering	<u>Designer</u>
§ 4.1.1.9 Landscape design	<u>Designer</u>
§ 4.1.1.10 Architectural interior design	<u>Designer</u>
§ 4.1.1.11 Value analysis	<u>Designer</u>
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	<u>Not Provided</u>
§ 4.1.1.13 On-site project representation	<u>Designer</u>
§ 4.1.1.14 Conformed documents for construction	<u>Designer</u>
§ 4.1.1.15 As-designed record drawings	<u>Designer</u>
§ 4.1.1.16 As-constructed record drawings	<u>Designer</u>
§ 4.1.1.17 Post-occupancy evaluation	<u>Not Provided</u>
§ 4.1.1.18 Facility support services	<u>Not Provided</u>
§ 4.1.1.19 Tenant-related services	<u>Not Provided</u>

Supplemental Services	Responsibility ( <del>Architect</del> , ( <del>Designer</del> , Owner, or not provided)
§ 4.1.1.20 Architect's coordination of the Owner's consultants	<u>Not Provided</u>
§ 4.1.1.21 Telecommunications/data design	<u>Designer</u>
§ 4.1.1.22 Security evaluation and planning	<u>Designer (gate placement)</u>
§ 4.1.1.23 Commissioning	<u>Designer</u>
§ 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3	<u>Not Provided</u>
§ 4.1.1.25 Fast-track design services	<u>Not Provided</u>
§ 4.1.1.26 Multiple bid packages	<u>Designer</u>
§ 4.1.1.27 Historic preservation	<u>Not Provided</u>
§ 4.1.1.28 Furniture, furnishings, and equipment design	<u>Designer (equipment design)</u>
§ 4.1.1.29 Other services provided by specialty Consultants	<u>Designer (Lighting/Irrigation)</u>
§ 4.1.1.30 Other Supplemental Services	<u>Not Provided</u>

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

*(Describe in detail the Architect's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit. The AIA publishes a number of Standard Form of Architect's Services documents that can be included as an exhibit to describe the Architect's Supplemental Services.) See Attachment #1 for Scope of Services and Additional Notes. The stipulated sum of this contract includes a 100,000.00 US dollar allowance for testing and special inspections.*

...

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

See Attachment #1 for Scope of Services and Additional Notes

...

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

#### § 4.2 ~~Architect's~~ Designer's Additional Services

The ~~Architect~~ Designer may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the ~~Architect~~, Designer, any Additional Services provided in accordance with this Section 4.2 shall entitle the ~~Architect~~ Designer to compensation pursuant to Section 11.3 and an appropriate adjustment in the ~~Architect's~~ Designer's schedule.

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

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

...

.11 Assistance to the Initial Decision Maker, if other than the Architect-Designer.

§ 4.2.2 To avoid delay in the Construction Phase, the Architect-Designer shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of the Architect's-Designer's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Architect-Designer of the Owner's determination. The Owner shall compensate the Architect-Designer for the services provided prior to the Architect's-Designer's receipt of the Owner's notice.

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

...

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

- .1 No Limit ( ) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
- .2 Min. of Bi Monthly ( ) visits to the site by the Architect-Designer during construction
- .3 20 ( ) 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 20 ( ) inspections for any portion of the Work to determine final completion.

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

§ 4.2.5 If the services covered by this Agreement have not been completed within two years ( 24 ) months of the date of this Agreement, through no fault of the Architect, ~~extension of the Architect's services beyond that time shall be compensated as Additional Services-Designer.~~

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

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

...

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

...

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

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

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

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

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

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§ 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-Designer and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect-Designer; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

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

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

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

§ 6.5 If at any time the Architect's-Designer's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect-Designer shall make appropriate recommendations to the Owner to adjust the Project's

size, quality, or budget for the Cost of the Work, and the Owner shall cooperate with the Architect-Designer in making such adjustments.

...

- .4 in consultation with the Architect-Designer, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or,

...

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

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

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

§ 7.3 ~~The Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums due pursuant to Article 9 and Article 11. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.~~ Owner grants to the Designer a perpetual nonexclusive license to use the Designer's Instruments of Service for any lawful purpose.

§ 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.~~ Reserved

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

7.5 Designer's Indemnification for Use of Instruments of Service. If the Designer completes design of the project pursuant to this Agreement or is the sole responsible party to perform all additional design, Designer is required to indemnify Owner based on the use of the Instruments of Service. Designer shall defend, indemnify, and hold harmless Owner from and against any and all claims, damages, liabilities, losses, and expenses, including attorneys' fees, arising out of or resulting from the use of the Instruments of Service, to the fullest extent permitted by applicable law.

7.6 Owner's Indemnification Upon 100% Completion of the work under this Agreement. Owner has an express understanding that its material alteration of the Instruments of Service without the involvement of Designer is at Owner's sole risk and without liability to the Architect and the Architect's consultants or legal exposure to Designer or anyone working by or through Designer, including design consultants of any tier. Any portions of the work not materially altered remain the sole responsibility of the Designer.

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

§ 7.7 The provisions of this Article 7 shall survive the termination of this Agreement.

...

§ 8.1.1 The Owner and Architect-Designer shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.law.

§ 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 contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect-Designer and Owner waive consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7. The limitations and exclusions of liability in this section shall not apply to limit Designer's liability to the extent that Owner is required to pay any special damages, incidental damages, indirect damages, consequential damages, punitive damages, or attorney's fees to a third party in connection with a third party claim proximately caused by the Designer.

...

8.2.2 It is understood and agreed that projects subject to NCGS 143-128(f1) require that disputes arising under an agreement would be subject to a dispute resolution process specified by the Owner. In compliance with this statutory provision, the Owner specifies this section as the dispute resolution process to be used on this Project, regardless if the Project is or is not subject to NCGS 143-128(f1). It is further understood and agreed that this dispute resolution process is based on non-binding mediation and will only be effective to the extent that the parties to any mediated dispute participate in the mediation in good faith. It is also understood and agreed that the Owner is under no obligation under any circumstance to secure or enforce the participation of any other party in the mediation of any dispute subject to this Article and NCGS 143-128(f1).

8.2.2.1 Any dispute arising between or among the parties that arises from an agreement to perform services in conjunction with the Project, including without limitation a breach of such agreement, shall be subject to non-binding mediation administered by the American Arbitration Association under the industry appropriate

Mediation Rules ("Rules"). To the extent any provision of the Rules is inconsistent with the provisions of this section, the provisions of this section shall control. The mediation provided in this section shall be used pursuant to this Agreement and NCGS 143-128(f1) and is in lieu of any dispute resolution process adopted by any other government entity, which process shall not apply to this Project.

8.2.2.2 The Owner and any party contracting with the Owner or with any first-tier or lower-tier subcontractor for the performance of the Project agree to participate in good faith in any mediation of a dispute subject to this Article and NCGS 143-128(f1), including without limitation the following Parties (if any): Contractor, independent contractor(s) of the Owner, surety(ies), subcontractor(s), and supplier(s).

8.2.2.3 The Designer and all other parties shall include this section in every agreement to which it (any of them) is a party in performing the Services of the Project without variation or exception. Failure to do so will constitute a breach of this Contract, and the Designer or other party failing to include this section in any agreement required by this section shall indemnify and hold harmless the remaining parties from and against any and all claims, including without limitation reasonable attorney fees and other costs of litigation, arising in any manner from such breach. Notwithstanding the foregoing provisions of this section, it is expressly understood and agreed that the parties are intended to be and shall be third-party beneficiaries of the provisions of this section and can enforce the provisions hereof.

8.2.2.4 The following disputes are not subject to mediation: (i) a dispute seeking a non-monetary recovery; and (ii) a dispute seeking a monetary recovery of \$15,000 or less.

8.2.2.5 A dispute seeking the extension of any time limit set forth in an agreement to perform the Services for the Project shall be subject to mediation pursuant to this section and NCGS 143-128(f1), but only if the damages which would be suffered by the party seeking the extension would exceed \$15,000 if the disputed extension is denied. To the extent that liquidated damages are set forth in such agreement as the measurement of damages for failure by such party to meet such time limit, such liquidated damages shall be the exclusive standard for determining the amount of damages associated with such dispute.

8.2.2.6 For purposes of this section, a dispute is limited to the recovery of monetary damages from the same transaction or occurrence against a single party or two or more parties alleged to be liable jointly, severally or in the alternative. Two or more disputes may not be consolidated or otherwise combined without the consent of all parties to such disputes.

8.2.2.7 In addition to such matters as are required by the Rules, a request for mediation shall include the amount of the monetary relief requested.

8.2.2.8 Prior to requesting mediation, a party must form a good faith belief that it is entitled under applicable law to recover the monetary amount to be included in the request from one or more of the remaining parties. Such belief must be based on a reasonable and prudent investigation into the dispute that is the subject of the request. The request for mediation must be based on such investigation and may not include any amount or the name of any remaining party, unless supported by such investigation and good faith belief by the party requesting the mediation.

8.2.2.9 If a party breaches any provision of Section I of this Article, it shall indemnify and hold harmless all other parties from any costs, including reasonable attorney fees and other costs of litigation, and damages incurred by such other parties that arise from such breach.

8.2.2.10 All expenses incurred by a party to a dispute in preparing and presenting any claim or defense at the mediation shall be paid by the party. Such expenses include without limitation preparation and production of witnesses and exhibits and attorney fees. All other expenses of the mediation, including filing fees and required traveling and other expenses of the mediator, shall be borne as follows: one half by the party requesting the mediation, with the remaining parties paying equal shares of the remaining expenses and costs; provided that, if the Owner is named as a party to the mediation, the Owner shall pay at least one-third of the mediation expenses and costs divided among the parties. If more than one party to a dispute requests a mediation, the mediation expenses and costs to be divided among the parties shall be borne equally by the parties to the dispute; provided that, if the Owner is named as a party to the mediation, the Owner shall pay at least one-third of the mediation expenses and costs divided among the parties.

8.2.2.11 The mediation shall be held at a location agreeable to the mediator and all of the parties; provided that, if no agreement can be reached, the mediation will be held at such location in Davidson County as the mediator shall determine.

8.2.2.12 The provisions of this section are subject to any other provision of this Agreement concerning the submission, documentation and/or proof of any claim or dispute. Such other provisions shall apply in full force and shall be satisfied as a condition precedent to mediation pursuant to this section.

8.2.2.13 The parties understand and agree that mediation in accordance with this section shall be a condition precedent to institution of any legal or equitable proceeding seeking monetary recovery based on any dispute that is subject to mediation pursuant to this section

~~§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.~~

~~§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of this Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.~~

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

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[ ☒ ] Litigation in a court of competent jurisdiction

...

If the Owner and ~~Architect~~ Designer 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.

### **§ 8.3 Arbitration Reserved**

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

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



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

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

~~§ 8.3.4 Consolidation or Joinder~~

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

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

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

...

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

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

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

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

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect-Designer terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect-Designer for services performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the costs attributable to the Architect's-Designer's termination of consultant agreements.

§ 9.7 In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Architect the following fees:  
(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)

~~1~~ — Termination Fee:

~~2~~ — Licensing Fee if the Owner intends to continue using the Architect's Instruments of Service:

Reserved

...

§ 9.9 The Owner's rights to use the Architect's Designer's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 9.7.

...

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

§ 10.4 If the Owner requests the Architect-Designer to execute certificates, the proposed language of such certificates shall be submitted to the Architect-Designer for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect-Designer to execute consents reasonably required to facilitate assignment to a lender, the Architect-Designer shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect-Designer for review at least 14 days prior to execution. The Architect-Designer 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-Designer.

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

§ 10.7 The Architect-Designer shall have the right to include photographic or artistic representations of the design of the Project among the Architect's-Designer's promotional and professional materials. The Architect-Designer shall be given reasonable access to the completed Project to make such representations. However, the Architect's-Designer's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect-Designer in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect-Designer in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 If the Architect-Designer or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement.

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

...

~~(Insert amount)~~

Four million, one hundred fifty-five thousand, two hundred fifty dollars and zero cents US dollars.  
(4,155,250.00 US dollars).

...

~~( )~~ N/A % of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6.

...

N/A

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

...

Not Applicable

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the ~~Architect as follows:~~ Designer as follows:

To Be Determined Prior to Undertaking the Additional Services

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

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§ 11.4 Compensation for Supplemental and Additional Services of the ~~Architect's~~ Designer's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the ~~Architect plus~~ Designer plus zero percent ( 0

%), or as follows:

~~(Insert amount of, or basis for computing, Architect's consultants' compensation for Supplemental or Additional Services.)~~ Additional Services Notes are found in Attachment #1

...

<u>Programming</u>	<u>two and one half</u>	<u>percent (</u>	<u>2.5</u>	<u>%)</u>
<u>Schematic Design Phase</u>	<u>fifteen</u>	<u>percent (</u>	<u>15</u>	<u>%)</u>
<u>Design Development Phase</u>	<u>twenty five</u>	<u>percent (</u>	<u>25</u>	<u>%)</u>
<u>Construction Documents</u>	<u>fourty</u>	<u>percent (</u>	<u>40</u>	<u>%)</u>
<u>Phase</u>				
<u>Permitting</u>	<u>two and one half</u>	<u>percent (</u>	<u>2.5</u>	<u>%)</u>
<u>Procurement Phase</u>	<u>two and one half</u>	<u>percent (</u>	<u>2.5</u>	<u>%)</u>
<u>Bidding</u>				
<u>Construction Phase</u>	<u>ten</u>	<u>percent (</u>	<u>10</u>	<u>%)</u>
<u>Admin.</u>				
<u>Closeout Documents.</u>	<u>two and one half</u>	<u>percent (</u>	<u>2.5</u>	<u>%)</u>

...

§ 11.6.1 When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions. The ~~Architect~~ Designer 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-Designer~~ and the ~~Architect's-Designer's~~ consultants are set forth below. The rates shall be adjusted in accordance with the ~~Architect's and Architect's consultants' normal review practices.~~  
(If applicable, attach an exhibit of hourly billing rates or insert them below.)~~Designer's and Designer's consultants' normal review practices.~~

...

<u>Lead Architect or Engineer</u>	<u>175.00 per hour</u>	
<u>Architect or Engineer</u>	<u>150.00 per hour</u>	
<u>Project Architect or Engineer</u>		<u>125.00 per hour</u>
<u>Architectural or Engineering Drafter</u>		<u>75.00 per hour</u>
<u>Office Administration</u>		<u>75.00 per hour</u>

...

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

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- .8 If required by the Owner, and with the Owner's prior written approval, the ~~Architect's-Designer's~~ consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the ~~Architect's-Designer's~~ consultants;

...

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

§ 11.9 ~~Architect's-Designer's Insurance~~. If the types and limits of coverage required in Section 2.5 are in addition to the types and limits the ~~Architect-Designer~~ normally maintains, the Owner shall pay the ~~Architect-Designer~~ for the additional costs incurred by the ~~Architect-Designer~~ for the additional coverages as set forth below:

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

...

#### § 11.10 Payments to the ~~Architect-Designer~~

...

§ 11.10.1.2 If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the ~~Architect-Designer~~ of (\$ ) shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The ~~Architect's-Designer's~~ payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.

...

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the ~~Architect's-Designer's~~ invoice. Amounts unpaid sixty ( 60 ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the ~~Architect-Designer~~.

...

1.0 % per month

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

...

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

12.1 E-Verify. Designer shall comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes. Furthermore, if Designer utilizes a subconsultant, Designer shall require the subconsultant to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes.

12.2 NC Prohibition on Contracts with Companies that Invest in Iran or Boycott Israel. Designer certifies that: (i) it is not identified on the Final Divestment List or any other list of prohibited investments created by the NC State Treasurer pursuant to N.C.G.S. 147-86.58 (collectively, the "Treasurer's IDA List"); (ii) it has not been designated by the NC State Treasurer pursuant to N.C.G.S. 147-86.81 as a company engaged in the boycott of Israel (such designation being referred to as the "Treasurer's IB List"); and (iii) it will not take any action causing it to appear on the Treasurer's IDA List or the Treasurer's IB List during the term of this Agreement.

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

...

.1 AIA Document B101™-2017, Standard Form Agreement Between Owner and ~~Architect-Designer~~

...

Approved Concept Plan as Basis of Design with the addition of a maintenance building and a larger baseball field (400' fence)

.3 ~~Exhibits/Attachments:~~

Attachment #1 includes the following:

- a. Scope of Work with notes and other amenities
- b. Items outside the scope of work
- c. General Schedule
- d. Defined Additional Services

...

~~.4 Other documents:~~

~~(List other documents, if any, forming part of the Agreement.)~~

...

OWNER (Signature)

Todd Yates Board Chair

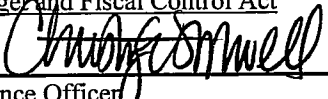
ARCHITECT-DESIGNER (Signature)

K. Brian Cone, PE, Principal, NC# 36791

...

## PRE-AUDIT CERTIFICATE

This contract has been pre-audited by the County Finance Officer in a manner required by the Local Government Budget and Fiscal Control Act

  
Finance Officer

## ***Certification of Document's Authenticity***

***AIA® Document D401™ – 2003***

I, \_\_\_\_\_, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 08:15:15 ET on 06/25/2025 under Order No. 2114636782 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B101™ – 2017, Standard Form of Agreement Between Owner and Architect, other than those additions and deletions shown in the associated Additions and Deletions Report.

\_\_\_\_\_  
*(Signed)*

\_\_\_\_\_  
*(Title)*

\_\_\_\_\_  
*(Dated)*