

# 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 14:09:42 ET on 01/13/2023.

## PAGE 1

**AGREEMENT** made as of the Thirteenth day of January in the year 2023

...

Minooka Community High School District 111  
26655 W. Eames St.  
Channahon, IL 60410

...

DLA Architects, Ltd.  
Two Pierce Place  
Suite 1300  
Itasca, IL 60143

...

This Agreement is a Master Agreement and shall be the agreement for all projects authorized by Owner. Specific projects under this Master Agreement shall be authorized in writing by the Owner by a Memorandum of Understanding (hereafter "MOU"), which MOU shall be attached hereto as Exhibit A and made a part of this Master Agreement for each project authorized. As additional projects are authorized pursuant to this Master Agreement, such projects shall be authorized by subsequent MOU's, each of which shall be attached to this Master Agreement as Exhibit A for the Project authorized.

## PAGE 2

**§ 1.1** This Agreement is based on the Initial Information set forth in this Section 1.1, information set forth in Exhibit A, the MOU for the specific project authorized pursuant to this Master Agreement. Exhibit A is attached hereto and incorporated herein for the Project authorized by the Owner under this Master Agreement.  
(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")Exhibit A, the Memorandum of Understanding (hereinafter "MOU") for a Project, sets forth all Project specific requirements, such as Scope of Services, Project Schedule, Project Budget, Site Observation requirements, Compensation and other Project specific terms which may supplement, supersede or modify the Master Agreement. To the extent of any inconsistency, conflict or discrepancy between the Master Agreement and the MOU, Exhibit A, the MOU shall control. Project as used herein shall mean the Project authorized by the MOU, Exhibit A.

...

As identified in the Memorandum of Understanding for the Project attached hereto as Exhibit A

The Architect will cooperate with the Owner and, if and when selected, the Contractor and help create an environment of mutual respect.

...

As identified in the Memorandum of Understanding for the Project attached hereto as Exhibit A  
**PAGE 3**

As identified in the Memorandum of Understanding for the Project attached hereto as Exhibit A

...

As identified in the Memorandum of Understanding for the Project attached hereto as Exhibit A

...

As identified in the Memorandum of Understanding for the Project attached hereto as Exhibit A

...

As identified in the Memorandum of Understanding for the Project attached hereto as Exhibit A

...

As identified in the Memorandum of Understanding for the Project attached hereto as Exhibit A

...

As identified in the Memorandum of Understanding for the Project attached hereto as Exhibit A

...

As identified in the Memorandum of Understanding for the Project attached hereto as Exhibit A

**§ 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.~~ Objective in the MOU, Exhibit A, for the Project.

...

John Troy  
Minooka Community High School District 111  
26655 W. Eames St.  
Channahon, IL 60410

...

As identified in the Memorandum of Understanding for the Project attached hereto as Exhibit A  
**PAGE 4**

As identified in the Memorandum of Understanding for the Project attached hereto as Exhibit A

...

As identified in the Memorandum of Understanding for the Project attached hereto as Exhibit A

...

As may be identified in the Memorandum of Understanding for the Project attached hereto as Exhibit A

...

As identified in the Memorandum of Understanding for the Project attached hereto as Exhibit A

...

As identified in the Memorandum of Understanding for the Project attached hereto as Exhibit A

...

As identified in the Memorandum of Understanding for the Project attached hereto as Exhibit A

...

As identified in the Memorandum of Understanding for the Project attached hereto as Exhibit A

...

As identified in the Memorandum of Understanding for the Project attached hereto as Exhibit A

...

As identified in the Memorandum of Understanding for the Project attached hereto as Exhibit A

**§ 1.2** The Owner and Architect may ~~rely on the Initial Information.~~ reasonably rely on the information set forth in Exhibit A, the MOU for the Project. Both parties, however, recognize that the ~~Initial Information~~ information in Exhibit A may materially change and, in that event, the Architect shall provide prompt notice to the Owner, and, if agreed by the Owner, the Owner and the Architect shall appropriately adjust the Architect's services, schedule for the Architect's services, ~~and the Architect's compensation, and/or the Architect's compensation, consistent with this Agreement.~~ 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.~~ Information as necessary.

**§ 1.3** The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties ~~will~~ may use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

#### **PAGE 5**

**§ 2.1** The Architect shall provide professional services as set forth in ~~this Agreement.~~ the MOU for the Project, Exhibit A and this Agreement during all phases of the Project, as applicable. The Architect will perform the services through itself, its employees and consultants. In the event of an inconsistency or conflict between this Exhibit A and this Agreement, Exhibit A shall govern for the Project. The Architect represents that it is properly licensed in the jurisdiction where the Project is located when required to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals. Any subcontracting of the services under this Agreement shall not relieve the Architect from its responsibility for the performance in accordance with the terms and conditions of this Agreement.

**§ 2.2** The Architect shall ~~perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances.~~ The Architect shall ~~perform its services~~ be responsible for the performance of the Architect's Services as an independent contractor (i) consistent this Agreement; (ii) consistent with the instructions, guidance and direction of the Owner to the

extent such instructions and directions are consistent with the professional standard of care; (iii) consistent with prevailing skill and care ordinarily expected from members of the architectural profession providing similar services under similar circumstances in the locale of the Project; (iv) consistent with sound architectural practices; and (v) as expeditiously as is consistent with such professional skill and ~~care and the orderly progress of the Project.~~ care, the orderly progress of the Project, the instructions of the Owner and this Agreement. The Architect shall endeavor to maximize the use of the Owner's budget for the Project for the benefit of the Owner (the standards of this Section § 2.2 shall be referred to herein as the "Architect's Standard of Care").

...

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

§ 2.5.1 Commercial General Liability with policy limits of not less than ONE MILLION DOLLARS (\$ 1,000,000 ) for each occurrence and THREE MILLION (\$ 3,000,000 ) in the aggregate for bodily injury and property damage.

§ 2.5.2 Automobile Liability covering vehicles ~~owned, hired and non-owned vehicles used, used by the Architect with~~ policy limits of not less than ~~(\$ —) 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.~~ ONE MILLION DOLLARS (\$ 1,000,000 ) combined single limit or per occurrence.

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

§ 2.5.3.1 Excess/Umbrella Liability with policy limits of no less than FIVE MILLION DOLLARS (\$5,000,000), following form coverage,

§ 2.5.4 Workers' Compensation at Illinois statutory limits.

§ 2.5.5 Employers' Liability with policy limits not less than FIVE HUNDRED THOUSAND DOLLARS (\$ 500,000 ) each accident, FIVE HUNDRED THOUSAND DOLLARS (\$ 500,000 ) each employee, and FIVE HUNDRED THOUSAND DOLLARS (\$ 500,000 ) policy limit.

§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than ONE MILLION DOLLARS (\$ 1,000,000 ) per claim and THREE MILLION DOLLARS (\$ 3,000,000 ) in the aggregate.

The Architect will secure and maintain for four (4) years after Substantial Completion professional errors and omissions insurance in an amount no less than \$1,000,000 per claim and \$3,000,000 aggregate for damages that may result in any way from the negligent performance of the Architect's professional services under this Agreement. The Architect shall promptly notify the Owner of any material changes to, interruption of, or termination of this insurance. The Architect shall contractually require its consultants of any tier to maintain professional errors and commissions insurance equal to the above amount, unless otherwise agreed by the Owner. If professional errors and omissions insurance is not reasonably available for a class of consultants, or reasonably available in the future to the Architect, the Architect shall so notify the Owner immediately.

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

§ 2.5.8 The Architect shall provide certificates of insurance to the Owner upon request that evidence compliance with the requirements in this Section 2.5. The certificates will show the Owner as an additional insured on the Comprehensive General Liability and Automobile Liability. Such certificates of insurance shall have additional endorsements attached, if any, (including renewal or replacement certificates).. On the policies on which the Owner is an additional insured, the certificates shall further state that the policies shall not be cancelled by the insurer without giving thirty (30) days prior notice to Owner of such cancellation, except if the cancellation results from non-payment of premium, in which case, the Architect shall provide ten (10) days written notice to the Owner. . The foregoing requirements as to insurance and acceptability to the Owner of insurers shall not in any manner limit or qualify the liabilities or obligations assumed by the Architect under this Agreement.

§ 2.6 The Architect shall, at no cost to the Owner, promptly and satisfactorily correct any services, which are defective or not in conformance with the requirements of this Agreement. If the Architect fails to make such corrections within fourteen (14) days of written notice from the Owner, the Owner may do so, by contract or otherwise, and recover (e.g. by offset against compensation otherwise payable under this Agreement) the cost from the Architect. The obligations of the Architect to correct defective or nonconforming services shall not limit any other obligations of the Architect and is in addition to any and all other rights and remedies available to the Owner under the Agreement or otherwise by law and shall in no event be construed or interpreted as obligating the Owner to make any corrections of defective or nonconforming services..

§ 2.7 The Construction Documents shall, subject to the Architect's Standard of Care, comply with applicable federal, state, and local building and zoning laws, regulations, codes, and orders in existence at the times when of submission for permitting. In the event of conflict between laws, codes, and regulations of various governmental authorities having jurisdiction over the design of the Project, the Architect shall promptly notify the Owner of the nature and impact of the conflict. The Owner agrees to cooperate and work with the Architect in an effort to resolve the conflict.

§ 2.8 The Architect shall be and operate as an independent contractor in the performance of the services and shall have responsibility for all personnel performing the services. Nothing contained in this Agreement shall be deemed to create any association, partnership, joint venture or relationship of principal and agent or master and servant between and among the parties to this Agreement or their affiliates or subsidiaries. In no event shall the Architect be authorized on behalf of the Owner: to enter into any agreements or undertakings in the name of the Owner, to waive any provisions of the Contract, to execute any documents for Payment except the Certificates of Payment referenced in Article 3.6.3 herein, Change Order or other documents except as set forth in Article 3.6.5 herein, to authorize any payments or approve any documents, work, services, goods or materials that result in a change of the Contract Sum or Contract Time without prior written approval of the Owner, or to act as or be an agent or employee of the Owner.

§ 2.9 The Architect shall engage consultants qualified by training and experienced in their respective fields to address the requirements of the Project. Any subcontracting of the services shall not relieve the Architect from its responsibility for the performance of the services in accordance with the terms of this Agreement nor from its responsibility for the performance of any of its other obligations under this Agreement. The Owner shall review and approve the Architect's selected consultants before the Architect contracts with such consultants. Upon request by the Owner, the Architect shall furnish the Owner with a copy of the Architect's contracts with its consultants. These contracts shall be consistent with the terms of this Agreement.

§ 2.10 The Architect hereby agrees to indemnify and hold harmless the Owner, its successors and assigns and the administrators, directors, and employees of the foregoing ("Indemnified Parties"), from and against losses, costs, liabilities, damages and expenses (including attorney's fees recoverable under applicable law) for which Indemnified Parties are found liable to a third parties to the extent caused by a wrongful or negligence act or omission (i) in the performance of services by, (ii) the obligations of, or (iii) the negligent or wrongful acts or omissions of the Architect or any of its consultants of any tier, the respective successors and assigns of the Architect or any such consultants, the directors, officers, employees and agents of each of the foregoing, or anyone acting on the Architect's behalf in connection with this Agreement or its performance. Nothing herein shall be construed to require the Architect to indemnify and hold harmless any Indemnified Parties for their own negligence.

§ 2.11 The Architect shall enforce strict discipline and good order among the Architect's employees, consultants, and other persons carrying out the Agreement, including observance of Owner's rules on use of drugs, smoking, tobacco, alcohol, parking, safety, weapons, background checks, sexual harassment, and other rules governing the conduct of



personnel on the Owner's property. The Architect shall require that all persons performing the Services under this Agreement comply with the Owner's tobacco free use policy and will not engage in inappropriate conduct or inappropriate contact with students or staff. The Owner shall conduct background checks on Architect's employees and consultants who are on Owner's premises in accordance with the Owner's policies and provide such background checks to the Architect. The Owner reserves the right to require the Architect to remove any Architects employees, agents, or consultants deemed incompetent or detrimental by the Owner, in compliance with any and all applicable local, state, and/or federal laws and regulations.

#### PAGE 7

§ 3.1 The Architect's Basic Services consist of those described in ~~this Article 3 and the MOU, Exhibit A, for the Project and may include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 and other engineering services as set forth in the MOU as set forth in Exhibit A. Services not set forth in the MOU, Exhibit A for the Project, are Supplemental or Additional Services.~~

§ 3.1.1 The Architect shall manage the Architect's services, ~~and the services of the Architect's consultants and administer the Project to the extent specified in this Agreement. The Architect shall consult with the Owner, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner.~~

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

§ 3.1.3 ~~As soon as practicable after the date of this Agreement, the~~ The Architect shall submit for the Owner's approval a schedule for the performance of the Architect's ~~services. services which shall be set forth in the MOU, Exhibit A, for the Project.~~ The schedule initially shall include anticipated dates for the commencement of ~~construction~~ construction, for identified milestones, for cost estimates and design reviews, and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. The Owner shall render decisions in a timely manner so as not to impact the Project schedule. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

#### PAGE 8

§ 3.1.5 The Architect ~~shall~~ shall, at appropriate times, contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. ~~The Architect shall respond to applicable design requirements imposed by those authorities and entities. In designing the Project, the Architect shall respond to applicable written publicly available design requirements imposed by such governmental authorities and by such entities providing utility services.~~

§ 3.1.6 The Architect shall, in a timely manner to not delay the orderly progress of the Project, prepare Construction Documents and shall assist the Owner in connection with the Owner's responsibility for filing ~~documents required for the approval of governmental authorities having jurisdiction over the Project, such Construction Documents required for the approval of governmental authorities having jurisdiction over the design of the Project and in obtaining such required approvals.~~ The Architect will assist the Owner in connection with the Owner's responsibility for submitting certain documentation to the Regional Office of Education. The Architect shall have primary responsibility for applying for building code reviews of the Construction Documents, shall provide separate packages of documents for local, state and other applicable permit applications as necessary, shall coordinate and attend meetings with governmental bodies. If the Architect is requested to make application for and coordinate all necessary use, zoning, right-of-way, and utility applications, such services shall be an Additional Services and shall be compensated in accordance with Article 11.3. As part of the Basic Services, the Architect shall make all revisions to the Construction Documents required by state, local, and other applicable reviews by authorities having jurisdiction over the design of the Project and as required to comply with applicable building and zoning codes, laws, interpretations thereof in effect at the time of submission for permitting.

§ 3.1.7 Upon request of the Owner, the Architect shall make presentations as described in the Agreement to explain the design of the Project to representatives of the Owner. The Architect shall be entitled to rely on written approvals received from the Owner in the further development of the design; however, the Owner's approval of design documents shall in no way be construed as a waiver of any rights or requirements as set forth in this Agreement.

...

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

§ 3.2.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project. Project, including the feasibility of incorporating environmentally responsible design approaches for major systems only. The Architect shall reach an understanding with the Owner the Owner, which the Architect shall confirm in writing, regarding the requirements of the Project.

§ 3.2.4 Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present, for the Owner's approval, a preliminary design multiple preliminary designs as set forth in the MOU, Exhibit A, illustrating the scale and relationship of the Project components.

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

#### PAGE 9

§ 3.2.5.2 The Architect shall consider the value of alternative materials, building systems and equipment, and life cycles costs, 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.

...

§ 3.2.7 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval. The Owner's approval shall be deemed only an approval of the proposed concept and not the means, techniques, or material recommended.

...

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, systems if included in Exhibit A, 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.

...

§ 3.4.2 The Architect shall incorporate the design During this phase, the Architect will respond to comments from building and planning officials and meet with the Owner and its consultants. The Architect shall also assist the Owner to submit to, and respond to comments from, building, planning, health, water and sewer districts, electricity and natural gas providers and similar agencies and utility providers having jurisdiction. The Architect shall incorporate the

written publicly available requirements of governmental authorities having jurisdiction over the design of the Project into the Construction Documents. The Architect shall be responsible as part of its Basic Services (with the assistance of the Owner) for coordinating, and the Owner will be responsible (with the assistance of the Architect) for filing documents required for approval of governmental authorities having jurisdiction over the design of the Project. The Architect shall be responsible for making changes in the Construction Documents required by governmental authorities at its expense, except where such required changes are inconsistent with previous direction from the same governmental agency or between governmental agencies.

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner ~~in~~ with the development and preparation of (1) Contractor 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 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.

PAGE 10

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

§ 3.4.6 Any design errors or omissions in the Construction Documents furnished by the Architect will be promptly corrected by the Architect at no cost to the Owner. The Owner's approval, acceptance, use of, or payment for, all or any part of the Architect's Services hereunder or of the Project itself shall in no way alter the Architect's obligations or the Owner's rights hereunder. If, due to the Architect's negligence, omission or failure to perform in accordance with the terms of this Agreement, a required item or component of the Project is omitted from the Construction Documents or if, due to such negligence, omission or failure, the Construction Documents must be modified through a Change Order, the Architect shall be responsible for paying the cost required to add or modify such item or component to the Project, excluding the reasonable cost that would have been incurred by the Owner at the time of the original bid for such Project item or component to the extent that such item or component would have been required and included in the original Construction Documents and to the extent recoverable under applicable law. In no event shall the Owner pay more than once for an item or component of the Project.

...

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

...

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

PAGE 11

§ 3.5.3.3 If the Proposal Documents permit substitutions, upon the Owner's written authorization, the Architect shall, ~~as an Additional Service,~~ consider requests for substitutions, shall submit substitutions for the Owner's consideration and if the Owner approves substitutions in writing shall prepare and distribute addenda identifying approved substitutions to all prospective contractors-bidders

...

§ 3.6.1.1 The Architect shall ~~provide~~ assist the Owner in providing 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.~~ Construction as well as the Owner's Supplementary General Conditions and the Owner's General Requirements to the extent the foregoing documents are consistent with this Agreement. If the Owner and Contractor modify AIA Document A201-2017, ~~those A201-2017 or require services inconsistent with this Agreement in the documents referenced herein, those documents and modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.~~

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

§ 3.6.1.3 Subject to Section 4.2 and ~~except as provided in Section Article 4.2 and 3.6.6.5,~~ the Architect's responsibility to provide Construction Phase Services for the Construction Phase under this Agreement commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment. initial Contract for Construction and terminates at the later of the issuance to the Owner of the final Certificate for Payment or the Owner's receipt and approval of final closeout documents.

...

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

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

§ 3.6.2.3 The Architect shall initially 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 response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

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

**§ 3.6.2.5** ~~Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201–2017, the Architect shall render initial decisions on Claims between the Owner and Contractor.~~ Upon the Owner's request, the Architect shall provide written advice within a reasonable time on Claims, disputes or other matter in question between the Owner and the Contractor relating to the physical execution or progress of the Work or the interpretation of the Drawings and Specifications as provided in the Contract Documents. Such interpretations shall not be attributable to the Owner. If the Owner makes interpretations or decisions concerning the performance under or requirements of the Contract Documents without the written approval of the Architect, the Owner shall be fully and solely responsible for such interpretations and decisions and the consequences of such interpretations or decisions.

**PAGE 12**

**§ 3.6.3.1** The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and the Contractor's construction schedule and updates and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect. The Architect administratively shall receive from the Contractor mechanics lien waivers and the Contractor's sworn statement listing subcontractors and material suppliers before issuing payment certificates and if such waivers or sworn statements cannot be obtained, then the Architect's Certificate shall be conditional upon receipt of the Contractor's waivers or sworn statement.

...

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

...

**§ 3.6.4.2** ~~The Architect shall review and approve, or take other appropriate action upon.~~ In accordance with the Architect-approved submittal schedule, the Architect shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only Samples for the limited purpose of checking for conformance with information given and the design concept expressed concepts 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 review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component. The Architect shall not approve substitution requests after contract award unless written permission from the Owner is obtained.

**PAGE 13**

**§ 3.6.4.4** ~~Subject to Section 4.2, the~~ The Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

...

**§ 3.6.5.1** The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. ~~Subject to~~

~~Section 4.2, the~~ The Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents. If necessary, the Architect shall prepare, reproduce and distribute Drawings and Specification and other necessary supporting documentation and data to describe Work to be added, deleted, or modified. Basic Services shall include providing recommendations concerning proposed Change Orders or Construction Change Directives, and all aspects of the preparation and processing of Change Orders and Construction Change directives resulting from errors, omissions or deficiencies of the Architect in the preparation of the Contract Documents. Any change order or series of change orders resulting in an increase in the Contract Sum of \$5,000 or more, or an increase in the Contract Time of 10 days or more, must be approved in writing by the Owner in order to be binding on the Owner, and then only if one of the following criteria is satisfied. The Owner determines that the circumstances requiring the change a) was not reasonably foreseeable at the time the Agreement was signed; b) is germane to the original Agreement as signed; or c) is in the best interest of the Owner and is authorized by law.

...

**§ 3.6.5.3** Where changes are proposed in which the Contractor identifies that additional cost or time may be merited, whether initiated by the Owner or Contractor, the Architect shall review the Contractor proposal for a change order for compliance with the Contract Documents, the intended scope of the direction provided, and to determine whether costs proposed by the Contractor associated with the change are generally equitable.

...

- ~~.1~~ conduct inspections-an inspection to determine the date ~~or dates~~ of Substantial Completion and the date of final completion;
- ~~.2~~ issue Certificates-Certificate of Substantial Completion;

#### PAGE 14

**§ 3.6.6.2** The Architect's inspections shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected. Architect shall assist in supplying information, advice and communication with respect to the warranty or correction periods of the construction contract The Architect and the Owner shall cooperate in inspecting for and securing the correction of defective work. At Substantial Completion, the Architect shall prepare for review and coordination of the Owner a "punch list" of observed items requiring correction, completion or replacement by the Contractor. The Architect shall review the Project upon Final Completion to determine compliance with the Contract Documents and shall issue a final Certificate of Payment recommending that the Work is completed in compliance with the requirements of the Contract.

...

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

**§ 3.6.6.6** Subsequent to meetings with the Owner as indicated in 3.6.6.5, the Architect shall conduct a walkthrough with the Owner and Contractor to review any open warranty issues for the purpose of developing a final list of items to be corrected prior to the expiration of the final warranty period.

...

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

#### PAGE 15

See MOU, Exhibit A for the Project

...

See MOU, Exhibit A for the Project

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

...

The Architect may provide Additional Services after execution of this ~~Agreement without invalidating the Agreement.~~ Agreement, if mutually agreed in writing by the Owner and Architect, without invalidating the Agreement. In the absence of mutual agreement in writing, and subject to Section 4.2.2 below, the Architect shall promptly notify the Owner prior to providing any services requiring an adjustment in the Architect's compensation and shall specify the proposed adjustment. Except for services required due to the fault, fault, negligence, or responsibility of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to a mutually agreed upon adjustment in compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

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

- .1 Services necessitated by a change ~~in the Initial Information, in the information in the MOU, Exhibit A,~~ 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;

PAGE 16

- .8 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto; and
- .9 ~~Evaluation of the qualifications of entities providing bids or proposals; Intentionally Deleted.~~
- .10 Consultation concerning replacement of Work resulting from fire or other cause during ~~construction;~~
- or,
- .11 ~~Assistance to the Initial Decision Maker, if other than the Architect.~~ construction.

...

- .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; Intentionally Deleted;~~

...

- .4 ~~Evaluating an extensive number of Claims as the Initial Decision Maker; or, Intentionally Deleted.~~
- .5 Evaluating substitutions proposed by the Owner or ~~Contractor and~~ Contractor, and with the Owner's written agreement, making subsequent revisions to Instruments of Service resulting ~~therefrom.~~ therefrom;
- .6 To the extent the Architect's Basic Services are affected, providing Construction Phase Services 90 days after (1) the date of Substantial Completion of the Work and not within the original scope of Basic Services, except for correction period responsibilities.



§ 4.2.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional Services. ~~Services unless necessitated by the fault or negligence of the Architect.~~ When the limits below are reached, the Architect shall notify the ~~Owner~~ Owner in writing:

- .1 Two ( 2 ) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
- .2 ~~(—)~~ See MOU, Exhibit A, for the number of visits to the site by the Architect during construction
- .3 One ( 1 ) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 One ( 1 ) inspections for any portion of the Work to determine final completion.

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

§ 4.2.5 If the services covered by this Agreement have not been completed within ~~(—) months of the date of this Agreement,~~ the time period set forth in the MOU, Exhibit A, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

PAGE 17

§ 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 which, upon mutual agreement may include 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 Architect. The Owner and the Architect ~~shall~~ may 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~~ When provided to the Owner in a timely manner, the Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services. The Architect shall provide submittals to the Owner in a timely manner.

§ 5.4 ~~The~~ Unless otherwise provided for in the MOU, Exhibit A, 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~~ Unless otherwise provided for in the MOU, Exhibit A, 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.

...

§ 5.8 The Owner shall coordinate the services of its own consultants with those services provided by the ~~Architect.~~ Architect with the Architect's involvement and assistance. Upon the Architect's request, the Owner shall furnish



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

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

§ 5.10 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests. These services are not provided directly to the Architect or for the Architect's benefit

§ 5.11 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service. Provided, however, that the Owner shall have no obligation to investigate for the purpose of becoming aware of faults, defects, errors, omissions, or inconsistencies. The Owner's failure to so notify shall not relieve the Architect of its responsibilities under this Agreement.

§ 5.12 Except as otherwise provided for thin this Agreement, the Architect shall contemporaneously provide the Owner with copies of all written communications between the Architect and the Contractor concerning cost, time, scope, or requirements of the Project. The Owner shall include the Architect in all communications with the Contractor that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor ~~otherwise relating to the Project. that may impact the Architect's Services under this Agreement.~~ Communications by and with the Architect's consultants shall be through the Architect.

§ 5.13 Before executing the Contract for Construction, ~~the Owner shall~~ Architect shall have reasonable opportunity to review the proposed form of Contract and provide comments to the Owner to coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

PAGE 18

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

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work ~~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; Architect or the Architect's consultants;~~ 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 of the Owner,~~ but the Cost of the Work shall include the following:

- |    |   |
|----|---|
| .1 | Contractor's overhead and profit and General Conditions associated with the Project;  |
| .2 | alternate bids. For alternate bids not accepted, 80% of the cost associated with the alternate shall be used for Architect's fee calculations. Deductive alternates will be treated as added costs;                 |
| .3 | full change order amount for all change orders as it increases contract amount. For change orders not accepted, 80% of the cost associated with the change order shall be used for the Architect's fee calculation. |
| .4 | change order credits as added project costs;  |

.5 For change orders that do not change the construction cost in proportion to the design work required, the Architect's fee shall be computed on a time and material basis.

**§ 6.2** The Owner's budget for the Cost of the Work is provided in Initial Information, and shall be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work, prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials, or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market, or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the ~~Architect~~. Architect and the Architect shall have no responsibility for such variance nor shall the Architect be responsible if the bids or Cost of the Work exceeds the estimate of the Owner's budget.

**§ 6.3** In preparing estimates of the Cost of Work, the Architect 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 estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 4.1.1, as a Supplemental ~~Service~~. Service

PAGE 19

**§ 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~~ Owner, at its sole option, shall

...

**.3** terminate in accordance with Section ~~9.5~~ 9.5 of this Agreement;

...

**§ 6.7** If the Owner chooses to proceed under Section 6.6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. ~~If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal~~ lowest bona fide bid exceeds the Owner's budget for the Cost of the Work by twenty (20%) percent or less, the Architect shall modify the Construction Documents as requested by the Owner as an Additional Service. If the lowest bona fide bid exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise the Architect's services for modifying the Construction Documents shall be without additional compensation. by more than twenty (20%) percent, the Architect shall modify the Construction Documents without additional compensation to reduce the Cost of the Work to conform to Owner's budget. In any event, the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

...

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

...

§ 7.3 The Architect grants to the Owner a nonexclusive ~~license~~ license, royalty free, to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, ~~maintaining, altering and adding to the Project, and maintaining the Project and for informational purposes only in connection with altering or 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.~~ Service. 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.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, Service on the Project or on other projects, 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 defend, 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.

PAGE 20

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, ~~in accordance with the requirements of 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.

§ 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.~~ Intentionally Deleted.

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

...

§ 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. The parties will cooperate in good faith and attempt to resolve any dispute that arises prior to mediation.

§ 8.2.2 The Owner and Architect shall 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.~~ ADR Systems Inc., 20 N. Clark Street, Chicago, Illinois with a mutually acceptable mediator. 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.

PAGE 21

(Check the appropriate box.)

...

☒ Litigation in a Grundy County, Illinois court of competent jurisdiction

☐ Other: *(Specify)*

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

**§ 8.3 Arbitration** The provisions of this Article 8 shall survive the termination of this Agreement.

**§ 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.

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

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

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's ~~services.~~ services only if the Owner suspends the Project for more than thirty (30) consecutive days.. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

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

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

...

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements. The Owner shall not be liable for any consequential or incidental damages, including but not limited to loss of profits on other projects or of reputation incurred by the Architect as a result of termination.

...

N/A

PAGE 22

Per mutual agreement between the Owner and the Architect

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

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

§ 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.~~ State of Illinois, venue shall be any court of competent jurisdiction in Grundy County, Illinois.

...

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written



consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project if the lender agrees to assume the Owner's rights and obligations under this Agreement, provided the Lender agrees to assume the Owner's rights and obligations, including any and all payments due to the Architect by the Owner prior to and at the time of the assignment.

...

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

§ 10.8 ~~If~~ Except in accordance with the Illinois Freedom of Information Act (FOIA), 5 ILCS 140, if the Architect or Owner receives information specifically designated on its face 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. It is understood that the definition of the terms "confidential" and "business proprietary" as used here will be determined by the application of the State of Illinois Freedom of Information Act, and that this Agreement and records generated or received by either party pursuant to this Agreement are subject to the State of Illinois Freedom of Information Act and may, therefore, be open to the public upon request

PAGE 23

§ 10.10 The Architect certifies that it **complies with the procedures and requirement of the Illinois Drug Free Workplace Act 30 ILCS 580/ and the Illinois Human Rights Act 775 ILCS 5/2.**

...

~~.1~~ Stipulated Sum

— (Insert amount)

~~.2~~ Percentage Basis

— (Insert percentage value)

— ( ) % 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)

As set forth in the MOU, Exhibit A, for the Project.

...

In accordance with the Hourly Rates set forth in the MOU, Exhibit A, for the Project.

...

In accordance with the Hourly Rates set forth in the MOU, Exhibit A, for the Project.

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

...

Schematic Design Phase	<u>twenty</u>	percent (	<u>20</u>	%)
Design Development Phase	<u>fifteen</u>	percent (	<u>15</u>	%)
Construction Documents Phase	<u>forty</u>	percent (	<u>40</u>	%)
Procurement Phase	<u>five</u>	percent (	<u>5</u>	%)
Construction Phase	<u>twenty</u>	percent (	<u>20</u>	%)

## PAGE 24

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

- .1 ~~Transportation and authorized out-of-town travel and subsistence;~~Intentionally deleted;
- ...
- .3 ~~Permitting and other fees required~~ fees paid for securing approval by authorities having jurisdiction over the Project;
- ...
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the ~~Owner;~~Owner in writing;
- ...
- .8 If required by the Owner, and with the Owner's prior written approval, the Architect or Architect's consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect's consultants; the minimum limits set forth in this Agreement;
- .9 All taxes levied ~~on professional services and on reimbursable 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;~~Intentionally deleted;
- .12 Other similar Project-related ~~expenditures;~~expenditures pre-approved by the Owner..

§ 11.8.2 Exhibit A, the MOU, includes the estimated cost of reimbursable expense anticipated the Architect. The Architect shall not exceed the estimated cost of such expenses without the Owner's prior written approval. For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus ten percent ( 10 %) of the expenses incurred.

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

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

**Intentionally Deleted.**

...

§ 11.10.1.1 An initial payment of zero (\$ 0 ) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

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

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

~~—%~~ shall be due and interest shall be calculated in accordance with the Illinois Governmental Prompt Payment Act.

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

PAGE 25

~~§ 12.1~~ No failure of either the Architect or the Owner to exercise any power given in this Agreement or to insist upon strict compliance by the other party with any obligation hereunder and no custom or practice of the Owner or the Architect at variance with the terms hereof shall constitute a waiver of the right of either party to demand strict compliance with the terms of this Agreement.

**§ 12.2 Any claims arising out of this Agreement shall be brought against the contracting parties and not against any individual director, officer, or employee of the party.**

...

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

...

~~.2~~ AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

— (Insert the date of the E203-2013 incorporated into this agreement.)

~~.3~~ Exhibits:

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

.2 Exhibits:

[ ] — AIA Document E204™ 2017, Sustainable Projects Exhibit, dated as indicated below:

(Insert the date of the E204-2017 incorporated into this agreement.) Exhibit A The Memorandum of Understanding (MOU) for the Project

[ ] — 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.)

~~4~~ Other documents:

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

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

Minooka Community High School District 111  
PAGE 26

DLA Architects, Ltd.

Dr. Robert Schiffbauer , Superintendent

Louis F. Noto , Principal

## ***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 14:09:42 ET on 01/13/2023 under Order No. 2114302648 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B101™ – 2017, Standard Form of Agreement Between Owner and Architect, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

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

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

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