



AIA® Document B133® – 2019

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

AGREEMENT made as of the 20th day of October in the year 2025
(In words, indicate day, month and year.)

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

Board of Education of Central Community Unit District No. 301
275 South Street
Burlington, Illinois 60109

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

STR Partners, LLC
350 West Ontario Street, Suite 200
Chicago, Illinois 60654

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

This Agreement is a Master Agreement and shall be the agreement for all projects authorized by the Owner. Specific projects under this Master Agreement shall be authorized in writing by the Owner by execution of a project authorization (hereinafter "Project Authorization"), which Project Authorization 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 Project Authorizations, each of which shall be attached to this Master Agreement as Exhibit A for the Project authorized.

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

To be determined by the Owner and set forth in the Project Authorization, Exhibit A

The Owner and Architect agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. 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.

This document is intended to be used in conjunction with AIA Documents A201–2017™, General Conditions of the Contract for Construction; A133–2019™ Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price; and A134–2019™ Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee without a Guaranteed Maximum Price. AIA Document A201™–2017 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1 and in Exhibit A, the Project Authorization for the specific Project authorized pursuant to this Master Agreement attached hereto and incorporated herein for the Project authorized by Owner under this Master Agreement.

Exhibit A, the Project Authorization, contains 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 Project Authorization, Exhibit A, the Project Authorization shall control. Project as used herein shall mean the Project authorized by the Project Authorization, Exhibit A.

§ 1.1.1 The Owner's program for the Project:

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

See Exhibit A, the Project Authorization for the Project.

§ 1.1.2 The Project's physical characteristics:

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

See Exhibit A, the Project Authorization for the Project.

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

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

See Exhibit A, the Project Authorization for the Project.

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

.1 Design phase milestone dates, if any:

See Exhibit A, the Project Authorization for the Project.

.2 Construction commencement date:

See Exhibit A, the Project Authorization for the Project .

.3 Substantial Completion date or dates:

See Exhibit A, the Project Authorization for the Project .

.4 Other milestone dates:

See Exhibit A, the Project Authorization for the Project.

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

(Indicate agreement type.)

☐ AIA Document A133–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price.

☒ AIA Document A134–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee without a Guaranteed Maximum Price.

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

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

See Exhibit A, the Project Authorization for the Project.

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

(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

See Exhibit A, the Project Authorization for the Project.

§ 1.1.7.1 If the Owner identifies a Sustainable Objective, the Owner and Architect shall define the terms, conditions and services related to the Owner's Sustainable Objective in Exhibit A, the Project Authorization for the Project.

§ 1.1.8 The Owner identifies the following representative in accordance with Section 5.4:

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

See Exhibit A, the Project Authorization for the Project.

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

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

See Exhibit A, the Project Authorization for the Project.

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

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

.1 Construction Manager:

Init.

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See Exhibit A, the Project Authorization for the Project.

(Paragraphs deleted)

.2 Land Surveyor: See Exhibit A, the Project Authorization for the Project.

(Paragraphs deleted)

Geotechnical Engineer: See Exhibit A, the Project Authorization for the Project.

(Paragraphs deleted)

.4 Civil Engineer: See Exhibit A, the Project Authorization for the Project .

.5 Other consultants and contractors:

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

See Exhibit A, the Project Authorization for the Project.

§ 1.1.11 The Architect identifies the following representative in accordance with Section 2.4:
(List name, address, and other contact information.)

See Exhibit A, the Project Authorization for the Project.

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

§ 1.1.12.1 Consultants retained under Basic Services:

.1 Structural Engineer: See Exhibit A, the Project Authorization for the Project.

(Paragraphs deleted)

.2 Mechanical Engineer: See Exhibit A, the Project Authorization for the Project.

(Paragraphs deleted)

.3 Electrical Engineer: See Exhibit A, the Project Authorization for the Project.

§ 1.1.12.2 Consultants retained under Supplemental Services:

See Exhibit A, the Project Authorization for the Project.

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

See Exhibit A, the Project Authorization for the Project.

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the Architect's services, schedule for the Architect's services, and the Architect's compensation. The Owner shall 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 protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties 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 or a CAD Release Agreement.

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

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

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

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

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

§ 2.4 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project. The representative shall remain assigned to the Project for its duration and shall not be removed from the Project by the Architect without the consent of the Owner, which it may withhold in its sole discretion. Should the named representative no longer be employed by the Architect or become ill, incapacitated or unable to act as the Architect's representative during the term of this Agreement, the Architect shall promptly make a recommendation to the Owner as to the appropriate replacement representative for Owner's consideration. If at any time prior to the termination of this Agreement the Owner desires to have the Architect's representative replaced, the Owner shall notify the Architect of such and the parties shall promptly meet to mutually agree upon a replacement.

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

§ 2.6 **Insurance.** The Architect shall maintain the following insurance until termination of this Agreement.

§ 2.6.1 Commercial General Liability insurance on an occurrence basis, with policy limits of not less than One Million Dollars (\$1,000,000) for each occurrence and Two Million Dollars (\$2,000,000) in the aggregate, covering liability arising from bodily injury, advertising injury and property damage, premises, operations, products and completed operations.

§ 2.6.2 Automobile Liability insurance covering rented and non-owned vehicles operated by the Architect with policy limits of not less than One Million Dollars (\$1,000,000) combined single limit per accident for bodily injury and property damage along with any other statutorily required automobile coverage.

§ 2.6.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess 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 2.6.1 and 2.6.2, 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.

§ 2.6.4 Excess or umbrella insurance in the amount of Five Million Dollars (\$5,000,000) per occurrence / aggregate, following form.

§ 2.6.4 Workers' Compensation at statutory limits.

§ 2.6.5 Employers' Liability with policy limits not less than One Million Dollars (\$1,000,000) each accident, One Million Dollars (\$1,000,000) each employee, and One Million Dollars (\$1,000,000) policy limit.

§ 2.6.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than Two Million Dollars (\$2,000,000) per claim and Two Million Dollars (\$2,000,000) in the aggregate. The Architect shall maintain this insurance for at least three (3) years from the date of substantial completion of the Project.

§ 2.6.7 **Additional Insured Obligations.** To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner, its individual Board members, officers, directors and employees (hereinafter the "Indemnitees") as additional insureds for claims covered under such policies. The additional insured coverage shall be primary and non-contributory to any of the additional insureds' insurance policies and shall apply to both ongoing and completed operations.

§ 2.6.8 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.6. In addition, the Architect will provide the Owner with at least thirty (30) days advance written notice, when possible, of any termination of coverage that is not replaced with another policy. If the Architect is not able to provide thirty (30) days advanced written notice of an anticipated termination of coverage, the Architect shall provide notice to the Owner as promptly as practicable.

§ 2.6.9 All insurance required of the Architect, with the exception of excess/umbrella insurance, shall be the primary insurance. For insurance on which Owner is an additional insured, the insurance shall be primary and non-contributory. If the additional insureds have other insurance which is applicable to the loss, it shall be on an excess or contingent basis.

§ 2.6.10 All insurance required of the Architect on which there are additional insureds as required in this Agreement shall provide that the insurance shall apply separately to each insured against whom a claim is made or suit is brought, except with respect to the limits of the insurer's liability.

§ 2.6.11 Under no circumstances shall the Owner be deemed to have waived any of the insurance requirements hereunder. The Architect agrees that the obligation to provide the insurance is solely its responsibility and that this is a requirement which cannot be waived by any conduct, action, inaction or omission by the Owner.

§ 2.6.12 Notwithstanding any other provision contained herein or in any Contract Document, the Owner, at its own option, may satisfy its obligation to purchase any insurance required of the Owner hereunder through its membership in a self-insurance risk pool.

§ 2.6.13 The Architect waives any and all rights of subrogation against any additional insured under this Agreement as to the Commercial General Liability policy and Automobile Liability policy. Notwithstanding any other provision herein or in any Contract Document, the Owner shall not, in any manner, be deemed or intended to have waived any right of subrogation which it, any insurer or any self-insured risk pool of which it is a member may have against the Architect or any of its agents or consultants.

§ 2.6.14 The insurance requirements of Architect set forth herein are minimum contractual obligations and shall not preclude the Owner from accessing insurance policy limits above said stated minimums if any. If the Owner requires additional insurance policy limits or coverage beyond those set forth above, the Owner shall bear the cost of such additional insurance coverage or limits.

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 as set forth in the Project Authorization, Exhibit A, and may include usual and customary structural, mechanical, plumbing and electrical engineering services and other services if and as so provided in Exhibit. Services not set forth in this Article 3 or Exhibit A are Supplemental or Additional Services if so authorized in writing by the Owner and agreed to by the Architect. The Architect shall exercise reasonable care to engage consultants who shall possess the experience, skill, and knowledge necessary to qualify the consultants for the particular duties they perform and who shall perform all services in conformity with the standards of reasonable care and skill with respect to professional services they are rendering. Said consultants shall carry professional liability insurance. The Architect assumes full responsibility to the Owner for the acts, errors and omissions of its consultants in the performance of their services.

§ 3.1.1 The Architect shall manage the Architect's services, consult with the Owner, research applicable design criteria, attend Project meetings and Board of Education meetings as they relate to the Project, 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 the Owner, the Construction Manager, and the Owner's consultants. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner, the Construction Manager, and the Owner's consultants, unless the Architect knows that the information provided is inaccurate or incomplete. 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 commencement of services pursuant to the Project Authorization for the Project, the Architect shall submit, for the Construction Manager's review and the Owner's approval, a schedule for the performance of the Architect's services. The schedule shall include design phase milestone dates, as well as the 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 Construction Manager's review, for the performance of the Construction Manager's Preconstruction Phase services, 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 or by written agreement of the Parties, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

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

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

§ 3.1.6 The Architect shall, in coordination with the Construction Manager, contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities.

§ 3.1.7 The Architect, with the assistance of the Owner and Construction Manager, shall prepare and file documents required for the approval of governmental authorities having jurisdiction over the Project.

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

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

§ 3.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager, the Construction Manager shall prepare, for review by the Owner and Architect, and for the Owner's acceptance or approval, a Guaranteed Maximum Price proposal or Control Estimate. The Architect shall assist the Owner in reviewing the Construction Manager's proposal or estimate. The Architect's review is not for the purpose of discovering errors, omissions, or inconsistencies; for the assumption of any responsibility for the Construction Manager's proposed means, methods, sequences, techniques, or procedures; or for the verification of any estimates of cost or estimated cost proposals. In the event that the Architect discovers any inconsistencies or inaccuracies in the information presented, the Architect shall promptly notify the Owner and Construction Manager.

§ 3.2.2 Upon authorization by the Owner, and subject to Section 4.2.1.14, the Architect shall update the Drawings, Specifications, and other documents to incorporate the agreed upon assumptions and clarifications contained in the Guaranteed Maximum Price Amendment or Control Estimate.

§ 3.3 Schematic Design Phase Services

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

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

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

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

§ 3.3.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents, based on the most current approved Owner's budget, for Construction Manager's review and 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.

§ 3.3.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation for major systems only, 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.

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

§ 3.3.6 The Architect shall submit the Schematic Design Documents to the Owner and the Construction Manager. The Architect shall meet with the Construction Manager to review the Schematic Design Documents. The Architect shall make a good faith effort to provide sufficient time for two reviews of the Schematic Design Documents by Owner in the Project Schedule consistent with the anticipated substantial or final completion dates. If the Owner rejects the Schematic Documents as submitted, the Architect shall revise the Schematic Design Documents in accordance with the Owner's comments and resubmit the Schematic Documents to the Owner for its approval. Interim reviews will be provided by the Architect prior to the final submission of Schematic Documents contemplated by this Section if necessary. If, for reasons unrelated to the Architect's fault, the Owner approves the Schematic Documents or a portion thereof during the interim review process, but subsequently rejects or requests revisions to portions of the previously approved Schematic Documents, the Architect's revisions to such previously-approved Schematic Documents shall be paid for by the Owner as Additional Services.

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

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

§ 3.4 Design Development Phase Services

§ 3.4.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents, based on the current approved Owner's budget and the Construction Manager's current estimate of the Cost of the Work, for the Construction Manager's review and the Owner's approval. The Design Development Documents shall be based upon information provided, and estimates prepared by, the Construction Manager and shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and 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 Prior to the conclusion of the Design Development Phase, the Architect shall submit the Design Development Documents to the Owner and the Construction Manager. The Architect shall meet with the Construction Manager to review the Design Development Documents.

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

§ 3.5 Construction Documents Phase Services

§ 3.5.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents, based on the current approved Owner's budget, and the Construction Manager's current estimate of the Cost of the Work, for the Construction Manager's review and 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 acknowledge that, in order to perform the Work, the Construction Manager will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.5.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents. The Construction Documents shall comply with federal, state and local building and zoning laws, codes, rules, ordinances and regulations applicable to the Architect's Services. The Architect is responsible for all materials specified as to appropriateness for the intended use in an educational facility.

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

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

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

§ 3.5.6 If the Bidding Documents permit substitutions, upon the Owner's written authorization, the Architect shall consider requests for manufactured product substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders as part of Basic Services. Services for Substitution requests requiring code analysis or system design changes shall be an Additional Service.

§ 3.5.7 Bidding Phase:

The Architect may assist the Owner and Construction Manager with the following:

- .1 establishing a list of prospective bidders;

- .2 facilitating the distribution of Bidding Documents to prospective bidders;
- .3 conducting a pre-bid conference for prospective bidders; and
- .4 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.

§ 3.6 Construction Phase Services

§ 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Construction Manager as set forth below and in AIA Document A201™–2017, General Conditions of the Contract for Construction, as amended by the Owner ("General Conditions"). If the Owner and Construction Manager modify AIA Document A201–2017 or if the provisions of the A201–2017 are inconsistent with this Agreement, those provisions or modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement. The term "Contractor" as used in A201–2017 shall mean the Construction Manager.

§ 3.6.1.2 Subject to Section 4.2, the Architect's responsibility to provide Construction Phase Services commences upon the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, the Owner's approval of the Construction Manager's Control Estimate, or by a written agreement between the Owner and Construction Manager which sets forth a description of the Work to be performed by the Construction Manager prior to such acceptance or approval. Subject to Section 4.2, and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services terminates on the date the Architect issues the final Certificate for Payment.

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

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site as 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 shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Construction Manager, and (3) defects and deficiencies observed in the Work.

§ 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, and the Owner shall have sole responsibility and authority to reject Work. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Construction Manager, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

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

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

Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

§ 3.6.2.5 Unless the Owner and Construction Manager designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201–2017, the Architect shall render initial decisions on Claims between the Owner and Construction Manager as provided in the Contract Documents. Notwithstanding anything in the Contract Documents to the contrary, the Architect shall not serve as the Initial Decision Maker with respect to disputes or claims between the Owner and Architect or disputes or claims where the Architect has a conflict of interest. In such instances the Owner shall select a replacement Initial Decision Maker, which selection shall be final.

§ 3.6.3 Certificates for Payment to Construction Manager

§ 3.6.3.1 The Architect shall review and certify the amounts due the Construction Manager and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Construction Manager's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the Construction Manager has submitted lien waivers for itself and the subcontractors identified on the schedule of values and included in the Application for Payment, and subject to the certificate for payment that the quality of the Work is in accordance with the Contract Documents, and that the Construction Manager 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 shall not be required to determine the legality or validity of the lien waivers provided.

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

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

§ 3.6.4 Submittals

§ 3.6.4.1 The Architect shall review the Construction Manager's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect's professional judgment, to permit adequate review.

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

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

§ 3.6.4.4 Subject to Section 4.2, 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.

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

§ 3.6.5 Changes in the Work

§ 3.6.5.1 The Architect may order minor changes in the Work, in writing, 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 shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

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

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall:

- .1 conduct an inspection to determine the date or dates of Substantial Completion and the date of final completion;
- .2 issue the Certificate 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 Construction Manager; and
- .4 issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner to (1) check conformance of the Work with the requirements of the Contract Documents and (2) verify the accuracy and completeness of the list submitted by the Construction Manager of Work to be completed or corrected.

§ 3.6.6.3 When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Construction Manager, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work. The Architect shall also prepare a list of items that must be completed by the Construction Manager to achieve final completion ("Punch List"). The Architect shall provide the Owner and the Construction Manager with a copy of the Punch List and shall establish a date by which all work in the Punch List must be completed.

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

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

§ 3.6.6.6 The Architect, with the final Certificate of Payment, shall provide the Owner with one (1) set of Record Drawings received from the Construction Manager as well as all product manuals, warranty forms and occupancy permits.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

§ 4.1.1 Except as indicated below to be in Basic Services, the services listed below are not included in Basic Services but may be required for the Project. Any Supplemental Services authorized shall be identified in Exhibit A, the Project

Authorization. Supplemental Services authorized after the issuance of Exhibit A, the Project Authorization must be confirmed by the Owner in a written Supplemental Services Authorization before Architect provides such services.

Supplemental Services	Responsibility (Architect, Owner, or not provided)
§ 4.1.1.1 Assistance with Selection of Construction Manager	Owner with assistance of the Architect as part of Basic Services
§ 4.1.1.2 Programming	
§ 4.1.1.3 Multiple Preliminary Designs	
§ 4.1.1.4 Measured drawings	
§ 4.1.1.5 Existing facilities surveys	
§ 4.1.1.6 Site evaluation and planning, beyond that required in Article 3	
§ 4.1.1.7 Building Information Model management responsibilities	
§ 4.1.1.8 Development of Building Information Models for post construction use	
§ 4.1.1.9 Civil engineering	
§ 4.1.1.10 Landscape design	
§ 4.1.1.11 Architectural interior design	
§ 4.1.1.12 Value engineering beyond that required in Section 3.3.5.2	
(Row deleted)	
§ 4.1.1.13 Cost estimating	
§ 4.1.1.14 On-site project representation, beyond that required in Section 3.6.2.1	
(Row deleted)	
§ 4.1.1.15 Conformed documents for construction	
§ 4.1.1.16 As-designed record drawings	
§ 4.1.1.17 As-constructed record drawings	
§ 4.1.1.18 Post-occupancy evaluation, beyond that required in Section 3.6.6	
(Row deleted)	
§ 4.1.1.19 Facility support services	
§ 4.1.1.20 Tenant-related services	
§ 4.1.1.21 Architect's coordination of the Owner's consultants	
§ 4.1.1.22 Telecommunications/data design	
§ 4.1.1.23 Security evaluation and planning	
§ 4.1.1.24 Commissioning	
§ 4.1.1.25 Sustainable Project Services pursuant to Section 4.1.3	
§ 4.1.1.26 Historic preservation	
§ 4.1.1.27 Furniture, furnishings, and equipment design	
§ 4.1.1.28 Other services provided by specialty Consultants	
§ 4.1.1.29 Other Supplemental Services	

§ 4.1.2 Description of Supplemental Services

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

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

See Exhibit A, the Project Authorization, for the Project.

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

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

See Exhibit A, the Project Authorization, for the Project.

(Paragraph deleted)

§ 4.2 Architect's Additional Services

Upon issuance of an Additional Services Authorization by the Owner and agreement by the Architect, the Architect shall provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to 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, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following Additional Services until the Architect receives the Owner's written authorization:

- .1 Services necessitated by a material change in the Exhibit A for the Project, previous instructions or recommendations given by the Construction Manager (if confirmed in writing by the Owner), or the Owner, 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 bid packages involving accelerated or fast-track design and construction, or phased construction in addition to those listed in Section 1.1.6;
- .2 Making revisions in Drawings, Specifications, or other documents (as required pursuant to Section 6.7), when such revisions are required because the Construction Manager's estimate of the Cost of the Work, Guaranteed Maximum Price proposal, or Control Estimate exceeds the Owner's budget, except where such excess is due to changes initiated by the Architect in scope, capacities of basic systems, or the kinds and quality of materials, finishes, or equipment;
- .3 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;
- .4 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;
- .5 Services necessitated by decisions of the Owner or Construction Manager not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .6 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner- authorized recipients;
- .7 Intentionally Deleted;
- .8 Intentionally Deleted;
- .9 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .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;
- .12 Services necessitated by replacement of the Construction Manager or conversion of the Construction Manager as constructor project delivery method to an alternative project delivery method;
- .13 Services necessitated by the Owner's delay in engaging the Construction Manager;
- .14 Making revisions to the Drawings, Specifications, and other documents resulting from agreed-upon assumptions and clarifications included in the Guaranteed Maximum Price Amendment or Control Estimate; and

- .15 Making revisions to the Drawings, Specifications, and other documents resulting from substitutions included in the Guaranteed Maximum Price Amendment or Control Estimate.

§ 4.2.2 The Architect shall provide the following Additional Services with the prior written consent of the Owner and Architect. If a circumstance arises that may result in any of the following Additional Services, the Architect shall notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. Thereafter, the Architect shall proceed as directed by the Owner in a written Additional Services Authorization as directed by the Owner and agreed to by the Architect.

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

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

- .1 Two (2) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Construction Manager
- .2 One (1) visit per week on average to the site by the Architect during construction unless otherwise stated in the Project Authorization, Exhibit A.
- .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 180 days after (1) the date of Substantial Completion of the Work, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

(Paragraph deleted)

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

§ 5.3 The Owner shall 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 and Construction Manager. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

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

selects accelerated, phased or fast-track scheduling, the Owner agrees to include in the budget for the Project sufficient contingencies to cover such costs.

§ 5.4 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. The Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services. Notwithstanding the above, however, the Architect acknowledges that the Owner, as public body, may not delegate full authority to its representative for the Project and certain matters may need approval by the Board of Education. The Owner's representative shall advise the Architect when Board of Education approval is required for any decision.

§ 5.5 Upon reasonable request of the Architect, the Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. 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.

§ 5.6 Upon reasonable request of the Architect, 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.

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

§ 5.8 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E234™-2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

§ 5.9 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. 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, 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, as determined by the Owner.

§ 5.10 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.

§ 5.11 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.

§ 5.12 Although the Owner has no duty or obligation to inspect the Project, the Owner shall provide prompt written notice to the Architect and Construction Manager if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

§ 5.13 The Owner shall include the Architect in all communications with the Construction Manager 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 Construction Manager otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

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

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

(Paragraph deleted)

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include the Construction Manager's 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; the compensation of the Construction Manager for Preconstruction Phase services; 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. The Cost of the Work shall include the following:

- .1 For change orders adding to the Cost of Work, the Architect shall be compensated at the agreed upon percentage of the Cost of Work set forth in Exhibit B, the Fee Capsule.
- .2 For change orders deducting from the Cost of the Work, the Architect shall credit the Owner for the Cost of the Work deleted at twenty percent (20%) of the agreed upon percentage of the Cost of Work fee set forth in Exhibit B.
- .3 For bid alternates accepted, the Architect shall be compensated at the agreed upon percentage of the Cost of Work set forth in Exhibit B.
- .4 For bid alternates not accepted, the Architect shall be compensated at eighty percent (80%) of the agreed upon percentage of the Cost of Work set forth in Exhibit B.

For purposes of calculating the Architect's fee and compensation, the Cost of the Work shall not include additions by Change Order to the Construction Cost as a result of negligent errors by the Architect or its consultants to the extent such error increases the Cost of the Work beyond what the construction cost would have been absent the negligent error.

§ 6.2 The Owner's budget for the Cost of the Work is provided in the Initial Information, and shall be adjusted throughout the Project as required under Sections 5.3 and 6.4. Evaluations of the Owner's budget for the Cost of the Work represent the Architect's judgment as a design professional.

§ 6.3 The Owner shall require the Construction Manager to include appropriate contingencies for design, bidding or negotiating, price escalation, and market conditions in estimates of the Cost of the Work. The Architect shall be entitled to rely on the accuracy and completeness of estimates of the Cost of the Work the Construction Manager prepares as the Architect progresses with its Basic Services, unless the Architect knows that such information is inaccurate or incomplete. The Architect shall prepare, as an Additional Service, revisions to the Drawings, Specifications or other documents required due to the Construction Manager's inaccuracies or incompleteness in preparing cost estimates, or due to market conditions the Architect could not reasonably anticipate. The Architect may review the Construction Manager's estimates solely for the Architect's guidance in completion of its services, however, the Architect shall report to the Owner any material inaccuracies and inconsistencies noted during any such review.

§ 6.3.1 If the Architect is providing cost estimating services as a Supplemental Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Architect and the Construction Manager shall work together to reconcile the cost estimates.

§ 6.4 If, prior to the conclusion of the Design Development Phase, the Construction Manager's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect, in consultation with the Construction Manager, shall make appropriate written recommendations to the Owner to reduce the estimated Cost of the Work, including, but not limited to, adjusting the Project's size, quality or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments. The Architect shall provide the Owner detailed written information and supporting evidence pertaining to its recommendations.

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

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 terminate in accordance with Section 9.5;
- .3 in consultation with the Architect and Construction Manager, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
- .4 implement any other mutually acceptable alternative.

§ 6.6 If the Owner chooses to proceed under Section 6.5.3, the Architect, without additional compensation, shall incorporate the revisions in the Construction Documents Phase as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Design Development Phase Services, or the budget as adjusted under Section 6.5.1. The Architect's revisions in the Construction Documents Phase shall be the limit of the Architect's responsibility under this Section 6.6.

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

ARTICLE 7 COPYRIGHTS AND LICENSES

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

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

§ 7.3 The Architect grants to the Owner a nonexclusive, irrevocable license (except as provided herein) to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, and maintaining the Project and for informational purposes in connection with 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 Construction Manager, 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.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of 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 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, except for use and reuse in connection with other projects. Further, if the Owner terminates the Agreement for cause under Section 9.4, the Owner's continued use of the Instruments of Service shall be at the Owner's sole risk and responsibility.

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

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

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

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

§ 8.1.2 If the Construction Manager is required to purchase builder's risk insurance for the Project, the Owner and Architect waive all rights against each other and against each other's agents and employees for damages, except such rights as they may have to proceeds of such builder's risk insurance as set forth in AIA Documents A201-2017 General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the Construction Manager, subcontractors, and consultants of any of them, similar waivers in favor of the other parties enumerated herein. If the Owner provides property insurance for the Project, the foregoing waivers shall not apply.

§ 8.1.3 Intentionally Deleted.

§ 8.1.4 The Architect and Owner waive consequential damages for claims, disputes, or other matters in question arising out of or relating to this Agreement to the extent such consequential damages exceed the available insurance proceeds covering such damages and claims. Consequential damages include, but are not limited to, damages incurred for rental expenses, loss of use, lost income, lost revenue, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.

§ 8.2 Mediation

§ 8.2.1 Any claim, dispute, or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution, upon mutual agreement of the parties. 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.

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

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

(Check the appropriate box.)

☐ Arbitration pursuant to Section 8.3 of this Agreement

☒ Litigation in a court of competent jurisdiction

☐ Other: *(Specify)*

(Paragraphs deleted)

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with the applicable Project Authorization, such failure shall be considered substantial nonperformance and cause for termination or its services for the Project set forth in Exhibit A or this Agreement, or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give fourteen days' written notice to the Owner before suspending services. In the event of a suspension of services under this Section, 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. 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 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 may terminate this Agreement by giving not less than seven days' written notice.

§ 9.4 Either party may terminate this Agreement or the services under Exhibit A, the Project Authorization, 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 or the services under Exhibit A, the Project Authorization, upon not less than seven days' written notice to the Architect 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 terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination, and Reimbursable Expenses incurred.

§ 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: None.

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

As mutually agreed by Owner and Architect.

§ 9.8 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.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the State of Illinois, notwithstanding the State of Illinois' choice of laws rules.

§ 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, as amended by the Owner except that any change in definition to the terms as it affects this Agreement shall be subject to written approval by the Architect. The term "Contractor" as used in A201-2017 shall mean the Construction Manager.

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

to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.

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

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

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

§ 10.7 The Architect may include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall schedule a mutually convenient time for access to the completed Project to make such representations. However, the Architect's materials shall not include the images of any students or 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, unless approved by the Owner in writing. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 If the Architect or Owner receives information specifically designated 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.

§ 10.8.1 The receiving party may disclose "confidential" or "business proprietary" information when required by law (including pursuant to the Illinois Freedom of Information Act or Illinois Open Meetings Act), 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.

§ 10.8.2 The Owner is subject to the Freedom of Information Act, 5 ILCS 140/1, et seq. ("FOIA"), and any and all information submitted by the Architect to the Owner is subject to disclosure to third parties in accordance with FOIA. The Owner shall endeavor to promptly notify the Architect if a FOIA request is made for the Architect's Instruments of Service and will consider any exemptions to FOIA that may apply, prior to producing such instruments. The Instruments of Services shall be designated as copyrighted. If the Architect requests that the Owner withhold any submitted information as trade secrets, commercial information, or financial information from disclosure to a third party in response to a Freedom of Information Act request or Architect desires to place any restriction on copying or reusing said information,, the Architect must notify the Owner of such request at the time such information is submitted to the Owner, along with a statement that disclosure of such information will cause competitive harm to the Architect, as provided by FOIA Section 7(1)(g), 5 ILCS 140/7(1)(g). Any content not so marked by the Architect at the time of submission to the Owner will be presumed to be open to public inspection. The Architect may be required to substantiate the basis for its claims at a later time. Notwithstanding timely notice received from the Architect in accordance with Section 7(1)(g), the Owner reserves the right, in its sole discretion and subject only to applicable law, to withhold or release the subject information in response to a FOIA request. The Architect waives any rights it may have, or claim to have, to challenge, protest, enjoin or otherwise assert a claim relating to, connected with or arising from any FOIA request. As a potential provider of a governmental function on behalf of the Owner, the Architect agrees to cooperate with the Owner in responding to any FOIA request, including by timely providing any documents requested by the Owner that are not in the possession of the Owner at the time of the request that directly relate to the governmental function that the Architect has been engaged to perform on behalf of the Owner.

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

.1 () Stipulated Sum
(Paragraphs deleted)

.2 (X) Percentage Basis per Fee Capsule attached hereto as Exhibit B and made a part of this Agreement.
(Paragraph deleted)

The above percentage is applied to the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6 until such time as the Cost of the Work is finalized.

.3
(Paragraphs deleted)
() Other

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

At hourly rates set forth in the Project Authorization, Exhibit A.

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

At hourly rates set forth in the Project Authorization, Exhibit A.

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

§ 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:

Schematic Design Phase	Fifteen	percent (	15	%)
Design Development Phase	Fifteen	percent (	15	%)
Construction Documents Phase	Forty-five	percent (	45	%)
Bidding Phase	Five	percent (	5	%)
Construction Phase	Twenty	percent (	20	%)
(Row deleted)				
Total Basic Compensation	one hundred	percent (	100	%)

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

§ 11.6 When compensation 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 as defined in this Agreement. The Architect's final payment shall be based on the final 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 Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

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

See hourly rates set forth in the Project Authorization, Exhibit A.

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

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

- .1 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, and plots;
- .5 Postage, handling, and delivery;
- .6 Expense of overtime work requiring higher than regular rates, if authorized in writing and in advance by the Owner;
- .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested in writing by the Owner or required for the Project;
- .8 If required by the Owner, and with the Owner's prior written approval, the Architect's or its consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or Architect insurance limits in excess of that required in Article 2 of this Agreement;
- .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, if approved by the Owner in writing in advance.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants.

§ 11.9 Architect's Insurance. Intentionally Deleted.

(Insert the additional coverages the Architect is required to obtain in order to satisfy the requirements set forth in Section 2.6, and for which the Owner shall reimburse the Architect.)

§ 11.10 Payments to the Architect

§ 11.10.1 Initial Payments

§ 11.10.1.1 An initial payment, if required, shall be made as set forth in the Project Authorization, Exhibit A, for the Project. 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, if required, shall be set forth in the Project Authorization, Exhibit A, for the Project.

§ 11.10.2 Progress Payments

§ 11.10.2.1

(Paragraphs deleted)

§ 11.10.2.1 Payments for services and interest on late payments shall be made in accordance with the Illinois *Local Government Prompt Payment Act*, 50 ILCS 505/1 et seq.

§ 11.10.2.2 On or before the first day of each month during the performance of Basic Services or Additional Services, if applicable, the Architect shall submit to the Owner for its approval a request for payment ("Request for Payment") in form and substance satisfactory to Owner. Each Request for Payment shall set forth the amount due for services rendered, a detailed breakdown of the amount and the sum of all prior payments. The Architect shall furnish with each request for payment waivers of lien for itself in order to effect a waiver of mechanic and materialmen liens in compliance with the laws of the State of Illinois. The Owner shall review each such request for payment and advise the Architect in writing of such exceptions the Owner reasonably deems necessary or appropriate under the circumstances then existing.

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

§ 11.10.2.4 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:

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

§ 12.1 To the fullest extent permitted by applicable law, the Architect shall indemnify and hold harmless the Owner, and its board members, officers, directors, and employees collectively "Indemnitees") from and against all liabilities, damages, losses, judgments and expenses, including attorneys' fees recoverable under applicable law (collectively "Liabilities") for which an Indemnitee is liable to a third party claimant, arising out of the performance of the Services or any part thereof to the extent such Liabilities (1) are attributable to bodily injury, personal injuries, sickness, disease or death of any person or to the injury to or destruction of personal or real property, including the loss of use and consequential damages resulting therefrom, and (2) only to the extent such Liabilities are caused by any negligent act or omission in the performance of the Services of the Architect, anyone directly or indirectly employed by it or anyone for whose acts it may be liable. Nothing herein shall be construed to require the Architect to indemnify an Indemnitee for the negligence or willful misconduct of the Indemnitee.

§ 12.2 Notwithstanding any other provision herein or in any Contract Document, the Owner shall not, in any manner, be deemed or intended to have waived any claim by making a payment or a progress payment of any amount.

§ 12.3 The Architect shall notify the Owner, in writing, of any actual or possible claim for personal injury or property damage relating to the Work, or of any occurrence which might give rise to such a claim of which the Architect becomes aware.

§ 12.4 Notwithstanding anything in this Agreement to the contrary, the Architect shall not be entitled to payment for Additional Services involved in making revisions to the Construction Documents required because of errors of the Architect.

§ 12.5 The Architect certifies that the Architect is not barred from entering into this contract as a result of a conviction for either bid-rigging or bid rotating under Article 33E of the Criminal Code of 1961, 720 ILCS 5/33E or any other applicable law, rule or regulation.

§ 12.6 The Architect agrees to fully comply, to the extent applicable, with the requirement of the Illinois Human Rights Act, 775 ILCS 5/1-101 et. seq., including, but not limited to, the provision of sexual harassment policies and procedures pursuant to Section 2-105 of the Act. The Architect further agrees to comply with all federal Equal Employment

Opportunity Laws, including, but not limited to, the Americans With Disabilities Act, 42 U.S.C. Section 12101 et. seq., and rules and regulation promulgated thereunder.

The following provisions of this Section are included in this Agreement pursuant to the requirements of the regulations of the Illinois Department of Human Rights, Title 44, Part 750, of the Illinois Administrative Code, and Architect shall be required to comply with these provisions only if and to the extent they are applicable under the law.

As required by Illinois law, in the event of the Architect's non-compliance with the provisions of this Equal Employment Opportunity Clause, the Illinois Human Rights Act or the Rules and Regulations of the Illinois Department of Human Rights ("Department"), the Architect may be declared ineligible for future contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations, and the contract may be canceled or voided in whole or in part, and such other sanctions or penalties may be imposed or remedies invoked as provided by statute or regulation. During the performance of the contract, the Architect agrees as follows:

- A. That it will not discriminate against any employee or applicant for employment because of race, color, religion, creed, sex, marital status, national origin or ancestry, age, citizenship, physical or mental handicap or disability, military status, or an unfavorable discharge from military service or arrest record status or sexual orientation; and further that it will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any such underutilization.
- B. That, if it hires additional employees in order to perform this contract or any portion thereof, it will determine the availability (in accordance with the Department's Rules) of minorities and women in the area(s) from which it may reasonably recruit and it will hire for each job classification for which employees are hired in such a way that minorities and women are not underutilized.
- C. That, in solicitations or advertisements for employees placed by it or on its behalf, it will state that all applicants will be afforded equal opportunity without discrimination because of race, color, religion, sex, marital status, national origin or ancestry, age, physical or mental handicap unrelated to ability, sexual orientation, or an unfavorable discharge from military service.
- D. That it will submit reports as required by the Department's Rules, furnish all relevant information as may from time to time be requested by the Department or the contracting agency, and in all respects comply with the Illinois Human Rights Act and the Department's Rules.
- E. That it will permit access to all relevant books, records, accounts and work sites by personnel of the contracting agency and the Department for purposes of investigation to ascertain compliance with the Illinois Human Rights Act and the Department's Rules.
- F. That it will include verbatim or by reference the provisions of this clause in every subconsulting agreement it awards under which any portion of the contract obligations are undertaken or assumed, so that such provisions will be binding upon such subconsultant. In the same manner as with other provisions of this contract, the Architect will be liable to the Owner for non-compliance with applicable provisions of this clause by such subconsultant; and further it will promptly notify the contracting agency and the Department in the event it becomes aware that any subconsultant fails to or refuses to comply therewith. In addition, the Architect will not utilize any subconsultant declared by the Illinois Human Rights Commission to be ineligible for contracts or subcontracts with the State of Illinois or any of its political subdivisions or municipal corporations.

§ 12.7 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 exact compliance with the terms of this Agreement.

§ 12.8 Any legal notices provided for in this Agreement and copies of all correspondence shall be transmitted to the Owner and the Architect at the addresses on page one hereof by U.S. Mail return receipt requested with an email of such notice read receipt required.

§ 12.9 The Architect shall not knowingly specify or require any materials, products, fixtures and equipment that contain asbestos.

§ 12.10 The Owner and Architect agree that any claims made by either of them against the other arising out the performance or alleged breach of this Agreement shall be made against the contracting parties and not against any of their board members, directors, officers or employees.

§ 12.11 Force Majeure. In the event the Architect is hindered, delayed or prevented from performing its obligations under this Agreement as a result of any fire, flood, epidemics, pandemics, governmental shutdowns, landslide, tornado or other act of God, malicious mischief, theft, strike, lockout, other labor problems, shortages of material or labor, failure of any governmental agency or the failure of the Owner to furnish information or to provide approvals of Architect's services, or any other cause beyond the reasonable control of the Architect, the time for completion of the Architect's services shall be extended by the period of resulting delay.

§ 12.12 Electronic Media. The license under this Agreement for Instruments of Service is only for information contained on printed documents. However, for the Owner's convenience, the Architect may also furnish such information in electronic media. The parties acknowledge that untraceable changes from causes not the fault of Architect may sometimes occur in the information on electronic media, caused by the media conversion and changes in software. The Owner shall have the right to request the Architect to furnish to Construction Manager, Subcontractors, Sub-subcontractors and material or equipment suppliers electronic documents to utilize portions of the Instruments of Service for use in the execution of their portion of the Work subject to appropriate protocol for use. The official Construction Documents are the paper version of the documents. If CAD or Revit files are requested, the Architect shall not be responsible for any readability, translation or incompatibility issues resulting from the provision of electronic files.

§ 12.13 Responsibility for Product Suitability. With regard to new equipment, materials, and products (collectively "Products") required by the Construction Documents, it is understood the Architect is relying on stated and implied representations made by manufacturers, suppliers and installers of such Products as being suitably fit for their intended purposes. The Architect is not responsible for the Product's failure to perform consistently with those representations.

§ 12.14 Hazardous Materials. The Owner shall disclose to the Architect all hazardous or toxic substances or contamination within the meaning of any applicable statute or regulation that are presently stored or located on the Project site or adjacent thereto or in the groundwater at or adjacent thereto of which the Owner is aware.

§ 12.15 Responsibility for Code Compliance. The Architect shall conform the Drawings and Specifications to applicable codes existing on the date the Drawings are signed and sealed on the Architect. However, the Owner recognizes that interpretations by governmental officials ("Code Authority") are often subject to change even after issuance of a building permit. If after award of the building permit, modifications to the final Drawings or Specifications are required because of an interpretation by the Code Authority which had not been previously given, or which if given, was different than a prior interpretation of the Code Authority, the Architect shall make the required modifications, but the cost of such modifications shall be compensated as an Additional Service. The parties acknowledge that submittal of Drawings and Specifications for permit routinely results in comments, questions and change requests by the Code Authority, and the Architect shall make such changes and/or provide the requested information as a Basic Service. Nothing contained herein shall relieve the Architect of its obligation to modify at its own expense final Drawings and Specifications where the Architect has negligently failed to prepare them in compliance with the applicable Government Requirements.

§ 12.16 Americans With Disabilities Act. The Architect shall conform the Construction Documents to the requirements known to similarly situated architects of the Americans With Disabilities Act Accessibility Guidelines ("ADAAG"). The Owner and Architect further recognize that interpretations of the ADAAG by governmental officials and/or courts of law may evolve, vary or change. Should such evolution, variance or change require Architect to make modifications to the Drawings or Specifications, such modifications shall be considered an Additional Service. The Owner shall be solely responsible for compliance with the provisions of the Americans With Disabilities Act for any areas outside the scope of the Project. The Owner and Architect further recognize that interpretations of the ADAAG by governmental officials and/or courts of law may evolve, vary or change. Should such evolution, variance or change require Architect to make modifications to the Drawings or Specifications, such modifications shall be considered an Additional Service.

§ 12.17 Acceptance. The Owner may accept this Agreement either by signature, or written notice to proceed authorizing

the Architect to commence providing services or making any payments to the Architect in consideration of its services, and any of the above modes of acceptance shall be deemed to incorporate all of the terms and conditions of this Agreement, into the agreement between the parties thereby formed.

ARTICLE 13 SCOPE OF THE AGREEMENT

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

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

- .1 AIA Document B133™–2019, Standard Form Agreement Between Owner and Architect, Construction Manager as Constructor Edition
- .2 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below, if completed, or the following:
(Insert the date of the E203-2013 incorporated into this agreement.)
- .3 Exhibits:
(Check the appropriate box for any exhibits incorporated into this Agreement.)
 - ☐ AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition dated as indicated below.
(Insert the date of the E234-2019 incorporated into this agreement.)
 - ☐ Other Exhibits incorporated into this Agreement:
(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits and scopes of services identified as exhibits in Section 4.1.2.)
 - Exhibit A, the Project Authorization
 - Exhibit B, Fee Capsule
- .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.

Board of Education of Central Community Unit
School District 301

STR Partners, LLC

OWNER *(Signature)*

ARCHITECT *(Signature)*

(Printed name and title)

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