

Chisholm School District School Board Meeting Agenda

Friday, December 2, 2022 at 3:30 PM
Special Meeting
Chisholm School Board Room

I. Determination of Quorum and Call to Order	
II. Approve Agenda	
III. Action Agenda	
A. Motion to Approve AIA Document B102 - 2017 Between Chisholm Public Schools and InGensa for the November 8, 2022 Proposed Referendum Project.	2
Attachments:	
AIA Document B102	2
B. Motion to Approve AIA Document B201 - 2017 Between Chisholm Public Schools and InGensa for the November 8, 2022 Proposed Referendum Project.	32
Attachments:	
AIA Document B201	32
C. Motion to Approve AIA Document B144/ARCH-CM - 1993 Between Chisholm Public Schools and InGensa for the November 8, 2022, Proposed Referendum Project.	72
Attachments:	
AIA Document B144/ARCH-CM	72
IV. Adjourn	

AIA[®] Document B102™ – 2017

Standard Form of Agreement Between Owner and Architect without a Predefined Scope of Architect's Services

AGREEMENT made as of the 28th day of November in the year 2022 (the "Effective Date")
(In words, indicate day, month and year.)

BETWEEN InGensa's client identified as the Owner:

Chisholm Public Schools ISD #695
301 4th St SW
Chisholm, MN 55719

and InGensa, Inc. ("InGensa"):

InGensa, Inc.
18215 45th Ave. N, Suite C
Plymouth, MN 55446

(Paragraphs deleted)

for the following Project:

November 8, 2022 proposed referendum project: close both Chisholm Elementary and Vaughan-Steffensrud Elementary Schools and construct a new addition to the district's existing High School to house PreK-6 grade levels.

(Paragraph deleted)

TABLE OF ARTICLES

- 1 INGENSA'S RESPONSIBILITIES
- 2 OWNER'S RESPONSIBILITIES
- 3 COPYRIGHTS AND LICENSES
- 4 CLAIMS AND DISPUTES
- 5 TERMINATION OR SUSPENSION
- 6 COMPENSATION
- 7 MISCELLANEOUS PROVISIONS
- 8 SPECIAL TERMS AND CONDITIONS
- 9 SCOPE OF THE AGREEMENT

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.

Init.

ARTICLE 1 INGENSA'S RESPONSIBILITIES

§ 1.1 The Owner and InGensa agree as follows:

§ 1.1.1 InGensa is not a licensed architect. Therefore, InGensa shall be entitled to use architects, engineers and other design professionals as subconsultants to perform or assist in performing any of InGensa's services under this Agreement ("InGensa's Subconsultants"). The Parties intend to use AIA documents as the basis for the Contract Documents, including InGensa's contracts with InGensa Subconsultants. The Parties understand and agree that the architects or engineers of record on the Project will be InGensa's Subconsultants, and InGensa in no manner represents or implies that InGensa intends to perform architectural or engineering services for which it is not appropriately licensed. Contracts between InGensa and InGensa's Subconsultants shall reference the Owner as a third-party beneficiary as well as an additional insured for insurance purposes. InGensa shall be responsible for the negligent acts or omissions of InGensa's Subconsultants, subject to the limitation of liability in Section 4.1.3.1 below.

§ 1.1.2 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 InGensa. It is the intent of the Parties that InGensa's contract with architects, engineers, other design professionals and others performing InGensa's services on the Project are for the direct benefit and third-party benefit of the Owner and that the Owner is entitled to the benefit of such contracts. InGensa will include language incorporating this intent in any contracts which InGensa may have with its Subconsultants and any contracts between InGensa's Subconsultants and other consultants.

§ 1.1.3 The Parties intend to use AIA documents as the basis for the Owner's contracts with its contractors. The Owner, not InGensa, shall execute and procure construction agreements with all appropriate contractors in accordance with applicable laws.

§ 1.1.4 The Parties understand and agree that a significant number of improvements and additions have been made at the Site over time. The Parties understand and agree that InGensa does not represent or warrant the quality or acceptability of the previous work.

§ 1.1.5 The Parties understand and agree InGensa and InGensa's Subconsultants will provide design, engineering, and construction management services for the improvements outlined in Exhibit A.

§ 1.1.6 The services to be performed by InGensa and InGensa's Subconsultants under this Agreement include the design and construction contract administration services as set forth in Article 2 of AIA Document B201-2007 and the construction management services set forth in Articles 1, 2, and 3 of AIA Document B144/ARCH-CM-1993, and such other services as expressly set forth therein and in any other documents comprising this Agreement as enumerated in Article 9 below. It is understood by the Parties that contracts for such professional services are not subject to competitive bidding requirements. All professionals providing such services whether directly by InGensa or professionals under contract with InGensa shall be qualified, and where required, properly licensed and/or certified to perform these services.

§ 1.1.7 InGensa, by and through InGensa's Subconsultants, shall perform its design services consistent with the professional skill and care ordinarily provided by architects and engineers performing the same or similar services, in the same or similar locality, under the same or similar circumstances. InGensa shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 1.1.8 InGensa shall identify a representative authorized to act on behalf of InGensa with respect to the Project.

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

§ 1.1.10 Prior to commencing the services, InGensa shall provide a certificate of insurance to the Owner showing its insurance coverages, and InGensa shall maintain such insurance, naming Owner as an additional insured under its

Comprehensive General Bodily Injury and Property Damage policy, in full force and effect at all times until the services have been completed, in the following minimum amounts:

COVERAGES	LIMITS OF LIABILITIES
Workmen's Compensation, including Employer's Liability Insurance	Statutory
Comprehensive General Bodily Injury & Property Damage Liability Insurance, including Contractual	\$1,000,000 Per Occurrence \$2,000,000 Products & Completed Operations Aggregate
Comprehensive General Personal Injury Liability Insurance, including Contractual	\$1,000,000 Per Occurrence
Comprehensive Automobile Liability Insurance: Bodily Injury & Property Damage Liability Insurance	\$1,000,000 Per Accident
Professional Liability Insurance	\$3,000,000 Per Claim \$3,000,000 Aggregate
Umbrella Liability Insurance	\$1,000,000 Per Occurrence \$1,000,000 Aggregate

Owner shall maintain Property Insurance (builder's risk completed value, or equivalent property insurance) in sufficient amount for the entire period of the Agreement on a replacement cost basis. Such insurance shall be on an "all risk" basis including theft and shall protect the interest of the Owner, InGensa, InGensa's Subconsultants, Owner's Contractors and Subcontractors and shall name Owner and InGensa as an additional insured, and shall cover reasonable compensation for InGensa's services and expenses required as a result of such insured loss.

(Paragraphs deleted)

§ 1.11 InGensa and its Subconsultants shall furnish proof of insurance confirming that they have procured the foregoing required insurance coverages prior to execution of this Agreement. Such proof shall also confirm that the insurer has agreed that it will not cancel the insurance without giving the Owner thirty (30) days advance written notice of its intent to cancel. InGensa shall likewise require of its Subconsultants' proof of insurance meeting the foregoing requirements as a condition precedent to their engagement to perform services on the Project.

ARTICLE 2 OWNER'S RESPONSIBILITIES

(Paragraphs deleted)

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

§ 2.2 The Owner shall identify a representative authorized to act on the Owner's behalf only with respect to specific matters delegated to the representative in writing by the Owner's Board. In no event shall the Owner's Representative have authority to agree to any adjustments in the Contract Sum or Contract Time. Adjustments to the Contract Sum or Contract Time require approval by the Owner's Board. The Owner shall render decisions and approve InGensa's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of InGensa's services.

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

Init.

§ 2.4 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. Except with regard to a claim covered under Owner's property insurance or builder's risk insurance, for which claims Owner waives subrogation against InGensa, nothing herein shall be construed to require the Owner to defend or indemnify InGensa for InGensa's own negligence or intentional acts.

§ 2.5 The Owner shall provide prompt written notice to InGensa if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Instruments of Service.

§ 2.6 The Owner shall provide InGensa all Record Drawings, as-built drawings, or construction drawings of the existing facilities within the Owner's possession, custody or control. InGensa shall be entitled to reasonably rely on any such drawings.

ARTICLE 3 COPYRIGHTS AND LICENSES

(Paragraphs deleted)

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

§ 3.2 InGensa and InGensa's Subconsultants 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 InGensa and InGensa's Subconsultants.

§ 3.3 Upon execution of this Agreement, InGensa grants to the Owner a nonexclusive license to use the Instruments of Service solely and exclusively for the Project, provided that the Owner performs its obligations, including prompt payment of all sums when due, under this Agreement. InGensa shall obtain similar nonexclusive licenses from InGensa's Subconsultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services for the Project and for future use in maintaining, repairing, and improving the Project. The Owner's non-exclusive license to use the Instruments of Service shall be governed by Section 5.8.

§ 3.3.1 INTENTIONALLY OMITTED

§ 3.4 Except for the licenses granted in this Article 3, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of InGensa. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to InGensa and InGensa's Subconsultants.

ARTICLE 4 CLAIMS AND DISPUTES

§ 4.1 GENERAL

(Paragraphs deleted)

§ 4.1.1 INTENTIONALLY OMITTED

§ 4.1.2 To the extent damages are covered by property insurance, the Owner and InGensa waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2007, General Conditions of the Contract for Construction, if applicable. The Owner or InGensa, as appropriate, shall require of the contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein. Owner's builder's risk insurance shall be primary and not contributory.

§ 4.1.3 To the extent allowed by law, InGensa and the Owner each agree to indemnify the other party and its respective officers, agents, directors and employees from third party claims, demands, actions, liabilities, expenses or suits for bodily injury, including death or tangible property damage to the extent resulting from the intentional misconduct or any negligent act or omission by its employees or agents. The parties expressly agree that the other shall be responsible only to the extent such injury or damage was caused by the intentional misconduct or negligent act or omission of its own employees or agents and neither party shall be responsible for any injury or damage to the extent caused, or contributed to, in any manner by the other.

§ 4.1.3.1 INGENSA'S LIABILITY TO OWNER UNDER THIS AGREEMENT SHALL BE LIMITED TO THE AMOUNT OF ANY INSURANCE PROCEEDS AVAILABLE TO AND PAID TO OR ON BEHALF OF INGENSA. THIS LIMITATION OF LIABILITY SHALL APPLY TO ANY DAMAGES THE OWNER INCURS AS A RESULT OF THE SERVICES, INCLUDING BUT NOT LIMITED TO DAMAGES CHARACTERIZED AS SPECIAL, INDIRECT, CONSEQUENTIAL, REMOTE, PUNITIVE, EXEMPLARY; LOSS OF PROFITS OR REVENUE, LOSS OF USE, OR SIMILAR DAMAGES, REGARDLESS OF HOW CHARACTERIZED, ARISING IN ANY MANNER FROM THIS AGREEMENT, THE SERVICES, THE IMPROVEMENT MEASURES, THE PREMISES, OR OTHERWISE.

§ 4.1.4 HAZARDOUS MATERIALS

§ 4.1.4.1 **Asbestos Containing Materials** – Neither Party desires to or is licensed to undertake direct obligations relating to the identification, abatement, cleanup, control, removal or disposal of asbestos-containing materials ("ACM"). Consistent with applicable laws, Owner shall supply InGensa with any information in its possession relating to the presence of ACM in areas where InGensa undertakes any services that may result in the disturbance of ACM. It is InGensa's policy to seek certification for facilities constructed prior to 1982 that no ACM is present, and Owner shall provide such certification for buildings it owns, or aid InGensa in receiving such certification from facility owners in the case of buildings that it does not own, if InGensa will undertake any services in the facility that would disturb ACM. If either Owner or InGensa becomes aware of or suspects the presence of ACM that may be disturbed by InGensa's services, it shall immediately stop the services in the affected area and notify the other's contacts. If ACM is identified in the information provided by the Owner to InGensa, and the Project services will disturb or require abatement of any ACM, the Owner shall be responsible at its sole expense for addressing abatement of such ACM. Except where InGensa expressly agrees to provide environmental services under this Agreement, InGensa shall have no obligation to monitor, verify or otherwise warrant that such abatement work has been completed.

§ 4.1.4.2 **Other Hazardous Materials** – InGensa shall have no obligations relating to the identification, abatement, cleanup, control, removal or disposal of mold, regardless of the cause of the mold. InGensa shall be responsible for removing or disposing of any Hazardous Materials that it uses in providing any services ("InGensa Hazardous Materials") and, other than mold, for the remediation of any areas impacted by the release of InGensa Hazardous Materials. For other Hazardous Materials that may be otherwise present at its facilities ("Non-InGensa Hazardous Materials"), Owner shall supply InGensa with any information in its possession relating to the presence of such materials if their presence may affect InGensa's performance of any services. If either Owner or InGensa becomes aware of or suspects the presence of Non-InGensa Hazardous Materials that may interfere with InGensa's services, it shall immediately stop the services in the affected area and notify the other's contacts. As between Owner and InGensa, Owner shall be responsible for removing and disposing of mold and Non-InGensa Hazardous Materials from its facilities and the remediation of any areas impacted by mold or the release of Non-InGensa Hazardous Materials.

§ 4.1.4.3 **Environmental Indemnity** – To the fullest extent permitted by Law, Owner shall indemnify and hold harmless InGensa and InGensa's Subconsultants, and their respective directors, officers, employees, agents, representatives, shareholders, affiliates, and assigns and successors, from and against any and all losses, costs, damages, expenses (including reasonable legal fees and defense costs), claims, causes of action or liability, directly or indirectly, relating to or arising from the Owner's use, or the storage, release, discharge, handling or presence of ACM, mold or Non-InGensa Hazardous Materials on, under or about the facilities, or Owner's failure to comply with this Section 4.1.4.

§ 4.1.5 **FORCE MAJEURE** – Neither party shall be responsible to the other for damages, loss, injury or delay caused by conditions beyond its reasonable control, and without the intentional misconduct or negligence of that party ("Uncontrollable Events"). Uncontrollable Events include, but are not limited to: (a) extreme acts of nature for which

Init.

reasonable measures were taken by the party to mitigate the effects, where possible; (b) acts of Government agencies; (c) strikes and/or labor disputes; (d) fire; (e) explosions or other casualties; (f) thefts; (g) vandalism; (h) terrorism, riots or war; (i) unavailability of parts, materials or supplies; (j) change in law, including the promulgation, modification or repeal of any law or the imposition of any material condition on the issuance or renewal of any permit which (A) occurs after the Effective Date, (B) establishes new laws or requires any new or existing permits, or modifies any law or permit requirement for the Project existing as of the Effective Date, or (C) materially and adversely affects the cost or expense of the services to InGensa; (k) lawsuits from parties seeking to enjoin the Owner, InGensa or both from performing in accordance with the Agreement, or (l) any other event beyond InGensa's control.

§ 4.1.6 DELAYS – If either party is delayed in the commencement or completion of these services by failure of the other party to perform its obligations under this Agreement and Schedules or failure by the other party to cooperate in the timely condition of the services, then the delayed party shall provide written notice to the other party of the existence, extent of, and reason for such delays. An equitable adjustment in completion dates and compensation shall be made as a result.

§ 4.2 MEDIATION

(Paragraphs deleted)

§ 4.2.1 INTENTIONALLY OMITTED

(Paragraph deleted)

§ 4.2.2 The Owner and InGensa shall endeavor to resolve claims, disputes and other matters in question between them by mediation. A request for mediation shall be made in writing, delivered to the other party to the 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 sixty (60) days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this Section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

(Paragraph deleted)

§ 4.2.3 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 and ratified by the Owner's Board shall be enforceable as settlement agreements in any court having jurisdiction thereof.

(Paragraph deleted)

§ 4.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 4.2, the method of binding dispute resolution shall be the following:

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

- Arbitration pursuant to Section 4.3 of this Agreement
- Litigation in a court of competent jurisdiction (venue shall be the Minnesota District Court, Sixth Judicial District, Hibbing, Minnesota, or the closest federal courthouse in the U.S. Federal District Court for the District of Minnesota)
- Other (Specify)

(Paragraph deleted)

§ 4.3 INTENTIONALLY OMITTED

(Paragraphs deleted)

ARTICLE 5 TERMINATION OR SUSPENSION

(Paragraph deleted)

§ 5.1 Except for amounts that are the subject of a good-faith dispute, if the Owner fails to make payments to InGensa in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for

termination or, at InGensa's option, cause for suspension of performance of services under this Agreement. If InGensa elects to suspend services, InGensa shall give seven (7) days' written notice to the Owner before suspending services. In the event of a suspension of services, InGensa shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services, so long as the suspension of services is through no fault of InGensa or its Subconsultants. Before resuming services, InGensa shall be paid all sums which are not the subject of a good-faith dispute prior to suspension and any expenses incurred in the interruption and resumption of InGensa's services. InGensa's fees for the remaining services and the time schedules shall be equitably adjusted.

(Paragraphs deleted)

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

(Paragraph deleted)

§ 5.3 If the Owner suspends the Project for more than ninety (90) cumulative days for reasons other than the fault of InGensa, InGensa may terminate this Agreement by giving not less than seven (7) days' written notice.

(Paragraphs deleted)

§ 5.4 Either party may terminate this Agreement upon not less than seven (7) 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.

(Paragraphs deleted)

§ 5.5 The Owner may terminate this Agreement upon not less than seven (7) days' written notice to InGensa for the Owner's convenience and without cause.

(Paragraph deleted)

§ 5.6 In the event of termination not the fault of InGensa, InGensa shall be compensated for services performed prior to termination, together with Reimbursable Expenses as defined in Section 6.2 then due.

§ 5.7 INTENTIONALLY OMITTED

§ 5.8 In the event of Termination, and upon payment to InGensa of all sums that are not the subject of a good faith dispute, the Owner and its designated agents and consultants, shall have a non-exclusive license to use InGensa and its Subconsultants' Instruments of Service, documents, data, and records relating to the Project, in the condition they were in on the date of Termination, for the limited purpose of completing, maintaining, and operating the Project. InGensa's contracts with its Subconsultants shall incorporate provisions whereby its Subconsultants agree to be bound by the terms of this section. Upon request, InGensa and its Subconsultants shall promptly furnish the Owner with legible copies of their Instruments of Service, documents, data, and records relating to the Project, and the Owner shall reimburse InGensa for the reasonable copying and clerical expenses therefor.

ARTICLE 6 COMPENSATION

(Paragraphs deleted)

§ 6.1 The Owner shall compensate InGensa for services described in Section 1.1 as set forth below:

The Owner shall compensate InGensa in the amount of \$5,576,171 for

- Program Management,
- Architectural & Engineering (Mechanical, Electrical, Civil),
- Construction Management,
- Commissioning Services,
- General Conditions,
- All Reimbursables and other services as described herein.

§ 6.1.1 General Conditions include the following:

1. Building Permit
2. Plan Review

Init.

3. Job site Office Trailer
4. Job site Office Equipment
5. Construction Signage
6. Safety Barricade
7. General Rubbish Removal
8. Temporary Site/Access Roads
9. Temporary Toilets

§ 6.2 INTENTIONALLY DELETED

§ 6.3 COMPENSATION FOR USE OF INSTRUMENTS OF SERVICE

The Owner's non-exclusive license to use Instruments of Service shall be at no additional cost and governed by Section 5.8.

(Paragraphs deleted)

§ 6.4 PAYMENTS TO INGENSA

§ 6.4.1 INTENTIONALLY OMITTED

(Paragraph deleted)

§ 6.4.2 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of InGensa's invoice. Amounts unpaid thirty-five (35) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of InGensa.

Interest at the rate of four percent (4.00%) per annum simple interest.

(Paragraphs deleted)

§ 6.4.3 The Owner shall not withhold amounts from InGensa's compensation to impose a penalty or liquidated damages on InGensa. The Owner's right, if any, to offset sums due InGensa shall be governed by applicable law.

(Paragraph deleted)

§ 6.4.4 InGensa and its Subconsultants shall keep and maintain accurate documentation of all claimed reimbursable expenses in such a form that they may be independently audited and shall provide said documentation with every invoice seeking payment for those expenses.

(Paragraph deleted)

ARTICLE 7 MISCELLANEOUS PROVISIONS

§ 7.1 This Agreement shall be governed by the law of the place where the Project is located.

§ 7.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2007, General Conditions of the Contract for Construction.

§ 7.3 The Owner and InGensa, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor InGensa 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.

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

§ 7.5 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 InGensa.

§ 7.6 Subject to Owner's written consent, consent not to be unreasonably withheld, InGensa shall have the right to include photographic or artistic representations of the design of the Project among InGensa's promotional and professional materials. InGensa shall be given reasonable access to the completed Project to make such representations. However, InGensa's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised InGensa in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for InGensa in the Owner's promotional materials for the Project.

§ 7.7 If Owner receives information specifically designated by the other party as "confidential" or "business proprietary," Owner shall, subject to the Minnesota Government Data Practices Act, keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information. InGensa maintains that this Agreement does not constitute the "privatization" of any of Owner's government functions, or otherwise require or authorize InGensa to perform any such functions as defined in Minn. Stat. Chapter 13 ("Chapter 13") or otherwise. InGensa further maintains that data created, collected, received, stored, used, maintained, or disseminated by InGensa in connection with this Agreement, but not conveyed to Owner, is confidential and not subject to disclosure under Chapter 13. Owner will promptly notify InGensa, and InGensa will promptly notify Owner, of any Chapter 13 requests relating to the Project.

§ 7.8 If the services covered by this Agreement have not been completed by December 31, 2026, through no fault of InGensa, extension of InGensa's services beyond that time shall be compensated accordingly.

(Paragraphs deleted)

§ 7.9 Pursuant to Minnesota Statutes, Section 16C.05, subd. 5, InGensa agrees that the books, records, documents and accounting procedures and practices of InGensa, that are relevant to the Contract or transaction, are subject to examination by the Owner and the state auditor for a minimum of six (6) years. InGensa shall maintain such records for a minimum of six (6) years after final payment.

§ 7.10 All payments made to InGensa under this Agreement shall be governed by the Municipal Prompt Payment Act, Minnesota Statutes, Section 471.425 ("MPPA"), unless waived by mutual agreement of the parties for good cause. InGensa shall comply with subdivision 4a of the PPA requiring payment to its Subconsultants within ten (10) days of receipt or be subject to the penalties set forth in PPA subdivision 4a.

ARTICLE 8 SPECIAL TERMS AND CONDITIONS

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

None.

ARTICLE 9 SCOPE OF THE AGREEMENT

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

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

- .1 AIA Document B102-2007, Standard Form Agreement Between Owner and Architect
- .2 AIA Document B201-2007, Standard Form of Architect's Services: Design and Construction Contract Administration
- .3 AIA Document B144 ARCH/CM-1993, Standard Form of Amendment for the Agreement Between Owner and Architect
- .4 B102 Exhibit A: Chisholm Public Schools #695 Scope of Work
- .5 B201 Exhibits A and B

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

Init.

OWNER

INGENSA, INC.

(Signature)

(Signature)

Adrian Norman, Superintendent
(Printed name and title)

Jacqueline Coleman, CEO & President
(Printed name and title)

OWNER

(Signature)

Robert Rahja, Board Chairperson
(Printed name and title)

77620531v3
(Paragraphs deleted)
(Table deleted)

Init.

Additions and Deletions Report for AIA® Document B102™ – 2017

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

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 13:56:42 CT on 11/28/2022.

PAGE 1

AGREEMENT made as of the 28th day of November in the year 2022(the "Effective Date")

...

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

~~(Name, legal status, address and other information)~~

Chisholm Public Schools ISD #695

301 4th St SW

Chisholm, MN 55719

and ~~the Architect:~~

~~(Name, legal status, address and other information)~~InGensa, Inc. ("InGensa"):

InGensa, Inc.

18215 45th Ave. N, Suite C

Plymouth, MN 55446

for the following (hereinafter referred to as "the Project"):

~~(Insert information related to types of services, location, facilities, or other descriptive information as appropriate.)~~

for the following Project:

November 8, 2022 proposed referendum project: close both Chisholm Elementary and Vaughan-Steffensrud Elementary Schools and construct a new addition to the district's existing High School to house PreK-6 grade levels.

The Owner and Architect agree as follows.

...

- 1 — ARCHITECT'S RESPONSIBILITIES-1 INGENSA'S RESPONSIBILITIES
- 2 — OWNER'S-2 OWNER'S RESPONSIBILITIES
- 3 — COPYRIGHTS-3 COPYRIGHTS AND LICENSES
- 4 — CLAIMS-4 CLAIMS AND DISPUTES
- 5 — TERMINATION-5 TERMINATION OR SUSPENSION
- 6 — COMPENSATION-6 COMPENSATION
- 7 — MISCELLANEOUS-7 MISCELLANEOUS PROVISIONS
- 8 — SPECIAL-8 SPECIAL TERMS AND CONDITIONS
- 9 — SCOPE OF THE AGREEMENT-9 SCOPE OF THE AGREEMENT

ARTICLE 1 INGENSA'S RESPONSIBILITIES

§ 1.1 The Owner and InGensa agree as follows:

§ 1.1.1 InGensa is not a licensed architect. Therefore, InGensa shall be entitled to use architects, engineers and other design professionals as subconsultants to perform or assist in performing any of InGensa's services under this Agreement ("InGensa's Subconsultants"). The Parties intend to use AIA documents as the basis for the Contract Documents, including InGensa's contracts with InGensa Subconsultants. The Parties understand and agree that the architects or engineers of record on the Project will be InGensa's Subconsultants, and InGensa in no manner represents or implies that InGensa intends to perform architectural or engineering services for which it is not appropriately licensed. Contracts between InGensa and InGensa's Subconsultants shall reference the Owner as a third-party beneficiary as well as an additional insured for insurance purposes. InGensa shall be responsible for the negligent acts or omissions of InGensa's Subconsultants, subject to the limitation of liability in Section 4.1.3.1 below.

§ 1.1.2 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 InGensa. It is the intent of the Parties that InGensa's contract with architects, engineers, other design professionals and others performing InGensa's services on the Project are for the direct benefit and third-party benefit of the Owner and that the Owner is entitled to the benefit of such contracts. InGensa will include language incorporating this intent in any contracts which InGensa may have with its Subconsultants and any contracts between InGensa's Subconsultants and other consultants.

§ 1.1.3 The Parties intend to use AIA documents as the basis for the Owner's contracts with its contractors. The Owner, not InGensa, shall execute and procure construction agreements with all appropriate contractors in accordance with applicable laws.

§ 1.1.4 The Parties understand and agree that a significant number of improvements and additions have been made at the Site over time. The Parties understand and agree that InGensa does not represent or warrant the quality or acceptability of the previous work.

§ 1.1.5 The Parties understand and agree InGensa and InGensa's Subconsultants will provide design, engineering, and construction management services for the improvements outlined in Exhibit A.

§ 1.1.6 The services to be performed by InGensa and InGensa's Subconsultants under this Agreement include the design and construction contract administration services as set forth in Article 2 of AIA Document B201-2007 and the construction management services set forth in Articles 1, 2, and 3 of AIA Document B144/ARCH-CM-1993, and such other services as expressly set forth therein and in any other documents comprising this Agreement as enumerated in Article 9 below. It is understood by the Parties that contracts for such professional services are not subject to competitive bidding requirements. All professionals providing such services whether directly by InGensa or professionals under contract with InGensa shall be qualified, and where required, properly licensed and/or certified to perform these services.

§ 1.1.7 InGensa, by and through InGensa's Subconsultants, shall perform its design services consistent with the professional skill and care ordinarily provided by architects and engineers performing the same or similar services, in the same or similar locality, under the same or similar circumstances. InGensa shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 1.1.8 InGensa shall identify a representative authorized to act on behalf of InGensa with respect to the Project.

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

§ 1.1.10 Prior to commencing the services, InGensa shall provide a certificate of insurance to the Owner showing its insurance coverages, and InGensa shall maintain such insurance, naming Owner as an additional insured under its Comprehensive General Bodily Injury and Property Damage policy, in full force and effect at all times until the services have been completed, in the following minimum amounts:

<u>COVERAGES</u>	<u>LIMITS OF LIABILITIES</u>
<u>Workmen's Compensation, including Employer's Liability Insurance</u>	<u>Statutory</u>
<u>Comprehensive General Bodily Injury & Property Damage Liability Insurance, including Contractual</u>	<u>\$1,000,000 Per Occurrence \$2,000,000 Products & Completed Operations Aggregate</u>
<u>Comprehensive General Personal Injury Liability Insurance, including Contractual</u>	<u>\$1,000,000 Per Occurrence</u>
<u>Comprehensive Automobile Liability Insurance: Bodily Injury & Property Damage Liability Insurance</u>	<u>\$1,000,000 Per Accident</u>
<u>Professional Liability Insurance</u>	<u>\$3,000,000 Per Claim \$3,000,000 Aggregate</u>
<u>Umbrella Liability Insurance</u>	<u>\$1,000,000 Per Occurrence \$1,000,000 Aggregate</u>

Owner shall maintain Property Insurance (builder's risk completed value, or equivalent property insurance) in sufficient amount for the entire period of the Agreement on a replacement cost basis. Such insurance shall be on an "all risk" basis including theft and shall protect the interest of the Owner, InGensa, InGensa's Subconsultants, Owner's Contractors and Subcontractors and shall name Owner and InGensa as an additional insured, and shall cover reasonable compensation for InGensa's services and expenses required as a result of such insured loss.

ARTICLE 1 — ARCHITECT'S RESPONSIBILITIES

§ 1.1 The Architect shall provide the following professional services:

(Describe the scope of the Architect's services or identify an exhibit or scope of services document setting forth the Architect's services and incorporated into this document in Section 9.2.)

~~§ 1.1.1~~ 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.

~~§ 1.2~~ 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.

~~§ 1.3~~ The Architect identifies the following representative authorized to act on behalf of the Architect with respect to the Project.

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

~~§ 1.4~~ 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.

~~§ 1.5~~ The Architect shall maintain the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 6.2.3.

~~§ 1.5.1~~ Commercial General Liability with policy limits of not less than —(\$ —) for each occurrence and —(\$ —) in the aggregate for bodily injury and property damage.

~~§ 1.5.2~~ Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than —(\$ —) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

~~§ 1.5.3~~ The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 1.5.1 and 1.5.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

~~§ 1.5.4~~ Workers' Compensation at statutory limits.

~~§ 1.5.5~~ Employers' Liability with policy limits not less than —(\$ —) each accident, —(\$ —) each employee, and —(\$ —) policy limit.

~~§ 1.5.6~~ Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than —(\$ —) per claim and —(\$ —) in the aggregate.

~~§ 1.5.7~~ **Additional Insured Obligations.** If requested by the Owner, to the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Architect's negligent acts or

omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

~~§ 1.5.8~~ The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 1.5.

~~§ 1.11~~ InGensa and its Subconsultants shall furnish proof of insurance confirming that they have procured the foregoing required insurance coverages prior to execution of this Agreement. Such proof shall also confirm that the insurer has agreed that it will not cancel the insurance without giving the Owner thirty (30) days advance written notice of its intent to cancel. InGensa shall likewise require of its Subconsultants' proof of insurance meeting the foregoing requirements as a condition precedent to their engagement to perform services on the Project.

~~§ 2.1~~ 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.

~~§ 2.2~~ The Owner identifies the following 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.
(List name, address, and other contact information.)

~~§ 2.3~~ 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.

~~§ 2.4~~ 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.

~~§ 2.5~~ The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service.

~~§ 2.6~~ Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.

~~§ 2.1~~ Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements. Within fifteen (15) days after receipt of a written request from InGensa, the Owner shall furnish the requested information as necessary and relevant for InGensa to evaluate, give notice of or enforce lien rights.

~~§ 2.2~~ The Owner shall identify a representative authorized to act on the Owner's behalf only with respect to specific matters delegated to the representative in writing by the Owner's Board. In no event shall the Owner's Representative have authority to agree to any adjustments in the Contract Sum or Contract Time. Adjustments to the Contract Sum or Contract Time require approval by the Owner's Board. The Owner shall render decisions and approve InGensa's

submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of InGensa's services.

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

§ 2.4 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. Except with regard to a claim covered under Owner's property insurance or builder's risk insurance, for which claims Owner waives subrogation against InGensa, nothing herein shall be construed to require the Owner to defend or indemnify InGensa for InGensa's own negligence or intentional acts.

§ 2.5 The Owner shall provide prompt written notice to InGensa if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Instruments of Service.

§ 2.6 The Owner shall provide InGensa all Record Drawings, as-built drawings, or construction drawings of the existing facilities within the Owner's possession, custody or control. InGensa shall be entitled to reasonably rely on any such drawings.

~~§ 3.1 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.~~

~~§ 3.2 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.~~

~~§ 3.3 The Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for the purposes of evaluating, constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums due pursuant to Article 5 and Article 6. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service 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 5.4, the license granted in this Section 3.3 shall terminate.~~

~~§ 3.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 3.3.1. The terms of this Section 3.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 5.4.~~

~~§ 3.4 Except for the licenses granted in this Article 3, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.~~

§ 3.5 Except as otherwise stated in Section 3.3, the provisions of this Article 3 shall survive the termination of this Agreement.

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

§ 3.2 InGensa and InGensa's Subconsultants 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 InGensa and InGensa's Subconsultants.

§ 3.3 Upon execution of this Agreement, InGensa grants to the Owner a nonexclusive license to use the Instruments of Service solely and exclusively for the Project, provided that the Owner performs its obligations, including prompt payment of all sums when due, under this Agreement. InGensa shall obtain similar nonexclusive licenses from InGensa's Subconsultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services for the Project and for future use in maintaining, repairing, and improving the Project. The Owner's non-exclusive license to use the Instruments of Service shall be governed by Section 5.8.

§ 3.3.1 INTENTIONALLY OMITTED

§ 3.4 Except for the licenses granted in this Article 3, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of InGensa. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to InGensa and InGensa's Subconsultants.

§ 4.1 General

§ 4.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 4.1.1.

§ 4.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2017, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 4.1.3 The Architect and Owner waive consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 5.7.

§ 4.1.1 INTENTIONALLY OMITTED

§ 4.1.2 To the extent damages are covered by property insurance, the Owner and InGensa waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2007, General Conditions of the Contract for Construction, if applicable. The Owner or InGensa, as appropriate, shall require of the contractors,

consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein. Owner's builder's risk insurance shall be primary and not contributory.

§ 4.1.3 To the extent allowed by law, InGensa and the Owner each agree to indemnify the other party and its respective officers, agents, directors and employees from third party claims, demands, actions, liabilities, expenses or suits for bodily injury, including death or tangible property damage to the extent resulting from the intentional misconduct or any negligent act or omission by its employees or agents. The parties expressly agree that the other shall be responsible only to the extent such injury or damage was caused by the intentional misconduct or negligent act or omission of its own employees or agents and neither party shall be responsible for any injury or damage to the extent caused, or contributed to, in any manner by the other.

§ 4.1.3.1 INGENSA'S LIABILITY TO OWNER UNDER THIS AGREEMENT SHALL BE LIMITED TO THE AMOUNT OF ANY INSURANCE PROCEEDS AVAILABLE TO AND PAID TO OR ON BEHALF OF INGENSA. THIS LIMITATION OF LIABILITY SHALL APPLY TO ANY DAMAGES THE OWNER INCURS AS A RESULT OF THE SERVICES, INCLUDING BUT NOT LIMITED TO DAMAGES CHARACTERIZED AS SPECIAL, INDIRECT, CONSEQUENTIAL, REMOTE, PUNITIVE, EXEMPLARY; LOSS OF PROFITS OR REVENUE, LOSS OF USE, OR SIMILAR DAMAGES, REGARDLESS OF HOW CHARACTERIZED, ARISING IN ANY MANNER FROM THIS AGREEMENT, THE SERVICES, THE IMPROVEMENT MEASURES, THE PREMISES, OR OTHERWISE.

§ 4.1.4 HAZARDOUS MATERIALS

§ 4.1.4.1 Asbestos Containing Materials –Neither Party desires to or is licensed to undertake direct obligations relating to the identification, abatement, cleanup, control, removal or disposal of asbestos-containing materials ("ACM"). Consistent with applicable laws, Owner shall supply InGensa with any information in its possession relating to the presence of ACM in areas where InGensa undertakes any services that may result in the disturbance of ACM. It is InGensa's policy to seek certification for facilities constructed prior to 1982 that no ACM is present, and Owner shall provide such certification for buildings it owns, or aid InGensa in receiving such certification from facility owners in the case of buildings that it does not own, if InGensa will undertake any services in the facility that would disturb ACM. If either Owner or InGensa becomes aware of or suspects the presence of ACM that may be disturbed by InGensa's services, it shall immediately stop the services in the affected area and notify the other's contacts. If ACM is identified in the information provided by the Owner to InGensa, and the Project services will disturb or require abatement of any ACM, the Owner shall be responsible at its sole expense for addressing abatement of such ACM. Except where InGensa expressly agrees to provide environmental services under this Agreement, InGensa shall have no obligation to monitor, verify or otherwise warrant that such abatement work has been completed.

§ 4.1.4.2 Other Hazardous Materials – InGensa shall have no obligations relating to the identification, abatement, cleanup, control, removal or disposal of mold, regardless of the cause of the mold. InGensa shall be responsible for removing or disposing of any Hazardous Materials that it uses in providing any services ("InGensa Hazardous Materials") and, other than mold, for the remediation of any areas impacted by the release of InGensa Hazardous Materials. For other Hazardous Materials that may be otherwise present at its facilities ("Non-InGensa Hazardous Materials"), Owner shall supply InGensa with any information in its possession relating to the presence of such materials if their presence may affect InGensa's performance of any services. If either Owner or InGensa becomes aware of or suspects the presence of Non-InGensa Hazardous Materials that may interfere with InGensa's services, it shall immediately stop the services in the affected area and notify the other's contacts. As between Owner and InGensa, Owner shall be responsible for removing and disposing of mold and Non-InGensa Hazardous Materials from its facilities and the remediation of any areas impacted by mold or the release of Non-InGensa Hazardous Materials.

§ 4.1.4.3 Environmental Indemnity – To the fullest extent permitted by Law, Owner shall indemnify and hold harmless InGensa and InGensa's Subconsultants, and their respective directors, officers, employees, agents, representatives, shareholders, affiliates, and assigns and successors, from and against any and all losses, costs, damages, expenses (including reasonable legal fees and defense costs), claims, causes of action or liability, directly or indirectly, relating to or arising from the Owner's use, or the storage, release, discharge, handling or presence of ACM, mold or Non-InGensa Hazardous Materials on, under or about the facilities, or Owner's failure to comply with this Section 4.1.4.

§ 4.1.5 FORCE MAJEURE – Neither party shall be responsible to the other for damages, loss, injury or delay caused

by conditions beyond its reasonable control, and without the intentional misconduct or negligence of that party ("Uncontrollable Events"). Uncontrollable Events include, but are not limited to: (a) extreme acts of nature for which reasonable measures were taken by the party to mitigate the effects, where possible; (b) acts of Government agencies; (c) strikes and/or labor disputes; (d) fire; (e) explosions or other casualties; (f) thefts; (g) vandalism; (h) terrorism, riots or war; (i) unavailability of parts, materials or supplies; (j) change in law, including the promulgation, modification or repeal of any law or the imposition of any material condition on the issuance or renewal of any permit which (A) occurs after the Effective Date, (B) establishes new laws or requires any new or existing permits, or modifies any law or permit requirement for the Project existing as of the Effective Date, or (C) materially and adversely affects the cost or expense of the services to InGensa; (k) lawsuits from parties seeking to enjoin the Owner, InGensa or both from performing in accordance with the Agreement, or (l) any other event beyond InGensa's control.

§ 4.1.6 DELAYS – If either party is delayed in the commencement or completion of these services by failure of the other party to perform its obligations under this Agreement and Schedules or failure by the other party to cooperate in the timely condition of the services, then the delayed party shall provide written notice to the other party of the existence, extent of, and reason for such delays. An equitable adjustment in completion dates and compensation shall be made as a result.

§ 4.2 Mediation

~~§ 4.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.~~

~~§ 4.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of this Agreement. A request for mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.~~

~~§ 4.2.3 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.~~

~~§ 4.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 4.2, the method of binding dispute resolution shall be the following:~~

~~(Check the appropriate box.)~~

~~— Arbitration pursuant to Section 4.3 of this Agreement~~

~~— Litigation in a court of competent jurisdiction~~

~~— Other (Specify)~~

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

§ 4.3 Arbitration

~~§ 4.3.1 If the parties have selected arbitration as the method for binding dispute resolution in this Agreement, any claim, dispute or other matter in question arising out of or related to this Agreement subject to, but not resolved by,~~

mediation shall be subject to arbitration, which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration.

~~§ 4.3.1.1~~ A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the claim, dispute or other matter in question would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the claim, dispute or other matter in question.

§ 4.2.1 INTENTIONALLY OMITTED

~~§ 4.3.2~~ The foregoing agreement to arbitrate, and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement, shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof.

§ 4.2.2 The Owner and InGensa shall endeavor to resolve claims, disputes and other matters in question between them by mediation. A request for mediation shall be made in writing, delivered to the other party to the 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 sixty (60) days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this Section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

~~§ 4.3.3~~ The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 4.2.3 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 and ratified by the Owner's Board shall be enforceable as settlement agreements in any court having jurisdiction thereof.

~~§ 4.3.4 Consolidation or Joinder~~

§ 4.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 4.2, the method of binding dispute resolution shall be the following:
(Check the appropriate box. If the Owner and InGensa do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.)

Arbitration pursuant to Section 4.3 of this Agreement

Litigation in a court of competent jurisdiction (venue shall be the Minnesota District Court, Sixth Judicial District, Hibbing, Minnesota, or the closest federal courthouse in the U.S. Federal District Court for the District of Minnesota)

Other (Specify)

~~§ 4.3.4.1~~ Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

§ 4.3 INTENTIONALLY OMITTED

~~§ 4.3.4.2~~ Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided

that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

~~§ 4.3.4.3~~ The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 4.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.

ARTICLE 5 TERMINATION OR SUSPENSION

~~§ 4.4~~ The provisions of this Article 4 shall survive the termination of this Agreement.

§ 5.1 Except for amounts that are the subject of a good-faith dispute, if the Owner fails to make payments to InGensa in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at InGensa's option, cause for suspension of performance of services under this Agreement. If InGensa elects to suspend services, InGensa shall give seven (7) days' written notice to the Owner before suspending services. In the event of a suspension of services, InGensa shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services, so long as the suspension of services is through no fault of InGensa or its Subconsultants. Before resuming services, InGensa shall be paid all sums which are not the subject of a good-faith dispute prior to suspension and any expenses incurred in the interruption and resumption of InGensa's services. InGensa's fees for the remaining services and the time schedules shall be equitably adjusted.

ARTICLE 5 — TERMINATION OR SUSPENSION

~~§ 5.1~~ If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

~~§ 5.2~~ If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

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

~~§ 5.3~~ 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.

§ 5.3 If the Owner suspends the Project for more than ninety (90) cumulative days for reasons other than the fault of InGensa, InGensa may terminate this Agreement by giving not less than seven (7) days' written notice.

~~§ 5.4~~ Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

~~§ 5.5~~ The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 5.4 Either party may terminate this Agreement upon not less than seven (7) 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.

~~§ 5.6~~ If the Owner terminates this Agreement for its convenience pursuant to Section 5.5, or the Architect terminates this Agreement pursuant to Section 5.3, the Owner shall compensate the Architect for services performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements.

~~§ 5.7~~ In addition to any amounts paid under Section 5.6, if the Owner terminates this Agreement for its convenience pursuant to Section 5.5, or the Architect terminates this Agreement pursuant to Section 5.3, the Owner shall pay to the Architect the following fees:
(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)

~~.1~~ — Termination Fee:

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

~~§ 5.8~~ Except as otherwise expressly provided herein, this Agreement shall terminate
(Check the appropriate box.)

— One year from the date of commencement of the Architect's services

— One year from the date of Substantial Completion

— Other
(Insert another termination date or refer to a termination provision in an attached document or scope of service.)

If the Owner and Architect do not select a termination date, this Agreement shall terminate one year from the date of commencement of the Architect's services.

§ 5.5 The Owner may terminate this Agreement upon not less than seven (7) days' written notice to InGensa for the Owner's convenience and without cause.

~~§ 5.9~~ 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 3 and Section 5.7.

§ 5.6 In the event of termination not the fault of InGensa, InGensa shall be compensated for services performed prior to termination, together with Reimbursable Expenses as defined in Section 6.2 then due.

§ 5.7 INTENTIONALLY OMITTED

§ 5.8 In the event of Termination, and upon payment to InGensa of all sums that are not the subject of a good faith dispute, the Owner and its designated agents and consultants, shall have a non-exclusive license to use InGensa and its Subconsultants' Instruments of Service, documents, data, and records relating to the Project, in the condition they were in on the date of Termination, for the limited purpose of completing, maintaining, and operating the Project. InGensa's contracts with its Subconsultants shall incorporate provisions whereby its Subconsultants agree to be bound by the terms of this section. Upon request, InGensa and its Subconsultants shall promptly furnish the Owner with legible copies of their Instruments of Service, documents, data, and records relating to the Project, and the Owner shall reimburse InGensa for the reasonable copying and clerical expenses therefor.

~~§ 6.1~~ The Owner shall compensate the Architect as set forth below for services described in Section 1.1, or in the attached exhibit or scope document incorporated into this Agreement in Section 9.2.
(Insert amount of, or basis for, compensation or indicate the exhibit or scope document in which compensation is provided for.)

~~§ 6.2 Compensation for Reimbursable Expenses~~

~~§ 6.2.1~~ Reimbursable Expenses are in addition to compensation set forth in Section 6.1 and include expenses incurred by the Architect and the Architect's consultants directly related to the Project, as follows:

- ~~.1~~ — Transportation and authorized out-of-town travel and subsistence;
- ~~.2~~ — Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;
- ~~.3~~ — Permitting and other fees required by authorities having jurisdiction over the Project;
- ~~.4~~ — Printing, reproductions, plots, and standard form documents;
- ~~.5~~ — Postage, handling and delivery;
- ~~.6~~ — Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- ~~.7~~ — Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
- ~~.8~~ — If required by the Owner, and with the Owner's prior written approval, the Architect's consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect's consultants;
- ~~.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.

~~§ 6.2.2~~ For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus _____ percent (____%) of the expenses incurred.

~~§ 6.2.3 Architect's Insurance.~~ If the types and limits of coverage required in Section 1.5 are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below:

(Insert the additional coverages the Architect is required to obtain in order to satisfy the requirements set forth in Section 1.5, and for which the Owner shall reimburse the Architect.)

§ 6.1 The Owner shall compensate InGensa for services described in Section 1.1 as set forth below:

The Owner shall compensate InGensa in the amount of \$5,576,171 for

- Program Management,
- Architectural & Engineering (Mechanical, Electrical, Civil),
- Construction Management,
- Commissioning Services,
- General Conditions,
- All Reimbursables and other services as described herein.

§ 6.1.1 General Conditions include the following:

1. Building Permit
2. Plan Review
3. Job site Office Trailer
4. Job site Office Equipment
5. Construction Signage
6. Safety Barricade

7. General Rubbish Removal
8. Temporary Site/Access Roads
9. Temporary Toilets

§ 6.2 INTENTIONALLY DELETED

§ 6.3 Payments to the Architect COMPENSATION FOR USE OF INSTRUMENTS OF SERVICE

The Owner's non-exclusive license to use Instruments of Service shall be at no additional cost and governed by Section 5.8.

§ 6.3.1 Initial Payments

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

§ 6.3.2 Progress Payments

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

—%

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

§ 6.3.2.3 Records of Reimbursable Expenses and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

ARTICLE 7 — MISCELLANEOUS PROVISIONS

§ 7.1 This Agreement shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 4.3.

§ 7.2 Except as separately defined herein, terms in this Agreement shall have the same meaning as those in AIA Document A201™ 2017, General Conditions of the Contract for Construction.

§ 6.4 PAYMENTS TO INGENSA

§ 6.4.1 INTENTIONALLY OMITTED

§ 7.3 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.

§ 6.4.2 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of InGensa's invoice. Amounts unpaid thirty-five (35) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of InGensa.

_____ Interest at the rate of four percent (4.00%) per annum simple interest.

§ 7.4 The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will 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.

~~§ 7.4.1 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.~~

~~§ 7.5 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least 14 days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least 14 days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services, or responsibilities beyond the scope of this Agreement.~~

§ 6.4.3 The Owner shall not withhold amounts from InGensa's compensation to impose a penalty or liquidated damages on InGensa. The Owner's right, if any, to offset sums due InGensa shall be governed by applicable law.

~~§ 7.6 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.~~

§ 6.4.4 InGensa and its Subconsultants shall keep and maintain accurate documentation of all claimed reimbursable expenses in such a form that they may be independently audited and shall provide said documentation with every invoice seeking payment for those expenses.

~~§ 7.7 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.~~

ARTICLE 7 MISCELLANEOUS PROVISIONS

§ 7.1 This Agreement shall be governed by the law of the place where the Project is located.

§ 7.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2007, General Conditions of the Contract for Construction.

§ 7.3 The Owner and InGensa, respectively, bind themselves, their agents, successors, assigns and legal representatives to this Agreement. Neither the Owner nor InGensa 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.

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

§ 7.5 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 InGensa.

§ 7.6 Subject to Owner's written consent, consent not to be unreasonably withheld, InGensa shall have the right to include photographic or artistic representations of the design of the Project among InGensa's promotional and professional materials. InGensa shall be given reasonable access to the completed Project to make such representations. However, InGensa's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised InGensa in writing of the specific information considered by the Owner to be

confidential or proprietary. The Owner shall provide professional credit for InGensa in the Owner's promotional materials for the Project.

§ 7.7 If Owner receives information specifically designated by the other party as "confidential" or "business proprietary," Owner shall, subject to the Minnesota Government Data Practices Act, keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information. InGensa maintains that this Agreement does not constitute the "privatization" of any of Owner's government functions, or otherwise require or authorize InGensa to perform any such functions as defined in Minn. Stat. Chapter 13 ("Chapter 13") or otherwise. InGensa further maintains that data created, collected, received, stored, used, maintained, or disseminated by InGensa in connection with this Agreement, but not conveyed to Owner, is confidential and not subject to disclosure under Chapter 13. Owner will promptly notify InGensa, and InGensa will promptly notify Owner, of any Chapter 13 requests relating to the Project.

§ 7.8 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 7.8 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 5.4. If the services covered by this Agreement have not been completed by December 31, 2026, through no fault of InGensa, extension of InGensa's services beyond that time shall be compensated accordingly.

§ 7.9 If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 7.9.1. This Section 7.9 shall survive the termination of this Agreement.

§ 7.9.1 The receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, when required by law, arbitrator's order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 7.9.

§ 7.10 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.

§ 7.9 Pursuant to Minnesota Statutes, Section 16C.05, subd. 5, InGensa agrees that the books, records, documents and accounting procedures and practices of InGensa, that are relevant to the Contract or transaction, are subject to examination by the Owner and the state auditor for a minimum of six (6) years. InGensa shall maintain such records for a minimum of six (6) years after final payment.

§ 7.10 All payments made to InGensa under this Agreement shall be governed by the Municipal Prompt Payment Act, Minnesota Statutes, Section 471.425 ("MPPA"), unless waived by mutual agreement of the parties for good cause. InGensa shall comply with subdivision 4a of the PPA requiring payment to its Subconsultants within ten (10) days of receipt or be subject to the penalties set forth in PPA subdivision 4a.

PAGE 9

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

None.

...

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

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

- .1 AIA Document B102–2007, Standard Form Agreement Between Owner and Architect
- .2 AIA Document B201–2007, Standard Form of Architect’s Services: Design and Construction Contract Administration
- .3 AIA Document B144 ARCH/CM-1993, Standard Form of Amendment for the Agreement Between Owner and Architect
- .4 B102 Exhibit A: Chisholm Public Schools #695 Scope of Work
- .5 B201 Exhibits A and B

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

OWNER

INGENSA, INC.

(Signature)

(Signature)

Adrian Norman, Superintendent
(Printed name and title)

Jacqueline Coleman, CEO & President
(Printed name and title)

OWNER

(Signature)

Robert Rahja, Board Chairperson
(Printed name and title)

~~77620531v3~~§ 9.4 This Agreement represents the entire and integrated agreement between the Owner and the Architect and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both the Owner and Architect.

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

- .1 AIA Document B102™ 2017, Standard Form Agreement Between Owner and Architect
- .2 AIA Document E203™ 2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203 2013 incorporated into this Agreement.)

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

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

Other Exhibits incorporated into this Agreement:
(Clearly identify any other exhibits incorporated into this Agreement.)

4 Other documents:

(List other documents, including the Architect's scope of services document, hereby incorporated into the Agreement.)

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

OWNER *(Signature)*

ARCHITECT *(Signature)*

(Printed name and title)

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

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, _____, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 13:56:42 CT on 11/28/2022 under Order No. 3104237535 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B102™ – 2017, Standard Form of Agreement Between Owner and Architect without a Predefined Scope of Architect's Services, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)



AIA Document B201™ – 2017

Standard Form of Architect's Services: Design and Construction Contract Administration

for the following PROJECT:

November 8, 2022 proposed referendum project: close both Chisholm Elementary and Vaughan-Steffensrud Elementary Schools and construct a new addition to the district's existing High School to house PreK-6 grade levels.

The Scope of Work is defined in Exhibit A to AIA Document B102-2007.

THE OWNER:

Chisholm Public Schools ISD #695
301 4th St SW
Chisholm, MN 55719

INGENSA, INC. ("InGensa"):

InGensa, Inc.
18215 45th Ave. N, Suite C
Plymouth, MN 55718

THE AGREEMENT

This AIA Document B201-2007 (hereinafter, this "Agreement") is incorporated by reference in AIA Document B102-2007 Executed by the Owner and InGensa dated the 28th day of November in the year 2022.

TABLE OF ARTICLES

- 1 INITIAL INFORMATION
- 2 SCOPE OF INGENSA'S BASIC SERVICES
- 3 ADDITIONAL SERVICES
- 4 OWNER'S RESPONSIBILITIES
- 5 COST OF THE WORK
- 6 COMPENSATION

(Paragraph deleted)

- 7 ATTACHMENTS AND EXHIBITS

ARTICLE 1 INITIAL INFORMATION

(Paragraphs deleted)

§ 1.1 This Agreement is based on the Initial Information set forth in Article 1 and in optional *Exhibit A*, Initial Information:

(Complete Exhibit A, Initial Information and incorporate it into this services document at Section 7.1, or state below Initial Information such as details of the Project's site and program, Owner's contractors and consultants, InGensa's Subconsultants, Owner's budget for the Cost of the Work, authorized representatives, anticipated procurement method, and other information relevant to the Project.)

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 provides the Architect's scope of services only and must be used with an owner-architect agreement. It may be used with AIA Document B102™–2017, Standard Form of Agreement Between Owner and Architect without a Predefined Scope of Architect's Services, to provide the Architect's sole scope of services, or with B102 in conjunction with other standard form services documents. It may also be used with G802™–2017, Amendment to the Professional Services Agreement, to create a modification to any owner-architect agreement.

See Exhibit A entitled Scope of Work. Owner Project Budget is \$32,135,337.

§ 1.2 The Owner's anticipated dates for commencement of construction and Substantial Completion of the Work are set forth below:

.1 Commencement of construction date:

September 2023

.2 Substantial Completion date:

September 2026

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

§ 1.4 InGensa's Consultants.

- .1 Architectural: ARI Architects
- .2 Mechanical & Electrical Engineering: ARI Architects
- .3 Structural Engineering: Northland Consulting Engineers
- .4 Civil Engineering: Larson Engineering

ARTICLE 2 SCOPE OF ARCHITECT'S BASIC SERVICES

(Paragraphs deleted)

§ 2.1 InGensa shall provide design services through licensed consultants ("InGensa's Subconsultants") including all architectural, structural, mechanical, civil and electrical engineering services. The parties agree and understand that all architectural services shall be provided by InGensa or engineer of records as a consultant to InGensa. InGensa shall be responsible for the negligent acts or omissions of InGensa's Subconsultants, subject to the limitation of liability in Section 4.1.3.1 of A102-2017.

§ 2.1.1 InGensa shall manage InGensa's services, consult with the Owner, research applicable design criteria, attend Project meetings, communicate with members of the Project team and report progress to the Owner.

§ 2.1.2 InGensa shall coordinate its services with those services provided by the Owner and the Owner's consultants. InGensa shall be entitled to reasonably rely on the accuracy and completeness of services and information furnished by the Owner and the Owner's consultants. InGensa shall provide prompt written notice to the Owner if InGensa becomes aware of any error, omission or inconsistency in such services or information, subject to InGensa's obligation as the design professional to investigate with reasonable due diligence the existing conditions, recognizing that this Project primarily involves renovation and replacement of existing structures and systems.

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

§ 2.1.4 InGensa shall not be responsible for an Owner's directive or substitution made without InGensa's approval.

§ 2.1.5 InGensa and InGensa's Subconsultants shall perform the services consistent with the professional skill and care ordinarily provided by architects and engineers performing the same or similar services, in the same or similar services, in the same or similar locality, under the same or similar circumstances. InGensa and InGensa's

Init.

Subconsultants shall design the Project and supply plans and specifications that conform to all applicable Federal, State and local laws, codes, ordinances and regulations applicable to InGensa's services. InGensa and InGensa's Subconsultants shall require that the contractors provide written certification that they, and their subcontractors working on the Project, have complied with applicable laws at the time any request for payment is made. This Agreement is made subject to all applicable law, statutes, codes, rules, ordinances and regulations governing the Owner and its rights, obligations limitations and requirements pertaining to this Agreement and the Project ("Laws").

§ 2.1.6 INTENTIONALLY OMITTED

§ 2.1.7 InGensa shall assist the Owner in connection with the Owner's responsibility for obtaining building permits or filing other documents required for the approval of governmental authorities having jurisdiction over the Project. InGensa shall not be responsible for any delays by governmental authorities in the approval process, or for any refusal of governmental authorities to approve any such permits or other documents.

§ 2.1.8 InGensa shall not be responsible for advising Owner on real estate matters, including the selection, suitability, value, condition, title, zoning or developability of any real estate which is or becomes a part of the Project.

§ 2.2 SCHEMATIC DESIGN PHASE SERVICES

(Paragraphs deleted)

§ 2.2.1 InGensa shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to InGensa's services.

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

§ 2.2.3 InGensa shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project, including the feasibility of incorporating environmentally responsible design approaches. InGensa shall reach an understanding with the Owner regarding the requirements of the Project.

§ 2.2.4 InGensa, through InGensa's Subconsultants, shall provide Schematic Design Documents based on the mutually agreed-upon program, schedule, and budget for the Cost of Work. The documents shall establish the conceptual design of the Project illustrating the scale and relationship of the Project components.

§ 2.2.5 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 modeling. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 2.2.5.1 InGensa, through InGensa's Subconsultants, shall consider environmentally responsible design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain other environmentally responsible design services under Article 3.

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

§ 2.2.6 InGensa shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 5.3. As the design process progresses through the end of the preparation of the Construction Documents, InGensa shall update and refine the preliminary estimate of the Cost of Work.

§ 2.2.7 InGensa shall submit the Schematic Design Documents to the Owner, and request the Owner's approval.

§ 2.3 DESIGN DEVELOPMENT PHASE SERVICES

(Paragraphs deleted)

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

§ 2.3.2 InGensa shall update the estimate of the Cost of the Work.

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

§ 2.3.4 The Owner shall review and approve Design Development Documents within a reasonable period of time following delivery.

§ 2.4 CONSTRUCTION DOCUMENTS PHASE SERVICES

(Paragraphs deleted)

§ 2.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, InGensa, through InGensa's Subconsultants, shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels of materials and systems and other requirements for the construction of the Work. The Owner and InGensa acknowledge that in order to construct the Work the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which InGensa shall review in accordance with Section 2.6.4.

§ 2.4.2 InGensa shall incorporate into the Construction Documents the design requirements of governmental authorities having jurisdiction over the Project.

§ 2.4.3 During the development of the Construction Documents, InGensa, along with the architect or engineer of record and the Owner, shall work together to develop and prepare the (1) bidding and procurement information that describes the time, place and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). InGensa and/or InGensa's Subconsultants shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications and may include bidding requirements and sample forms.

§ 2.4.4 InGensa shall update the estimate for the Cost of the Work.

§ 2.4.5 InGensa shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 5.5, and request the Owner's approval.

§ 2.5 BIDDING OR NEGOTIATION PHASE SERVICES

Following the Owner's approval of the Construction Documents, InGensa shall assist the Owner in obtaining competitive bids; (2) confirming responsiveness of bids; (3) determining the successful bid, if any; and (4) awarding and preparing contracts for construction.

(Paragraphs deleted)

§ 2.5.2 COMPETITIVE BIDDING

(Paragraphs deleted)

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

§ 2.5.2.2 InGensa shall assist the Owner in bidding the Project by

- .1 procuring the reproduction of Bidding Documents for distribution to prospective bidders;
- .2 distributing the Bidding Documents to prospective bidders requesting their return upon completion of the bidding process, and maintaining a log of distribution and retrieval and of the amounts of deposits, if any, received from and returned to prospective bidders;
- .3 organizing and conducting a pre-bid conference for prospective bidders;
- .4 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to all prospective bidders in the form of addenda; and
- .5 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

§ 2.5.2.3 InGensa shall consider requests for substitutions, if the Bidding Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective bidders.

§ 2.5.3 NEGOTIATED PROPOSALS

(Paragraphs deleted)

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

§ 2.5.3.2 The InGensa shall assist the Owner in obtaining proposals by:

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

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

§ 2.6 CONSTRUCTION PHASE SERVICES

§ 2.6.1 GENERAL

(Paragraphs deleted)

§ 2.6.1.1 InGensa shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201-2007, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201-2007, General Conditions of the Contract for Construction, those modifications shall not affect InGensa's services under this Agreement unless the Owner and InGensa amend this Agreement.

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

§ 2.6.1.3 Subject to Section 3.3, InGensa's responsibility to provide Construction Phase services commences with the award of the Contract for Construction and terminates on the date InGensa issues the final Certificate for Payment.

§ 2.6.2 EVALUATIONS OF THE WORK

(Paragraphs deleted)

§ 2.6.2.1 InGensa or InGensa's Subconsultants, as representatives of the Owner, shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 3.3.3, 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, neither InGensa nor InGensa's Subconsultants shall 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 InGensa shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work.

§ 2.6.2.2 InGensa shall reject Work that it discovers does not conform to the Contract Documents unless approved in writing by the Owner. Whenever InGensa considers it necessary or advisable, InGensa shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of InGensa 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 InGensa to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work.

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

§ 2.6.2.4 Interpretations and decisions of InGensa 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, InGensa shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. InGensa's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

§ 2.6.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201-2007, General Conditions of the Contract for Construction, InGensa shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

§ 2.6.3 CERTIFICATES FOR PAYMENT TO CONTRACTOR

(Paragraphs deleted)

§ 2.6.3.1 InGensa shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. InGensa's certification for payment shall constitute a representation to the Owner, based on InGensa's evaluation of the Work as provided in Section 2.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of InGensa's knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by InGensa.

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

§ 2.6.3.3 InGensa shall maintain a record of the Applications and Certificates for Payment.

§ 2.6.4 SUBMITTALS

(Paragraphs deleted)

§ 2.6.4.1 InGensa shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval. InGensa'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 InGensa's professional judgment to permit adequate review.

§ 2.6.4.2 In accordance with InGensa-approved submittal schedule, InGensa shall review and approve or take other appropriate action upon the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for

Init.

the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. InGensa's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by InGensa, of any construction means, methods, techniques, sequences or procedures. InGensa's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

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

§ 2.6.4.4 Subject to the provisions of Section 3.3, InGensa shall review and respond to requests for information about the Contract Documents. InGensa 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. InGensa's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, InGensa shall prepare and issue supplemental Drawings and Specifications in response to requests for information.

§ 2.6.4.5 InGensa shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

§ 2.6.5 CHANGES IN THE WORK

(Paragraphs deleted)

§ 2.6.5.1 InGensa may authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to the provisions of Section 3.3, InGensa shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 2.6.5.2 InGensa shall maintain records relative to changes in the Work.

§ 2.6.6 PROJECT COMPLETION

§ 2.6.6.1 InGensa shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; receive from the Contractor and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and assembled by the Contractor; and issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents.

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

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

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

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

§ 2.6.7 COMMISSIONING SERVICES

§ 2.6.7.1 InGensa, with the Owner’s assistance, shall oversee the close-out of the Project, as well as the commencement and final reporting and response action determined by the commissioning services for each Project where commissioning is required pursuant to applicable law.

§ 2.6.7.2 InGensa shall coordinate and complete all testing and reporting required by applicable law. InGensa shall consult with Owner on post-construction issues until the Project is turned over to Owner.

ARTICLE 3 ADDITIONAL SERVICES

§ 3.1 Additional Services listed below are not included in Basic Services but may be required for the Project. InGensa shall provide the listed Additional Services only if specifically designated in the table below as InGensa’s responsibility, and the Owner shall compensate InGensa as provided in Section 6.2.

(Designate the Additional Services InGensa shall provide in the second column of the table below. In the third column indicate whether the service description is located in Section 3.2 or in an attached exhibit. If in an exhibit, identify the exhibit.)

Additional Services	Responsibility <i>(Architect, Owner or Not Provided)</i>	Location of Service Description <i>(Section 3.2 below or in an exhibit attached to this document and identified below)</i>
§ 3.1.2 Multiple preliminary designs	Not Provided	
§ 3.1.3 Measured drawings	Not Provided	
§ 3.1.4 Existing facilities surveys	Owner	
§ 3.1.5 Site Evaluation and Planning (B203™–2007)	Not Provided	
§ 3.1.6 Building Information Modeling (E202™–2008)	Not Provided	
§ 3.1.10 Value Analysis (B204™–2007)	Not Provided	
§ 3.1.15 As-constructed record drawings	Not Provided	Provided by trade contractors
§ 3.1.16 Post occupancy evaluation	Not Provided	
§ 3.1.17 Facility Support Services (B210™–2007)	Not Provided	
§ 3.1.18 Tenant-related services	Not Provided	
§ 3.1.19 Coordination of Owner’s consultants	InGensa	
§ 3.1.27 Furniture, Furnishings, and Equipment Design (B253™–2007)	Not Provided	

(Paragraphs deleted)

(Paragraphs deleted)

§ 3.3 Additional Services may be provided after execution of this Agreement, if mutually agreed in writing, without invalidating the Agreement. Except for services required due to the fault of InGensa, any Additional Services provided in accordance with this Section 3.3 shall entitle InGensa to compensation pursuant to Section 6.3.

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

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including, but not limited to, size, quality, complexity, the Owner’s schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the Owner’s request for extensive environmentally responsible design alternatives, such as unique system designs, in-depth material research, energy modeling, or LEED® certification;
- .3 Changing or editing previously prepared Instruments of Service necessitated by the enactment or revision of codes, laws or regulations or official interpretations;

- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 Preparing digital data for transmission to the Owner's consultants and contractors, or to other Owner authorized recipients;
- .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner (Schematic design, design development and construction documents);
- .7 Preparation for, and attendance at, a public presentation, meeting or hearing except as follows: attendance at two (2) public meetings/hearings shall be included in InGensa's Basic Services;
- .8 Preparation for, and attendance at a dispute resolution proceeding or legal proceeding, except where InGensa is party thereto;
- .9 Evaluation of the qualifications of bidders or persons providing proposals;
- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction;
- .11 Assistance to the Initial Decision Maker, if other than InGensa;
- .12 If additional planning services are required;
- .13 Providing services to verify the accuracy of drawings or other information furnished by the Owner;
- .14 Providing services of necessary consultants for other than architectural, structural, mechanical and electrical engineering portions of the Project provided as a part of this Agreement;
- .15 Providing any other services not otherwise included; or
- .16 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .17 Renderings, models, mockups, professional photography and presentation materials required by the Owner.

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

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

§ 3.3.3 InGensa shall provide Construction Phase Services exceeding the limits set forth in Section 3.3.4 below as Additional Services. When the limits below are reached, InGensa shall notify the Owner:

- .1 Visits to the site and inspections by InGensa appropriate to the state of construction over the duration of the Project during construction, but in no event less than weekly.
- .2 Reasonable and necessary inspections, but in no event less than two (2), 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 and all applicable laws, codes and ordinances.
- .3 Reasonable and necessary inspections, but in no event less than two (2), for any of the work to determine final completion. Additional inspection and visits as mutually agreed to by the parties to determine that the work is substantially completed in accordance with the Contract Documents and all applicable laws, codes, ordinances, rules, regulations and architectural and construction industry standards.
- .4 One (1) inspection of the Work before the expiration of the Contractor's correction period.

§ 3.3.4 If the services covered by this Agreement have not been completed by December 31, 2026, through no fault of InGensa, extension of InGensa's services beyond that time shall be compensated as Additional Services.

§ 3.3.5 Notwithstanding anything to the contrary herein or otherwise, InGensa does not intend for this Agreement and the services furnished hereunder to constitute the "privatization" of any of Owner's government functions as defined in Minnesota Statutes Chapter 13 ("Chapter 13"). Owner will promptly notify InGensa, and InGensa will promptly notify Owner, of any Chapter 13 requests relating to the services hereunder.

(Paragraphs deleted)

(Table deleted)

ARTICLE 4 OWNER'S RESPONSIBILITIES

(Paragraphs deleted)

§ 4.1 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 5.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall not significantly increase or decrease the overall budget, the portion of the budget allocated for the Cost of the Work, or contingencies included in the overall budget or a portion of the budget, without the agreement of InGensa to a corresponding change in the Project scope and quality.

§ 4.2 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 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.

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

§ 4.4 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.

§ 4.5 Except as otherwise provided in this Agreement, or when direct communications have been specially authorized, the Owner shall endeavor to communicate with the Contractor and InGensa's Subconsultants through InGensa about matters arising out of or relating to the Contract Documents. The Owner shall promptly notify InGensa of any direct communications that may affect InGensa's services.

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

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

§ 4.8 The Parties understand and agree InGensa is not required to make an exhaustive site inspection prior to commencing its services and InGensa is not required to verify concealed conditions on the site.

§ 4.9 InGensa agrees to prepare the Health & Safety Report as required by the Owner or otherwise and negotiate, or assist the Owner in negotiating, the Health & Safety Report with the appropriate governing board or agency.

§ 4.10 InGensa shall undertake and produce detailed financial models which will illustrate estimated costs and savings to be gained through the Work. This financial modeling shall be solely for the Owner's information. InGensa does not guarantee or warrant that costs and savings outlined in such financial modeling will be realized and shall not be liable to the Owner in the event that actual costs and savings identified in the financial modeling are less than estimated.

§ 4.11 InGensa shall present, or assist the Owner in presenting, a detailed plan together with financial models to the appropriate governing board or agency for final review and approval.

§ 4.12 InGensa shall complete and process all available utility rebate requests on behalf of the Owner, who shall be the beneficiary of such rebates.

ARTICLE 5 COST OF THE WORK

(Paragraphs deleted)

§ 5.1 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 InGensa and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work does not include the compensation of InGensa, the costs of the land, rights-of-way, financing, contingencies for changes in the Work or other costs that are the responsibility of the Owner.

§ 5.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and may be adjusted throughout the Project as required under Sections 4.1, 5.4 and 5.5. Evaluations of the Owner's budget for the Cost of the Work, the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work prepared by InGensa, represent InGensa's judgment as a design professional. It is recognized, however, that neither InGensa nor the Owner has control over the cost of labor, materials or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market or negotiating conditions. Accordingly, InGensa cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work or from any estimate of the Cost of the Work or evaluation prepared or agreed to by InGensa.

§ 5.3 In preparing estimates of the Cost of Work, InGensa shall be permitted to include contingencies for, bidding and price escalation; to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents; to make reasonable adjustments in the program and scope of the Project; and to include in the Contract Documents alternate bids as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget for the Cost of the Work. InGensa's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requests detailed cost estimating services, InGensa shall provide such services as an Additional Service under Article 3.

§ 5.4 If the Bidding or Negotiation Phase has not commenced within ninety (90) days after InGensa submits the Construction Documents to the Owner, through no fault of InGensa, the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

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

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

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 5.5 of AIA Document B102-2007;
- .4 in consultation with InGensa, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
- .5 implement any other mutually acceptable alternative.

§ 5.7 If the Owner chooses to proceed under Section 5.6.4, InGensa, without additional compensation, shall modify the Construction Documents for which InGensa is responsible under this Agreement as necessary to comply with the Owner's budget for the Cost of the Work. InGensa's modification of the Construction Documents shall be the limit of InGensa's responsibility under this Article 5.

§ 5.8 InGensa shall be entitled to compensation in accordance with this Agreement for all services performed whether or not construction is commenced.

ARTICLE 6 COMPENSATION

§ 6.1 InGensa’s Basic Services described under Article 2 above are included in the compensation set forth in Section 6.1 of AIA Document B102-2007 executed by the Parties dated November TBD, 2022.

§ 6.2 For Additional Services designated in Section 3.1, the Owner shall compensate InGensa on a time and material basis at hourly rates set forth in Exhibit B unless agreed to otherwise by Owner and InGensa.

§ 6.3 For Additional Services that may arise during the course of the Project, including those under Section 3.3, during the course of the Project, the Owner shall compensate InGensa on a time and material basis at hourly rates set forth on AIA Document B201 Article 6.7, Hourly Fee Breakdown unless agreed to otherwise by Owner and InGensa.

§ 6.4 Compensation for Additional Services of InGensa’s Subconsultants when not included in Section 6.2 or 6.3, shall be the amount invoiced to InGensa plus a fee of one percent (1%), or as otherwise stated below:

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

Schematic Design Phase	Fifteen percent (15 %)
Design Development Phase	Twenty percent (20 %)
Construction Documents Phase	Forty percent (40 %)
Bidding or Negotiation Phase	Five percent (5 %)
Construction Phase	Twenty percent (20 %)
<hr/> Total Basic Compensation	<hr/> One Hundred percent (100 %)

§ 6.6 When compensation is based on a percentage of the Cost of the Work and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions, in accordance with the schedule set forth in Section 6.5 based on (1) the lowest bona fide bid or negotiated proposal, or (2) if no such bid or proposal is received, the most recent estimate of the Cost of the Work for such portions of the Project. InGensa shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 6.7 The hourly billing rates for services of InGensa and InGensa’s Subconsultants, if any, are set forth below. The rates shall be adjusted in accordance with InGensa’s and InGensa’s Subconsultants’ normal review practices. *(If applicable, attach an exhibit of hourly billing rates or insert them below.)*

See Exhibit B for hourly rates.

Employee or Category	Rate
-----------------------------	-------------

(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)
(Table deleted)
(Paragraphs deleted)

ARTICLE 7 ATTACHMENTS AND EXHIBITS

The following attachments and exhibits, if any, are incorporated herein by reference:

- B201 Exhibit A – Scope of Work
- B201 Exhibit B – Hourly Rates

OWNER

INGENSA, INC.

(Signature)

(Signature)

Adrian Norman, Superintendent
(Printed name and title)

Jacqueline Coleman, CEO & President
(Printed name and title)

OWNER

(Signature)

Robert Rahja, Board Chairperson
(Printed name and title)

77620545v3

Additions and Deletions Report for AIA® Document B201™ – 2017

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

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 13:56:51 CT on 11/28/2022.

PAGE 1

~~(Name and location or address)~~ November 8, 2022 proposed referendum project: close both Chisholm Elementary and Vaughan-Steffensrud Elementary Schools and construct a new addition to the district's existing High School to house PreK-6 grade levels.

The Scope of Work is defined in Exhibit A to AIA Document B102-2007.

...

~~(Name, legal status and address)~~ Chisholm Public Schools ISD #695
301 4th St SW
Chisholm, MN 55719

INGENSA, INC. ("InGensa"):

InGensa, Inc.

THE ARCHITECT: 18215 45th Ave. N, Suite C

~~(Name, legal status and address)~~ Plymouth, MN 55718

...

This Standard Form of Architect's Services is part of the accompanying Owner-Architect Agreement (hereinafter, together referred to as the Agreement) dated the ~~day of~~ in the year ~~—~~ AIA Document B201-2007 (hereinafter, this "Agreement") is incorporated by reference in AIA Document B102-2007 Executed by the Owner and InGensa dated the 28th day of November in the year 2022.

~~(In words, indicate day, month and year.)~~

...

- 1 — ~~INITIAL 1~~ INITIAL INFORMATION
- 2 — ~~SCOPE OF ARCHITECT'S 2~~ SCOPE OF INGENSA'S BASIC SERVICES
- 3 — ~~SUPPLEMENTAL AND ADDITIONAL 3~~ ADDITIONAL SERVICES
- 4 — ~~OWNER'S 4~~ OWNER'S RESPONSIBILITIES
- 5 — ~~COST 5~~ COST OF THE WORK
- 6 — ~~COMPENSATION 6~~ COMPENSATION
- 7 — ~~ATTACHMENTS AND EXHIBITS~~
- 7 ATTACHMENTS AND EXHIBITS

...

~~§ 1.1~~ The Agreement is based on the Initial Information set forth in this Section 1.1.
(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

~~§ 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.)

~~§ 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.)

~~§ 1.1.3~~ The Owner's budget for the Cost of the Work, as defined in Section 5.1:
(Provide total and, if known, a line item breakdown.)

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

.1 — Design phase milestone dates, if any:

.2 — Construction commencement date:

.3 — Substantial Completion date or dates:

.4 — Other milestone dates:

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

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

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

~~§ 1.1.7~~ The 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.)

~~§ 1.1.8~~ The Owner shall retain the following consultants and contractors:
(List name, legal status, address, and other contact information.)
.1 — Geotechnical Engineer:

.2 — Civil Engineer:

.3 — Other, if any:
(List any other consultants and contractors retained by the Owner.)

~~§ 1.1.9~~ The Architect shall retain the consultants identified in Sections 1.1.9.1 and 1.1.9.2:
(List name, legal status, address, and other contact information.)

~~§ 1.1.9.1~~ Consultants retained under Basic Services:
.1 — Structural Engineer:

.2 — Mechanical Engineer:

.3 — Electrical Engineer:

~~§ 1.1.9.2 Consultants retained under Supplemental Services:~~

~~§ 1.1.10 Other Initial Information on which the Agreement is based:~~

~~§ 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 schedule, 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.~~

~~§ 1.1 This Agreement is based on the Initial Information set forth in Article 1 and in optional *Exhibit A, Initial Information*:
(*Complete Exhibit A, Initial Information and incorporate it into this services document at Section 7.1, or state below Initial Information such as details of the Project's site and program, Owner's contractors and consultants, InGensa's Subconsultants, Owner's budget for the Cost of the Work, authorized representatives, anticipated procurement method, and other information relevant to the Project.*)~~

~~See Exhibit A entitled Scope of Work. Owner Project Budget is \$32,135,337.~~

~~§ 1.2 The Owner's anticipated dates for commencement of construction and Substantial Completion of the Work are set forth below:~~

~~.1 Commencement of construction date:~~

~~September 2023~~

~~.2 Substantial Completion date:~~

~~September 2026~~

~~§ 1.3 The Owner and InGensa may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and InGensa shall appropriately adjust the schedule, InGensa's services and InGensa's compensation.~~

~~§ 1.4 InGensa's Consultants.~~

~~.1 Architectural: ARI Architects~~

~~.2 Mechanical & Electrical Engineering: ARI Architects~~

~~.3 Structural Engineering: Northland Consulting Engineers~~

~~.4 Civil Engineering: Larson Engineering~~

~~§ 2.1 The Architect's Basic Services consist of those described in this Article 2 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 2 are Supplemental or Additional Services.~~

~~§ 2.1.1 The Architect shall manage the Architect's services, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner.~~

~~§ 2.1.2 The Architect shall coordinate its services with those services provided by the Owner 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 and the Owner's consultants. The Architect shall~~

provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

~~§ 2.1.3~~ As soon as practicable after the date of the Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

~~§ 2.1.4~~ The Architect shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work, made or given without the Architect's written approval.

~~§ 2.1.5~~ The Architect shall 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.

~~§ 2.1.6~~ The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

§ 2.1 InGensa shall provide design services through licensed consultants ("InGensa's Subconsultants") including all architectural, structural, mechanical, civil and electrical engineering services. The parties agree and understand that all architectural services shall be provided by InGensa or engineer of records as a consultant to InGensa. InGensa shall be responsible for the negligent acts or omissions of InGensa's Subconsultants, subject to the limitation of liability in Section 4.1.3.1 of A102-2017.

§ 2.1.1 InGensa shall manage InGensa's services, consult with the Owner, research applicable design criteria, attend Project meetings, communicate with members of the Project team and report progress to the Owner.

§ 2.1.2 InGensa shall coordinate its services with those services provided by the Owner and the Owner's consultants. InGensa shall be entitled to reasonably rely on the accuracy and completeness of services and information furnished by the Owner and the Owner's consultants. InGensa shall provide prompt written notice to the Owner if InGensa becomes aware of any error, omission or inconsistency in such services or information, subject to InGensa's obligation as the design professional to investigate with reasonable due diligence the existing conditions, recognizing that this Project primarily involves renovation and replacement of existing structures and systems.

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

§ 2.1.4 InGensa shall not be responsible for an Owner's directive or substitution made without InGensa's approval.

§ 2.1.5 InGensa and InGensa's Subconsultants shall perform the services consistent with the professional skill and care ordinarily provided by architects and engineers performing the same or similar services, in the same or similar services, in the same or similar locality, under the same or similar circumstances. InGensa and InGensa's Subconsultants shall design the Project and supply plans and specifications that conform to all applicable Federal, State and local laws, codes, ordinances and regulations applicable to InGensa's services. InGensa and InGensa's Subconsultants shall require that the contractors provide written certification that they, and their subcontractors working on the Project, have complied with applicable laws at the time any request for payment is made. This

Agreement is made subject to all applicable law, statues, codes, rules, ordinances and regulations governing the Owner and its rights, obligations limitations and requirements pertaining to this Agreement and the Project ("Laws").

§ 2.1.6 INTENTIONALLY OMITTED

§ 2.1.7 InGensa shall assist the Owner in connection with the Owner's responsibility for obtaining building permits or filing other documents required for the approval of governmental authorities having jurisdiction over the Project. InGensa shall not be responsible for any delays by governmental authorities in the approval process, or for any refusal of governmental authorities to approve any such permits or other documents.

§ 2.1.8 InGensa shall not be responsible for advising Owner on real estate matters, including the selection, suitability, value, condition, title, zoning or developability of any real estate which is or becomes a part of the Project.

~~§ 2.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services.~~

~~§ 2.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, the proposed procurement and delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.~~

~~§ 2.2.3 The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.~~

~~§ 2.2.4 Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present, for the Owner's approval, a preliminary design illustrating the scale and relationship of the Project components.~~

~~§ 2.2.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.~~

~~§ 2.2.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain more advanced sustainable design services as a Supplemental Service under Section 3.1.1.~~

~~§ 2.2.5.2 The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule, and budget for the Cost of the Work.~~

~~§ 2.2.6 The Architect shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 5.3.~~

~~§ 2.2.7 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval.~~

§ 2.2.1 InGensa shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to InGensa's services.

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

§ 2.2.3 InGensa shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project, including the feasibility of incorporating environmentally responsible design approaches. InGensa shall reach an understanding with the Owner regarding the requirements of the Project.

§ 2.2.4 InGensa, through InGensa's Subconsultants, shall provide Schematic Design Documents based on the mutually agreed-upon program, schedule, and budget for the Cost of Work. The documents shall establish the conceptual design of the Project illustrating the scale and relationship of the Project components.

§ 2.2.5 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 modeling. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 2.2.5.1 InGensa, through InGensa's Subconsultants, shall consider environmentally responsible design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain other environmentally responsible design services under Article 3.

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

§ 2.2.6 InGensa shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 5.3. As the design process progresses through the end of the preparation of the Construction Documents, InGensa shall update and refine the preliminary estimate of the Cost of Work.

§ 2.2.7 InGensa shall submit the Schematic Design Documents to the Owner, and request the Owner's approval.

~~§ 2.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels.~~

~~§ 2.3.2 The Architect shall update the estimate of the Cost of the Work prepared in accordance with Section 5.3.~~

~~§ 2.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval.~~

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

§ 2.3.2 InGensa shall update the estimate of the Cost of the Work.

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

§ 2.3.4 The Owner shall review and approve Design Development Documents within a reasonable period of time following delivery.

~~§ 2.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the 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 Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 2.6.4.~~

~~§ 2.4.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.~~

~~§ 2.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include bidding requirements and sample forms.~~

~~§ 2.4.4 The Architect shall update the estimate for the Cost of the Work prepared in accordance with Section 5.3.~~

~~§ 2.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 5.5, and request the Owner's approval.~~

§ 2.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, InGensa, through InGensa's Subconsultants, shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels of materials and systems and other requirements for the construction of the Work. The Owner and InGensa acknowledge that in order to construct the Work the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which InGensa shall review in accordance with Section 2.6.4.

§ 2.4.2 InGensa shall incorporate into the Construction Documents the design requirements of governmental authorities having jurisdiction over the Project.

§ 2.4.3 During the development of the Construction Documents, InGensa, along with the architect or engineer of record and the Owner, shall work together to develop and prepare the (1) bidding and procurement information that describes the time, place and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). InGensa and/or InGensa's Subconsultants shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications and may include bidding requirements and sample forms.

§ 2.4.4 InGensa shall update the estimate for the Cost of the Work.

§ 2.4.5 InGensa shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 5.5, and request the Owner's approval.

§ 2.5 PROCUREMENT PHASE SERVICES~~BIDDING OR NEGOTIATION PHASE SERVICES~~

Following the Owner's approval of the Construction Documents, InGensa shall assist the Owner in obtaining competitive bids; (2) confirming responsiveness of bids; (3) determining the successful bid, if any; and (4) awarding and preparing contracts for construction.

§ 2.5.1 General

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

§ 2.5.2 Competitive Bidding~~COMPETITIVE BIDDING~~

~~§ 2.5.2.1 Bidding Documents shall consist of bidding requirements and proposed Contract Documents.~~

~~§ 2.5.2.2 The Architect shall assist the Owner in bidding the Project by:~~

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

~~§ 2.5.2.3 If the Bidding Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective bidders.~~

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

§ 2.5.2.2 InGensa shall assist the Owner in bidding the Project by

- .1 procuring the reproduction of Bidding Documents for distribution to prospective bidders;
- .2 distributing the Bidding Documents to prospective bidders requesting their return upon completion of the bidding process, and maintaining a log of distribution and retrieval and of the amounts of deposits, if any, received from and returned to prospective bidders;
- .3 organizing and conducting a pre-bid conference for prospective bidders;
- .4 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to all prospective bidders in the form of addenda; and
- .5 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

§ 2.5.2.3 InGensa shall consider requests for substitutions, if the Bidding Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective bidders.

§ 2.5.3 Negotiated Proposals~~NEGOTIATED PROPOSALS~~

~~§ 2.5.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents.~~

~~§ 2.5.3.2 The Architect shall assist the Owner in obtaining proposals by:~~

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

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

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

§ 2.5.3.2 The InGensa shall assist the Owner in obtaining proposals by:

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

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

§ 2.6.1 GeneralGENERAL

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

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

§ 2.6.1.3 Subject to Section 3.2 and except as provided in Section 2.6.6.5, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

§ 2.6.1.1 InGensa shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201-2007, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201-2007, General Conditions of the Contract for Construction, those modifications shall not affect InGensa's services under this Agreement unless the Owner and InGensa amend this Agreement.

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

§ 2.6.1.3 Subject to Section 3.3, InGensa's responsibility to provide Construction Phase services commences with the award of the Contract for Construction and terminates on the date InGensa issues the final Certificate for Payment.

§ 2.6.2 Evaluations of the WorkEVALUATIONS OF THE WORK

§ 2.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 3.2.3, 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 Contractor, and (3) defects and deficiencies observed in the Work.

§ 2.6.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require 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 Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

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

§ 2.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not 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.

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

§ 2.6.2.1 InGensa or InGensa's Subconsultants, as representatives of the Owner, shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 3.3.3, 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, neither InGensa nor InGensa's Subconsultants shall 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 InGensa shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work.

§ 2.6.2.2 InGensa shall reject Work that it discovers does not conform to the Contract Documents unless approved in writing by the Owner. Whenever InGensa considers it necessary or advisable, InGensa shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of InGensa 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 InGensa to the Contractor, Subcontractors, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work.

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

§ 2.6.2.4 Interpretations and decisions of InGensa 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, InGensa shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. InGensa's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

§ 2.6.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201-2007, General Conditions of the Contract for Construction, InGensa shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

§ 2.6.3 Certificates for Payment to Contractor**CERTIFICATES FOR PAYMENT TO CONTRACTOR**

~~§ 2.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 2.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect.~~

~~§ 2.6.3.2 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 Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.~~

~~§ 2.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.~~

§ 2.6.3.1 InGensa shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. InGensa's certification for payment shall constitute a representation to the Owner, based on InGensa's evaluation of the Work as provided in Section 2.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of InGensa's knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by InGensa.

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

§ 2.6.3.3 InGensa shall maintain a record of the Applications and Certificates for Payment.

§ 2.6.4 Submittals**SUBMITTALS**

~~§ 2.6.4.1 The Architect shall review the Contractor'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.~~

~~§ 2.6.4.2 The Architect shall review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's 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.~~

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

§ 2.6.4.4 Subject to Section 3.2, 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.

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

§ 2.6.4.1 InGensa shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval. InGensa'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 InGensa's professional judgment to permit adequate review.

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

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

§ 2.6.4.4 Subject to the provisions of Section 3.3, InGensa shall review and respond to requests for information about the Contract Documents. InGensa 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. InGensa's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, InGensa shall prepare and issue supplemental Drawings and Specifications in response to requests for information.

§ 2.6.4.5 InGensa shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

§ 2.6.5 Changes in the Work **CHANGES IN THE WORK**

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

Section 3.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

~~§ 2.6.5.2 The Architect shall maintain records relative to changes in the Work.~~

§ 2.6.5.1 InGensa may authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to the provisions of Section 3.3, InGensa shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 2.6.5.2 InGensa shall maintain records relative to changes in the Work.

§ 2.6.6 Project Completion **PROJECT COMPLETION**

§ 2.6.6.1 InGensa shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; receive from the Contractor and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and assembled by the Contractor; and issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents.

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

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

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

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

§ 2.6.7 COMMISSIONING SERVICES

§ 2.6.7.1 InGensa, with the Owner's assistance, shall oversee the close-out of the Project, as well as the commencement and final reporting and response action determined by the commissioning services for each Project where commissioning is required pursuant to applicable law.

§ 2.6.7.2 InGensa shall coordinate and complete all testing and reporting required by applicable law. InGensa shall consult with Owner on post-construction issues until the Project is turned over to Owner.

ARTICLE 3 ADDITIONAL SERVICES

§ 3.1 Additional Services listed below are not included in Basic Services but may be required for the Project. InGensa shall provide the listed Additional Services only if specifically designated in the table below as InGensa's responsibility, and the Owner shall compensate InGensa as provided in Section 6.2.

(Designate the Additional Services InGensa shall provide in the second column of the table below. In the third column indicate whether the service description is located in Section 3.2 or in an attached exhibit. If in an exhibit, identify the exhibit.)

<u>Additional Services</u>	<u>Responsibility</u> <i>(Architect, Owner or Not Provided)</i>	<u>Location of Service Description</u> <i>(Section 3.2 below or in an exhibit attached to this document and identified below)</i>

§ 3.1.2	Multiple preliminary designs	Not Provided	
§ 3.1.3	Measured drawings	Not Provided	
§ 3.1.4	Existing facilities surveys	Owner	
§ 3.1.5	Site Evaluation and Planning (B203™-2007)	Not Provided	
§ 3.1.6	Building Information Modeling (E202™-2008)	Not Provided	
§ 3.1.10	Value Analysis (B204™-2007)	Not Provided	
§ 3.1.15	As-constructed record drawings	Not Provided	Provided by trade contractors
§ 3.1.16	Post occupancy evaluation	Not Provided	
§ 3.1.17	Facility Support Services (B210™-2007)	Not Provided	
§ 3.1.18	Tenant-related services	Not Provided	
§ 3.1.19	Coordination of Owner's consultants	InGensa	
§ 3.1.27	Furniture, Furnishings, and Equipment Design (B253™-2007)	Not Provided	

(Paragraphs deleted)

§ 2.6.6.1 The Architect shall:

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

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

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

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

§ 2.6.6.5 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.

ARTICLE 3 — SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 3.1 SUPPLEMENTAL SERVICES

§ 3.1.1 The services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 6.2. Unless otherwise specifically addressed in the Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project.

(Designate the Architect's Supplemental Services and the Owner's Supplemental Services required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 3.1.2 below or attach the description of services as an exhibit to the Agreement.)

§ 3.3 Additional Services may be provided after execution of this Agreement, if mutually agreed in writing, without invalidating the Agreement. Except for services required due to the fault of InGensa, any Additional Services provided in accordance with this Section 3.3 shall entitle InGensa to compensation pursuant to Section 6.3.

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

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including, but not limited to, size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the Owner's request for extensive environmentally responsible design alternatives, such as unique system designs, in-depth material research, energy modeling, or LEED® certification;
- .3 Changing or editing previously prepared Instruments of Service necessitated by the enactment or revision of codes, laws or regulations or official interpretations;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 Preparing digital data for transmission to the Owner's consultants and contractors, or to other Owner authorized recipients;
- .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner (Schematic design, design development and construction documents);
- .7 Preparation for, and attendance at, a public presentation, meeting or hearing except as follows: attendance at two (2) public meetings/hearings shall be included in InGensa's Basic Services;
- .8 Preparation for, and attendance at a dispute resolution proceeding or legal proceeding, except where InGensa is party thereto;
- .9 Evaluation of the qualifications of bidders or persons providing proposals;
- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction;
- .11 Assistance to the Initial Decision Maker, if other than InGensa;
- .12 If additional planning services are required;
- .13 Providing services to verify the accuracy of drawings or other information furnished by the Owner;
- .14 Providing services of necessary consultants for other than architectural, structural, mechanical and electrical engineering portions of the Project provided as a part of this Agreement;
- .15 Providing any other services not otherwise included; or
- .16 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .17 Renderings, models, mockups, professional photography and presentation materials required by the Owner.

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

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

§ 3.3.3 InGensa shall provide Construction Phase Services exceeding the limits set forth in Section 3.3.4 below as Additional Services. When the limits below are reached, InGensa shall notify the Owner:

- .1 Visits to the site and inspections by InGensa appropriate to the state of construction over the duration of the Project during construction, but in no event less than weekly.
- .2 Reasonable and necessary inspections, but in no event less than two (2), 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 and all applicable laws, codes and ordinances.
- .3 Reasonable and necessary inspections, but in no event less than two (2), for any of the work to determine final completion. Additional inspection and visits as mutually agreed to by the parties to determine that the work is substantially completed in accordance with the Contract Documents and all applicable laws, codes, ordinances, rules, regulations and architectural and construction industry standards.
- .4 One (1) inspection of the Work before the expiration of the Contractor's correction period.

§ 3.3.4 If the services covered by this Agreement have not been completed by December 31, 2026, through no fault of InGensa, extension of InGensa's services beyond that time shall be compensated as Additional Services.

§ 3.3.5 Notwithstanding anything to the contrary herein or otherwise, InGensa does not intend for this Agreement and the services furnished hereunder to constitute the "privatization" of any of Owner's government functions as defined in Minnesota Statutes Chapter 13 ("Chapter 13"). Owner will promptly notify InGensa, and InGensa will promptly notify Owner, of any Chapter 13 requests relating to the services hereunder.

Supplemental Services	Responsibility <i>(Architect, Owner or Not Provided)</i>
§ 3.1.1.1 Programming	
§ 3.1.1.2 Multiple preliminary designs	
§ 3.1.1.3 Measured drawings	
§ 3.1.1.4 Existing facilities surveys	
§ 3.1.1.5 Site evaluation and planning	
§ 3.1.1.6 Building Information Model management responsibilities	
§ 3.1.1.7 Development of Building Information Models for post construction use	
§ 3.1.1.8 Civil engineering	
§ 3.1.1.9 Landscape design	
§ 3.1.1.10 Architectural interior design	
§ 3.1.1.11 Value analysis	
§ 3.1.1.12 Detailed cost estimating beyond that required in Section 5.3	
§ 3.1.1.13 On-site project representation	
§ 3.1.1.14 Conformed documents for construction	
§ 3.1.1.15 As-designed record drawings	
§ 3.1.1.16 As-constructed record drawings	
§ 3.1.1.17 Post occupancy evaluation	
§ 3.1.1.18 Facility support services	
§ 3.1.1.19 Tenant related services	
§ 3.1.1.20 Architect's coordination of the Owner's consultants	
§ 3.1.1.21 Telecommunications/data design	
§ 3.1.1.22 Security evaluation and planning	
§ 3.1.1.23 Commissioning	
§ 3.1.1.24 Sustainable Project Services pursuant to Section 3.1.3	
§ 3.1.1.25 Fast-track design services	
§ 3.1.1.26 Multiple bid packages	
§ 3.1.1.27 Historic preservation	
§ 3.1.1.28 Furniture, furnishings, and equipment design	

§ 3.1.1.29 Other services provided by specialty Consultants	
§ 3.1.1.30 Other Supplemental Services	

~~§ 3.1.2 Description of Supplemental Services~~

~~§ 3.1.2.1~~ A description of each Supplemental Service identified in Section 3.1.1 as the Architect's responsibility is provided below:

~~(Describe in detail the Architect's Supplemental Services identified in Section 3.1.1 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.)~~

~~§ 3.1.2.2~~ A description of each Supplemental Service identified in Section 3.1.1 as the Owner's responsibility is provided below:

~~(Describe in detail the Owner's Supplemental Services identified in Section 3.1.1 or, if set forth in an exhibit, identify the exhibit.)~~

~~§ 3.1.3~~ If the Owner identified a Sustainable Objective in Article 1, the Architect shall provide, as a Supplemental Service, the Sustainability Services required in AIA Document E204™ 2017, Sustainable Projects Exhibit, attached to the Agreement. The Owner shall compensate the Architect as provided in Section 6.2.

~~§ 3.2 ARCHITECT'S ADDITIONAL SERVICES~~

~~The Architect may provide Additional Services after execution of the 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 3.2 shall entitle the Architect to compensation pursuant to Section 6.3 and an appropriate adjustment in the Architect's schedule.~~

~~§ 3.2.1~~ 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 change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- ~~.2~~ Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;
- ~~.3~~ Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b) contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;
- ~~.4~~ Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- ~~.5~~ Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner-authorized recipients;
- ~~.6~~ Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;
- ~~.7~~ Preparation for, and attendance at, a public presentation, meeting or hearing;
- ~~.8~~ Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- ~~.9~~ Evaluation of the qualifications of entities providing bids or proposals;
- ~~.10~~ Consultation concerning replacement of Work resulting from fire or other cause during construction; or
- ~~.11~~ Assistance to the Initial Decision Maker, if other than the Architect.

~~§ 3.2.2~~ To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon

receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Architect of the Owner's determination. The Owner shall compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice.

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

§ 3.2.3 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 — () reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
- .2 — () visits to the site by the Architect during construction
- .3 — () 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 — () inspections for any portion of the Work to determine final completion

§ 3.2.4 Except for services required under Section 2.6.6.5 and those services that do not exceed the limits set forth in Section 3.2.3, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and Contractor, whichever is earlier, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

§ 3.2.5 If the services covered by the Agreement have not been completed within () months of the date of the Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

§ 4.1 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 5.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 4.2 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.

§ 4.3 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.

§ 4.4 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.

~~§ 4.5 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.~~

~~§ 4.6 The Owner shall provide the Supplemental Services designated as the Owner's responsibility in Section 3.1.1.~~

~~§ 4.7 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E204™-2017, Sustainable Projects Exhibit, attached to the Agreement.~~

~~§ 4.8 The Owner shall include the Architect in all communications with the Contractor that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.~~

~~§ 4.9 Before executing the Contract for Construction, the Owner shall coordinate the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in the Agreement. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.~~

~~§ 4.10 The Owner shall provide the Architect access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the Architect access to the Work wherever it is in preparation or progress.~~

§ 4.1 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 5.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall not significantly increase or decrease the overall budget, the portion of the budget allocated for the Cost of the Work, or contingencies included in the overall budget or a portion of the budget, without the agreement of InGensa to a corresponding change in the Project scope and quality.

§ 4.2 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 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.

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

§ 4.4 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.

§ 4.5 Except as otherwise provided in this Agreement, or when direct communications have been specially authorized, the Owner shall endeavor to communicate with the Contractor and InGensa's Subconsultants through InGensa about matters arising out of or relating to the Contract Documents. The Owner shall promptly notify InGensa of any direct communications that may affect InGensa's services.

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

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

§ 4.8 The Parties understand and agree InGensa is not required to make an exhaustive site inspection prior to commencing its services and InGensa is not required to verify concealed conditions on the site.

§ 4.9 InGensa agrees to prepare the Health & Safety Report as required by the Owner or otherwise and negotiate, or assist the Owner in negotiating, the Health & Safety Report with the appropriate governing board or agency.

§ 4.10 InGensa shall undertake and produce detailed financial models which will illustrate estimated costs and savings to be gained through the Work. This financial modeling shall be solely for the Owner's information. InGensa does not guarantee or warrant that costs and savings outlined in such financial modeling will be realized and shall not be liable to the Owner in the event that actual costs and savings identified in the financial modeling are less than estimated.

§ 4.11 InGensa shall present, or assist the Owner in presenting, a detailed plan together with financial models to the appropriate governing board or agency for final review and approval.

§ 4.12 InGensa shall complete and process all available utility rebate requests on behalf of the Owner, who shall be the beneficiary of such rebates.

~~§ 5.1 For purposes of the Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; 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.~~

~~§ 5.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and shall be adjusted throughout the Project as required under Sections 4.1, 5.4 and 5.5. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work, prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials, or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market, or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Architect.~~

~~§ 5.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. The Architect's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the Architect shall provide such an estimate, if identified as the Architect's responsibility in Section 3.1.1, as a Supplemental Service.~~

~~§ 5.4 If, through no fault of the Architect, the Procurement Phase has not commenced within 90 days after the Architect submits the Construction Documents to the Owner, the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.~~

~~§ 5.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality, or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.~~

~~§ 5.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall~~

- ~~.1 — give written approval of an increase in the budget for the Cost of the Work;~~
- ~~.2 — authorize rebidding or renegotiating of the Project within a reasonable time;~~
- ~~.3 — terminate in accordance with Section 5.5 of AIA Document B102™ 2017;~~
- ~~.4 — in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or,~~

.5—implement any other mutually acceptable alternative.

§ 5.7 If the Owner chooses to proceed under Section 5.6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 5.6.1. If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 6.3; otherwise the Architect's services for modifying the Construction Documents shall be without additional compensation. In any event, the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 5.

§ 5.1 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 InGensa and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work does not include the compensation of InGensa, the costs of the land, rights-of-way, financing, contingencies for changes in the Work or other costs that are the responsibility of the Owner.

§ 5.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and may be adjusted throughout the Project as required under Sections 4.1, 5.4 and 5.5. Evaluations of the Owner's budget for the Cost of the Work, the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work prepared by InGensa, represent InGensa's judgment as a design professional. It is recognized, however, that neither InGensa nor the Owner has control over the cost of labor, materials or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market or negotiating conditions. Accordingly, InGensa cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work or from any estimate of the Cost of the Work or evaluation prepared or agreed to by InGensa.

§ 5.3 In preparing estimates of the Cost of Work, InGensa shall be permitted to include contingencies for, bidding and price escalation; to determine what materials, equipment, component systems and types of construction are to be included in the Contract Documents; to make reasonable adjustments in the program and scope of the Project; and to include in the Contract Documents alternate bids as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget for the Cost of the Work. InGensa's estimate of the Cost of the Work shall be based on current area, volume or similar conceptual estimating techniques. If the Owner requests detailed cost estimating services, InGensa shall provide such services as an Additional Service under Article 3.

§ 5.4 If the Bidding or Negotiation Phase has not commenced within ninety (90) days after InGensa submits the Construction Documents to the Owner, through no fault of InGensa, the Owner's budget for the Cost of the Work shall be adjusted to reflect changes in the general level of prices in the applicable construction market.

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

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

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 5.5 of AIA Document B102–2007;
- .4 in consultation with InGensa, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
- .5 implement any other mutually acceptable alternative.

§ 5.7 If the Owner chooses to proceed under Section 5.6.4, InGensa, without additional compensation, shall modify the Construction Documents for which InGensa is responsible under this Agreement as necessary to comply with the Owner's budget for the Cost of the Work. InGensa's modification of the Construction Documents shall be the limit of InGensa's responsibility under this Article 5.

§ 5.8 InGensa shall be entitled to compensation in accordance with this Agreement for all services performed whether or not construction is commenced.

§ 6.1 InGensa’s Basic Services described under Article 2 above are included in the compensation set forth in Section 6.1 of AIA Document B102-2007 executed by the Parties dated November TBD, 2022.

§ 6.2 For Additional Services designated in Section 3.1, the Owner shall compensate InGensa on a time and material basis at hourly rates set forth in Exhibit B unless agreed to otherwise by Owner and InGensa.

§ 6.3 For Additional Services that may arise during the course of the Project, including those under Section 3.3, during the course of the Project, the Owner shall compensate InGensa on a time and material basis at hourly rates set forth on AIA Document B201 Article 6.7, Hourly Fee Breakdown unless agreed to otherwise by Owner and InGensa.

§ 6.4 Compensation for Additional Services of InGensa’s Subconsultants when not included in Section 6.2 or 6.3, shall be the amount invoiced to InGensa plus a fee of one percent (1%), or as otherwise stated below:

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

<u>Schematic Design Phase</u>	<u>Fifteen</u>	<u>percent (</u>	<u>15</u>	<u>%)</u>
<u>Design Development Phase</u>	<u>Twenty</u>	<u>percent (</u>	<u>20</u>	<u>%)</u>
<u>Construction Documents Phase</u>	<u>Forty</u>	<u>percent (</u>	<u>40</u>	<u>%)</u>
<u>Bidding or Negotiation Phase</u>	<u>Five</u>	<u>percent (</u>	<u>5</u>	<u>%)</u>
<u>Construction Phase</u>	<u>Twenty</u>	<u>percent (</u>	<u>20</u>	<u>%)</u>
<u>Total Basic Compensation</u>	<u>One Hundred</u>	<u>percent (</u>	<u>100</u>	<u>%)</u>

§ 6.6 When compensation is based on a percentage of the Cost of the Work and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions, in accordance with the schedule set forth in Section 6.5 based on (1) the lowest bona fide bid or negotiated proposal, or (2) if no such bid or proposal is received, the most recent estimate of the Cost of the Work for such portions of the Project. InGensa shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 6.7 The hourly billing rates for services of InGensa and InGensa’s Subconsultants, if any, are set forth below. The rates shall be adjusted in accordance with InGensa’s and InGensa’s Subconsultants’ normal review practices. (If applicable, attach an exhibit of hourly billing rates or insert them below.)

See Exhibit B for hourly rates.

<u>Employee or Category</u>	<u>Rate</u>
-----------------------------	-------------

§ 6.4 If not otherwise specifically addressed in the Agreement, the Owner shall compensate the Architect for the Architect’s Basic Services as follows:

.1 — Stipulated Sum
(Insert amount)

.2 — Percentage Basis
(Insert percentage value)

— () % of the Owner’s budget for the Cost of the Work, as calculated in accordance with Section 6.6.

.3 — Other

(Describe the method of compensation)

~~§ 6.2~~ For the Architect's Supplemental Services designated in Section 3.1.1 and for any Sustainability Services required pursuant to Section 3.1.3, 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.)*~~

~~§ 6.3~~ For Additional Services that may arise during the course of the Project, including those under Section 3.2, the Owner shall compensate the Architect as follows:

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

~~§ 6.4~~ Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 6.2 or 6.3, shall be the amount invoiced to the Architect plus _____ percent (____%), or as follows:

~~*(Insert amount of, or basis for computing, Architect's consultants' compensation for Supplemental or Additional Services.)*~~

~~§ 6.5~~ 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	percent (_____)	(_____)
Design Development Phase	percent (_____)	(_____)
Construction Documents Phase	percent (_____)	(_____)
Procurement Phase	percent (_____)	(_____)
Construction Phase	percent (_____)	(_____)
Total Basic Compensation	one hundred percent (100)	(100)

~~§ 6.6~~ When compensation identified in Section 6.1 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.

~~§ 6.6.1~~ 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 the Agreement for all services performed whether or not the Construction Phase is commenced.

~~§ 6.7~~ 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.)*~~

Employee or Category

Rate (\$0.00)

~~§ 6.8 INITIAL PAYMENT TO THE ARCHITECT FOR SUSTAINABILITY CERTIFICATION~~

~~If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of (\$____) shall be made upon execution of the Agreement for registration fees and other fees payable to the Certifying Authority and~~

necessary to achieve the Sustainability Certification. The Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.

PAGE 12

(List other documents, if any, including any exhibits relied on in Section 3.1.)

B201 Exhibit A – Scope of Work

B201 Exhibit B – Hourly Rates

OWNER

INGENSA, INC.

(Signature)

(Signature)

Adrian Norman, Superintendent

Jacqueline Coleman, CEO & President

(Printed name and title)

(Printed name and title)

OWNER

(Signature)

Robert Rahja, Board Chairperson

(Printed name and title)

77620545v3

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, _____, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 13:56:51 CT on 11/28/2022 under Order No. 3104237535 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B201™ – 2017, Standard Form of Architect's Services: Design and Construction Contract Administration, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)

AIA[®] Document B144/ARCH-CM[™] – 1993

Standard Form of Amendment for the Agreement Between Owner and Architect where the Architect Provides CONSTRUCTION MANAGEMENT Services as an Adviser to the Owner

This **AMENDMENT** made as of the 28th day of November in the year 2022
(Paragraph deleted)
is made to the **AGREEMENT** made as of the 28th day of November in the year 2022

BETWEEN the Owner:
Chisholm Public Schools ISD #695
301 4th St SW
Chisholm, MN 55719

and

InGensa, Inc. ("**InGensa**"):
InGensa, Inc.
18215 45th Ave. N, Suite C
Plymouth, MN 55446

for the following Project:
(Paragraph deleted)
November 8, 2022 proposed referendum project: close both Chisholm Elementary and Vaughan-Steffensrud Elementary Schools and construct a new addition to the district's existing High School to house PreK-6 grade levels.

The Scope of Work is defined in Exhibit A to AIA Document B102-2007.

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.

ARTICLE 1 CONSTRUCTION MANAGEMENT RESPONSIBILITIES

(Paragraphs deleted)

§ 1.1 The construction management services to be provided by InGensa are as enumerated in Articles 2 and 3 of this Amendment. InGensa shall be entitled to use subconsultants to perform or assist in performing any of InGensa's services as Construction Manager under this Amendment ("**InGensa Subconsultants**"). It is understood by the parties that contracts for such professional services are not subject to competitive bidding requirements. All professionals providing such services whether directly by InGensa or professionals under contract with InGensa shall be qualified, and where required, properly licensed and or certified to perform these services and InGensa is responsible to assure such license and certification. InGensa shall be responsible for the negligent acts or omissions of InGensa's Subconsultants, subject to the limitation of liability in Section 4.1.3.1 of A102-2017.

§ 1.2 InGensa shall provide sufficient organization, personnel and management to carry out the requirements of this Amendment at all Project locations in an expeditious and economical manner consistent with the interests of the Owner.

§ 1.3 The services covered by this Amendment are subject to the time limitations contained in the Agreement.

ARTICLE 2 SCOPE OF SERVICES DURING PRECONSTRUCTION PHASES

(Paragraphs deleted)

§ 2.1 InGensa, as a part of InGensa's review of the program furnished by the Owner, shall provide a preliminary evaluation of the feasibility of the Owner's program, schedule and construction budget requirements, each in terms of the other.

§ 2.2 InGensa shall prepare, in addition to preliminary estimates of Construction Cost for program requirements based on early schematic designs and other design criteria, comparative estimates for the cost evaluations of alternative materials and systems.

(Paragraph deleted)

§ 2.3 As the preparation of the Schematic Design, Design Development and Construction Documents progresses, InGensa shall prepare and update preliminary Construction Cost estimates with increasing detail and refinement. Such estimates shall be provided for the Owner's review and approval prior to the commencement of performance by InGensa of services for each succeeding Pre-construction Phase. If separate contracts are to be awarded, the estimated cost of the scope of Work for each contract shall be indicated with supporting detail. InGensa shall advise the Owner if it appears that a preliminary Construction Cost estimate may exceed the latest approved Project budget and make recommendations for corrective action.

§ 2.4 Following the Owner's approval of the Construction Documents, InGensa shall update and submit the latest estimate of Construction Cost for the Owner's approval in accordance with the Agreement.

(Paragraph deleted)

§ 2.5 InGensa shall submit recommendations on relative feasibility of construction methods, methods of Project delivery, availability of materials and labor, time requirements for procurement, installation and construction, and appropriate utilization of the site for mobilization of construction forces and materials and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets and possible economies. InGensa shall consult with the Owner regarding the Construction Documents and make recommendations whenever design details adversely affect contractibility, cost or schedules. InGensa shall identify bid categories as necessary and describe the scopes of Work to cover all necessary Work.

(Paragraph deleted)

§ 2.6 InGensa shall prepare and update a Project schedule to show the timing of anticipated services and construction Work for the Owner's review and approval prior to commencement of InGensa's services for each succeeding Pre-construction Phase.

(Paragraph deleted)

§ 2.7 In developing the Project schedule, InGensa shall identify critical and long-lead-time items for the coordination and integration of InGensa's services with the Owner's responsibilities, including the services of the Owner's other consultants and contractors.

(Paragraph deleted)

§ 2.8 InGensa shall assist the Owner in selecting, retaining and coordinating the professional services of surveyors, special consultants and testing laboratories required for the Project.

(Paragraphs deleted)

§ 2.9 InGensa shall submit a list of prospective bidders and a bidding schedule for the Owner's review and approval.

(Paragraph deleted)

§ 2.10 InGensa shall solicit bidders' interest in the Project. InGensa shall prepare the appropriate bidding documents and assist the Owner in issuing bidding documents to bidders and conduct pre-bid conferences with prospective bidders. InGensa shall assist the Owner with the receipt of questions from bidders and the issuance of addenda.

(Paragraph deleted)

§ 2.11 InGensa shall receive bids, prepare bid analyses and make recommendations to the Owner for the Owner's award of Contracts.

§ 2.12 InGensa shall conduct pre-award conferences with successful bidders. InGensa shall advise the Owner of any reasonable objections to the proposed list of Subcontractors and material suppliers.

§ 2.13 InGensa shall make recommendations to the Owner regarding the assignment of responsibilities for providing temporary Project facilities and services for common use of the Contractors. InGensa shall verify that the requirements and assignment of responsibilities are included in the proposed Contract Documents.

§ 2.14 InGensa shall divide the Project into separate contracts or various categories for work including the method to be used for selecting Contractors and awarding contracts. If multiple Contracts are to be awarded, InGensa shall review the Construction Documents and provide that (1) the Work of the Contractors is coordinated, (2) all requirements for the Project have been assigned to the appropriate Contract, (3) the likelihood of jurisdictional disputes has been minimized, and (4) proper coordination has been provided for phased construction.

§ 2.15 InGensa shall make recommendations to the Owner regarding the allocation of responsibilities for Project conditions among the Contractors.

§ 2.16 InGensa shall assist the Owner regarding the allocation of responsibilities for Project conditions among the Contractors. InGensa shall provide recommendations and information to the Owner regarding the allocation of responsibilities for safety programs among the Contractors. InGensa shall be responsible for ensuring that the Safety programs on the site run by the Contractor are coordinated and compliant with applicable laws.

ARTICLE 3 SCOPE OF SERVICES DURING THE CONSTRUCTION PHASE

§ 3.0 InGensa shall prepare a Project construction schedule providing for each scope of Work, including phasing of construction, times for commencement and completion required of each separate Contractor, ordering and delivery of materials requiring long-lead time and the occupancy requirements of the Owner.

§ 3.1 InGensa shall provide the Project construction schedule for each set of Contract Documents.

§ 3.2 InGensa shall provide administrative, management and related services to endeavor to coordinate the activities of the Contractors with each other and with those of the Owner and InGensa to complete the Project in accordance with the latest approved estimate of Construction Cost, the Project construction schedule and the Contract Documents.

§ 3.3 InGensa shall schedule and conduct pre-construction, construction and progress meetings with the Owner and the Contractors to discuss such matters as procedures, progress and scheduling. InGensa shall prepare and promptly distribute minutes to the Owner and Contractors.

Init.

§ 3.4 Utilizing the Construction Schedules provided by the Contractors, InGensa shall update the Project construction schedule incorporating the activities of the Contractors on the Project, including activity sequences and durations, allocation of labor and materials, processing of Shop Drawings, Product Data and Samples, and delivery of products requiring long-lead time and procurement. The Project construction schedule shall include the Owner's occupancy requirements showing portions of the Project having occupancy priority. InGensa shall update and reissue the Project construction schedule as required to show current conditions. If an update indicates the previously approved Project construction schedule may not be met, InGensa shall recommend corrective action to the Owner.

§ 3.5 Consistent with the Bidding Documents, and utilizing information from the Contractors, InGensa shall coordinate the sequence of construction and assignment of space in areas where multiple Contractors are performing Work.

§ 3.6 InGensa shall monitor the approved estimate of Construction Cost. InGensa shall show actual costs for activities in progress and estimates for uncompleted tasks.

§ 3.7 InGensa shall develop cash flow reports and forecasts for the Project and advise the Owner as to variances between actual and budgeted or estimated costs.

§ 3.8 InGensa shall maintain cost accounting records on authorized Work performed under unit costs, additional Work performed on the basis of actual costs of labor and materials, or other Work requiring accounting records.

§ 3.9 InGensa shall record the progress of the Project with written progress reports to the Owner including information on each Contractor's Work, as well as the entire Project, showing percentages of completion.

§ 3.10 InGensa shall keep a daily log containing a record of weather, Contractor's Work on the site, number of workers, identification of equipment, Work accomplished, problems encountered, and other similar relevant data as the Owner may require.

§ 3.11 InGensa shall maintain at the Project site, on a current basis: one (1) record copy of all Contracts, Drawings, Specifications, addenda, Change Orders and other Modifications, in good order and marked to record all changes made during construction; Shop Drawings; Product Data; Samples; submittals; purchases; other related documents and revisions that arise out of the Contracts or Work, including as-constructed record drawings provided by the Contractor. InGensa shall maintain records, in duplicate, of principal building layout lines, elevations of the bottom of footings, floor levels and key site elevations certified by a qualified surveyor or professional engineer. InGensa shall make all such records available to the Owner and, upon completion of the Project, shall deliver them to the Owner.

ARTICLE 4 ADDITIONAL SERVICES

§ 4.1 InGensa's Basic CM Services described in Articles 1, 2 and 3 above are included in the compensation set forth in Section 6.1 of AIA Document B102-2007 executed by the Parties dated October 21, 2020. For all services that constitute a Change in Services, InGensa shall be compensated as an Additional Service as set forth in Section 6.2 of the AIA Document B201-2007, as modified by the Parties.

(Paragraphs deleted)

§ 4.2 The following services shall constitute a Change in Services:

- .1 Providing services made necessary by the termination or default of the Contractor, by major defects or deficiencies in the work of a contractor, or by failure of performance of either the Owner or a Contractor under a contract for construction.
- .2 Providing services in connection with a public hearing, arbitration proceeding or legal proceeding except where InGensa is a party thereto.
- .3 Providing services relative to future facilities, systems and equipment.
- .4 Providing services to verify the accuracy of drawings or other information furnished by the Owner.
- .5 Providing coordination of construction performed by the Owner's own forces and coordination of services required in connection with construction performed and equipment supplied by the Owner.
- .6 Providing services in connection with the work of separate consultants retained by the Owner.
- .7 **INTENTIONALLY OMITTED**

- .8 Providing any other services not otherwise included in this Agreement after notice to Owner and approval prior to providing such services.
- .9 Changes not due to mistake or ambiguity in the plans or specifications arising from Owner-requested changes following the Owner's acceptance of the designs and plans for the Project at each phase of the development process (schematic design, design development and construction documents);
- .10 Provided services that become necessary due to conditions that are encountered at the Site which are (1) subsurface or otherwise concealed physical conditions which differ materially from those indicated in the Contract Documents or Record Drawings provided by the Owner which form a basis on which InGensa relied for its design of (2) unknown physical conditions of an unusual nature, which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents;
- .11 Providing any other services not otherwise included in Exhibit A.

ARTICLE 5 THE OWNER'S RESPONSIBILITIES

§ 5.1 The Owner reserves the right to perform Work related to the Project with the Owner's own forces, and to award contracts in connection with the Project that are not part of InGensa's responsibilities under this Amendment. InGensa shall notify the Owner if any such independent action will in any way interfere with InGensa's ability to perform under this Amendment.

§ 5.2 The Owner shall furnish the required information and services and shall render approvals and decisions expeditiously for the orderly progress of InGensa's services.

ARTICLE 6 BASIS OF COMPENSATION

§ 6.1 The Owner shall compensate InGensa for Construction Management Services (as described in Articles 1, 2 and 3 above) as set forth in Section 6.1 of AIA Document B102-2007, as modified by the parties.

ARTICLE 7 OTHER CONDITIONS OR SERVICES

§ 7.1 The following Reimbursable Expenses are in addition to those listed in the Agreement modified by this Amendment:

(List Reimbursable Expenses not already listed in the Agreement between Owner and InGensa referenced above.)

None.

§ 7.2 This Amendment shall further modify the Agreement as follows:

(Insert descriptions of other services, identify Additional Services included within Basic Compensation and modifications to the payment and compensation terms included in this Amendment.)

N/A

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

OWNER

INGENSA, INC.

(Signature)

(Signature)

Adrian Norman, Superintendent

Jacqueline Coleman, CEO & President

(Printed name and title)

(Printed name and title)

OWNER

(Signature)

Robert Rahja, Board Chairperson

(Printed name and title)

77620556v2

(Paragraphs deleted)

(Paragraphs deleted)

(Table deleted)

Additions and Deletions Report for AIA® Document B144/ARCH-CM™ – 1993

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

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 13:56:35 CT on 11/28/2022.

PAGE 1

This ~~AMENDMENT~~ dated: ~~—made as of the 28th day of November in the year 2022~~
(~~Insert this Amendment's effective date~~)

is made to the ~~AGREEMENT~~ dated
(~~Insert the date of the Agreement between the Owner and the Architect~~)~~made as of the 28th day of November in the year 2022~~

...

(~~Name, Legal Status and Address~~)Chisholm Public Schools ISD #695
301 4th St SW
Chisholm, MN 55719

and

and the Architect:InGensa, Inc. ("InGensa"):
(~~Name, Legal Status and Address~~)InGensa, Inc.
18215 45th Ave. N, Suite C
Plymouth, MN 55446

...

(~~Include detailed description of Project, location, address and scope.~~)

November 8, 2022 proposed referendum project: close both Chisholm Elementary and Vaughan-Steffensrud Elementary Schools and construct a new addition to the district's existing High School to house PreK-6 grade levels.

~~The Owner and the Architect agree that the terms and conditions governing the Architect's services and responsibilities under the Agreement referred to above shall be amended to include the construction management services specified in this Amendment as an addition to the Architect's Basic Services under that Agreement. The Scope of Work is defined in Exhibit A to AIA Document B102-2007.~~

PAGE 2

~~§ 1.1 The construction management services to be provided by the Architect are as enumerated in Articles 2 and 3 of this Amendment and any other services included in Article 6.~~

~~§ 1.2 The Architect shall provide organization, personnel and management to carry out the requirements of this Amendment in an expeditious and economical manner consistent with the interests of the Owner.~~

~~§ 1.3 The services covered by this Amendment are subject to the time limitations contained in the Agreement between Owner and Architect referenced above.~~

§ 1.1 The construction management services to be provided by InGensa are as enumerated in Articles 2 and 3 of this Amendment. InGensa shall be entitled to use subconsultants to perform or assist in performing any of InGensa's services as Construction Manager under this Amendment ("InGensa Subconsultants"). It is understood by the parties that contracts for such professional services are not subject to competitive bidding requirements. All professionals providing such services whether directly by InGensa or professionals under contract with InGensa shall be qualified, and where required, properly licensed and or certified to perform these services and InGensa is responsible to assure such license and certification. InGensa shall be responsible for the negligent acts or omissions of InGensa's Subconsultants, subject to the limitation of liability in Section 4.1.3.1 of A102-2017.

§ 1.2 InGensa shall provide sufficient organization, personnel and management to carry out the requirements of this Amendment at all Project locations in an expeditious and economical manner consistent with the interests of the Owner.

§ 1.3 The services covered by this Amendment are subject to the time limitations contained in the Agreement.

~~§ 2.1 The Architect, as a part of the Architect's review of the program furnished by the Owner, shall provide a preliminary evaluation of the feasibility of the Owner's program, schedule and construction budget requirements, each in terms of the other.~~

~~§ 2.2 The Architect shall prepare, in addition to preliminary estimates of Construction Cost for program requirements based on early schematic designs and other design criteria, comparative estimates for the cost evaluations of alternative materials and systems.~~

~~§ 2.3 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Architect shall prepare and update preliminary Construction Cost estimates with increasing detail and refinement. Such estimates shall be provided for the Owner's review and approval prior to the commencement of performance by the Architect of services for each succeeding Preconstruction Phase. If separate contracts are to be awarded, the estimated cost of the scope of Work for each contract shall be indicated with supporting detail. The Architect shall advise the Owner if it appears that a preliminary Construction Cost estimate may exceed the latest approved Project budget and make recommendations for corrective action.~~

~~§ 2.4 Following the Owner's approval of the Construction Documents, the Architect shall update and submit the latest estimate of Construction Cost for the Owner's approval in accordance with the Agreement.~~

~~§ 2.5 The Architect shall submit recommendations on relative feasibility of construction methods, methods of Project delivery, availability of materials and labor, time requirements for procurement, installation and construction, and appropriate utilization of the site for mobilization of construction forces and materials.~~

~~§ 2.6 The Architect shall prepare and update a Project schedule to show the timing of anticipated services and construction Work for the Owner's review and approval prior to commencement of the Architect's services for each succeeding Preconstruction Phase.~~

§ 2.1 InGensa, as a part of InGensa's review of the program furnished by the Owner, shall provide a preliminary evaluation of the feasibility of the Owner's program, schedule and construction budget requirements, each in terms of the other.

§ 2.2 InGensa shall prepare, in addition to preliminary estimates of Construction Cost for program requirements based on early schematic designs and other design criteria, comparative estimates for the cost evaluations of alternative materials and systems.

§ 2.7 In developing the Project schedule, the Architect shall identify critical and long-lead-time items for the coordination and integration of the Architect's services with the Owner's responsibilities, including the services of the Owner's other consultants and contractors.

§ 2.3 As the preparation of the Schematic Design, Design Development and Construction Documents progresses, InGensa shall prepare and update preliminary Construction Cost estimates with increasing detail and refinement. Such

estimates shall be provided for the Owner's review and approval prior to the commencement of performance by InGensa of services for each succeeding Pre-construction Phase. If separate contracts are to be awarded, the estimated cost of the scope of Work for each contract shall be indicated with supporting detail. InGensa shall advise the Owner if it appears that a preliminary Construction Cost estimate may exceed the latest approved Project budget and make recommendations for corrective action.

§ 2.4 Following the Owner's approval of the Construction Documents, InGensa shall update and submit the latest estimate of Construction Cost for the Owner's approval in accordance with the Agreement.

~~§ 2.8 The Architect shall assist the Owner in selecting, retaining and coordinating the professional services of surveyors, special consultants and testing laboratories required for the Project.~~

§ 2.5 InGensa shall submit recommendations on relative feasibility of construction methods, methods of Project delivery, availability of materials and labor, time requirements for procurement, installation and construction, and appropriate utilization of the site for mobilization of construction forces and materials and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets and possible economies. InGensa shall consult with the Owner regarding the Construction Documents and make recommendations whenever design details adversely affect contractibility, cost or schedules. InGensa shall identify bid categories as necessary and describe the scopes of Work to cover all necessary Work.

~~§ 2.9 The Architect shall submit a list of prospective bidders and a bidding schedule for the Owner's review and approval.~~

§ 2.6 InGensa shall prepare and update a Project schedule to show the timing of anticipated services and construction Work for the Owner's review and approval prior to commencement of InGensa's services for each succeeding Pre-construction Phase.

~~§ 2.10 The Architect shall solicit bidders' interest in the Project. The Architect shall assist the Owner in issuing bidding documents to bidders and conduct pre-bid conferences with prospective bidders. The Architect shall assist the Owner with the receipt of questions from bidders and the issuance of addenda.~~

§ 2.7 In developing the Project schedule, InGensa shall identify critical and long-lead-time items for the coordination and integration of InGensa's services with the Owner's responsibilities, including the services of the Owner's other consultants and contractors.

~~§ 2.11 The Architect shall receive bids, prepare bid analyses and make recommendations to the Owner for the Owner's award of Contracts.~~

§ 2.8 InGensa shall assist the Owner in selecting, retaining and coordinating the professional services of surveyors, special consultants and testing laboratories required for the Project.

~~§ 2.12 The Architect shall conduct pre-award conferences with successful bidders. The Architect shall advise the Owner of any reasonable objections to the proposed list of Subcontractors and material suppliers.~~

~~§ 2.13 The Architect shall make recommendations to the Owner regarding the assignment of responsibilities for providing temporary Project facilities and services for common use of the Contractors. The Architect shall verify that the requirements and assignment of responsibilities are included in the proposed Contract Documents.~~

~~§ 2.14 The Architect shall advise the Owner on the division of the Project into separate contracts or various categories for work including method be used for selecting Contractors and awarding contracts.~~

§ 2.9 InGensa shall submit a list of prospective bidders and a bidding schedule for the Owner's review and approval.

~~§ 2.15 The Architect shall make recommendations to the Owner regarding the allocation of responsibilities for Project conditions among the Contractors.~~

§ 2.10 InGensa shall solicit bidders' interest in the Project. InGensa shall prepare the appropriate bidding documents and assist the Owner in issuing bidding documents to bidders and conduct pre-bid conferences with prospective bidders. InGensa shall assist the Owner with the receipt of questions from bidders and the issuance of addenda.

§ 2.16 The Architect shall assist the Owner in obtaining applicable building permits and special permits for permanent improvements, excluding permits required to be obtained directly by the various Contractors.

§ 2.11 InGensa shall receive bids, prepare bid analyses and make recommendations to the Owner for the Owner's award of Contracts.

§ 2.12 InGensa shall conduct pre-award conferences with successful bidders. InGensa shall advise the Owner of any reasonable objections to the proposed list of Subcontractors and material suppliers.

§ 2.13 InGensa shall make recommendations to the Owner regarding the assignment of responsibilities for providing temporary Project facilities and services for common use of the Contractors. InGensa shall verify that the requirements and assignment of responsibilities are included in the proposed Contract Documents.

§ 2.14 InGensa shall divide the Project into separate contracts or various categories for work including the method to be used for selecting Contractors and awarding contracts. If multiple Contracts are to be awarded, InGensa shall review the Construction Documents and provide that (1) the Work of the Contractors is coordinated, (2) all requirements for the Project have been assigned to the appropriate Contract, (3) the likelihood of jurisdictional disputes has been minimized, and (4) proper coordination has been provided for phased construction.

§ 2.15 InGensa shall make recommendations to the Owner regarding the allocation of responsibilities for Project conditions among the Contractors.

§ 2.16 InGensa shall assist the Owner regarding the allocation of responsibilities for Project conditions among the Contractors. InGensa shall provide recommendations and information to the Owner regarding the allocation of responsibilities for safety programs among the Contractors. InGensa shall be responsible for ensuring that the Safety programs on the site run by the Contractor are coordinated and compliant with applicable laws.

§ 3.0 InGensa shall prepare a Project construction schedule providing for each scope of Work, including phasing of construction, times for commencement and completion required of each separate Contractor, ordering and delivery of materials requiring long-lead time and the occupancy requirements of the Owner.

§ 3.1 InGensa shall provide the Project construction schedule for each set of Contract Documents.

§ 3.2 InGensa shall provide administrative, management and related services to endeavor to coordinate the activities of the Contractors with each other and with those of the Owner and InGensa to complete the Project in accordance with the latest approved estimate of Construction Cost, the Project construction schedule and the Contract Documents.

§ 3.3 InGensa shall schedule and conduct pre-construction, construction and progress meetings with the Owner and the Contractors to discuss such matters as procedures, progress and scheduling. InGensa shall prepare and promptly distribute minutes to the Owner and Contractors.

§ 3.4 Utilizing the Construction Schedules provided by the Contractors, InGensa shall update the Project construction schedule incorporating the activities of the Contractors on the Project, including activity sequences and durations, allocation of labor and materials, processing of Shop Drawings, Product Data and Samples, and delivery of products requiring long-lead time and procurement. The Project construction schedule shall include the Owner's occupancy requirements showing portions of the Project having occupancy priority. InGensa shall update and reissue the Project construction schedule as required to show current conditions. If an update indicates the previously approved Project construction schedule may not be met, InGensa shall recommend corrective action to the Owner.

§ 3.5 Consistent with the Bidding Documents, and utilizing information from the Contractors, InGensa shall coordinate the sequence of construction and assignment of space in areas where multiple Contractors are performing Work.

§ 3.6 InGensa shall monitor the approved estimate of Construction Cost. InGensa shall show actual costs for activities in progress and estimates for uncompleted tasks.

§ 3.7 InGensa shall develop cash flow reports and forecasts for the Project and advise the Owner as to variances between actual and budgeted or estimated costs.

§ 3.8 InGensa shall maintain cost accounting records on authorized Work performed under unit costs, additional Work performed on the basis of actual costs of labor and materials, or other Work requiring accounting records.

§ 3.9 InGensa shall record the progress of the Project with written progress reports to the Owner including information on each Contractor's Work, as well as the entire Project, showing percentages of completion.

§ 3.10 InGensa shall keep a daily log containing a record of weather, Contractor's Work on the site, number of workers, identification of equipment, Work accomplished, problems encountered, and other similar relevant data as the Owner may require.

§ 3.11 InGensa shall maintain at the Project site, on a current basis: one (1) record copy of all Contracts, Drawings, Specifications, addenda, Change Orders and other Modifications, in good order and marked to record all changes made during construction; Shop Drawings; Product Data; Samples; submittals; purchases; other related documents and revisions that arise out of the Contracts or Work, including as-constructed record drawings provided by the Contractor. InGensa shall maintain records, in duplicate, of principal building layout lines, elevations of the bottom of footings, floor levels and key site elevations certified by a qualified surveyor or professional engineer. InGensa shall make all such records available to the Owner and, upon completion of the Project, shall deliver them to the Owner.

ARTICLE 4 ADDITIONAL SERVICES

§ 4.1 InGensa's Basic CM Services described in Articles 1, 2 and 3 above are included in the compensation set forth in Section 6.1 of AIA Document B102-2007 executed by the Parties dated October 21, 2020. For all services that constitute a Change in Services, InGensa shall be compensated as an Additional Service as set forth in Section 6.2 of the AIA Document B201-2007, as modified by the Parties.

(Paragraphs deleted)

§ 4.2 The following services shall constitute a Change in Services:

- .1 Providing services made necessary by the termination or default of the Contractor, by major defects or deficiencies in the work of a contractor, or by failure of performance of either the Owner or a Contractor under a contract for construction.
- .2 Providing services in connection with a public hearing, arbitration proceeding or legal proceeding except where InGensa is a party thereto.
- .3 Providing services relative to future facilities, systems and equipment.
- .4 Providing services to verify the accuracy of drawings or other information furnished by the Owner.
- .5 Providing coordination of construction performed by the Owner's own forces and coordination of services required in connection with construction performed and equipment supplied by the Owner.
- .6 Providing services in connection with the work of separate consultants retained by the Owner.
- .7 INTENTIONALLY OMITTED
- .8 Providing any other services not otherwise included in this Agreement after notice to Owner and approval prior to providing such services.
- .9 Changes not due to mistake or ambiguity in the plans or specifications arising from Owner-requested changes following the Owner's acceptance of the designs and plans for the Project at each phase of the development process (schematic design, design development and construction documents);
- .10 Provided services that become necessary due to conditions that are encountered at the Site which are (1) subsurface or otherwise concealed physical conditions which differ materially from those indicated in the Contract Documents or Record Drawings provided by the Owner which form a basis on which InGensa relied for its design of (2) unknown physical conditions of an unusual nature, which differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents;
- .11 Providing any other services not otherwise included in Exhibit A.

ARTICLE 5 THE OWNER'S RESPONSIBILITIES

§ 5.1 The Owner reserves the right to perform Work related to the Project with the Owner's own forces, and to award contracts in connection with the Project that are not part of InGensa's responsibilities under this Amendment. InGensa shall notify the Owner if any such independent action will in any way interfere with InGensa's ability to perform under this Amendment.

§ 5.2 The Owner shall furnish the required information and services and shall render approvals and decisions expeditiously for the orderly progress of InGensa's services.

ARTICLE 6 BASIS OF COMPENSATION

§ 6.1 The Owner shall compensate InGensa for Construction Management Services (as described in Articles 1, 2 and 3 above) as set forth in Section 6.1 of AIA Document B102-2007, as modified by the parties.

ARTICLE 7 OTHER CONDITIONS OR SERVICES

§ 7.1 The following Reimbursable Expenses are in addition to those listed in the Agreement modified by this Amendment:

(List Reimbursable Expenses not already listed in the Agreement between Owner and InGensa referenced above.)

None.

§ 7.2 This Amendment shall further modify the Agreement as follows:

(Insert descriptions of other services, identify Additional Services included within Basic Compensation and modifications to the payment and compensation terms included in this Amendment.)

N/A

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

OWNER

INGENSA, INC.

(Signature)

(Signature)

Adrian Norman, Superintendent
(Printed name and title)

Jacqueline Coleman, CEO & President
(Printed name and title)

OWNER

(Signature)

Robert Rahja, Board Chairperson
(Printed name and title)

77620556v2 § 3.1 The Architect shall prepare a Project construction schedule providing for each scope of Work, including phasing of construction, times for commencement and completion required of each separate Contractor, ordering and delivery of materials requiring long-lead time and the occupancy requirements of the Owner.

§ 3.2 The Architect shall provide the Project construction schedule for each set of Contract Documents.

§ 3.3 The Architect shall provide administrative, management and related services to endeavor to coordinate the activities of the Contractors with each other and with those of the Owner and the Architect to complete the Project in

accordance with the latest approved estimate of Construction Cost, the Project construction schedule and the Contract Documents.

~~§ 3.4 The Architect shall schedule and conduct preconstruction, construction and progress meetings with the Owner and the Contractors to discuss such matters as procedures, progress and scheduling. The Architect shall prepare and promptly distribute minutes to the Owner and Contractors.~~

~~§ 3.5 Utilizing the Construction Schedules provided by the Contractors, the Architect shall update the Project construction schedule incorporating the activities of the Contractors on the Project, including activity sequences and durations, allocation of labor and materials, processing of Shop Drawings, Product Data and Samples, and delivery of products requiring long lead time and procurement. The Project construction schedule shall include the Owner's occupancy requirements showing portions of the Project having occupancy priority. The Architect shall update and reissue the Project construction schedule as required to show current conditions. If an update indicates the previously approved Project construction schedule may not be met, the Architect shall recommend corrective action to the Owner.~~

~~§ 3.6 Consistent with the Bidding Documents, and utilizing information from the Contractors, the Architect shall endeavor to coordinate the sequence of construction and assignment of space in areas where multiple Contractors are performing Work.~~

~~§ 3.7 The Architect shall monitor the approved estimate of Construction Cost. The Architect shall show actual costs for activities in progress and estimates for uncompleted tasks.~~

~~§ 3.8 The Architect shall develop cash flow reports and forecasts for the Project and advise the Owner as to variances between actual and budgeted or estimated costs.~~

~~§ 3.9 The Architect shall maintain cost accounting records on authorized Work performed under unit costs, additional Work performed on the basis of actual costs of labor and materials, or other Work requiring accounting records.~~

~~§ 3.10 The Architect shall record the progress of the Project with written progress reports to the Owner including information on each Contractor's Work, as well as the entire Project, showing percentages of completion.~~

~~§ 3.11 The Architect shall keep a daily log containing a record of weather, Contractor's Work on the site, number of workers, identification of equipment, Work accomplished, problems encountered, and other similar relevant data as the Owner may require.~~

~~§ 3.12 The Architect shall maintain at the Project site, on a current basis: one record copy of all Contracts, Drawings, Specifications, addenda, Change Orders and other Modifications, in good order and marked to record all changes made during construction; Shop Drawings; Product Data; Samples; submittals; purchases; other related documents and revisions that arise out of the Contracts or Work. The Architect shall maintain records, in duplicate, of principal building layout lines, elevations of the bottom of footings, floor levels and key site elevations certified by a qualified surveyor or professional engineer. The Architect shall make all such records available to the Owner and, upon completion of the Project, shall deliver them to the Owner.~~

ARTICLE 4 — THE OWNER'S RESPONSIBILITIES

~~§ 4.1 The Owner reserves the right to perform Work related to the Project with the Owner's own forces, and to award contracts in connection with the Project that are not part of the Architect's responsibilities under this Amendment. The Architect shall notify the Owner if any such independent action will in any way interfere with the Architect's ability to perform under this Amendment.~~

~~§ 4.2 The Owner shall furnish the required information and services and shall render approvals and decisions expeditiously for the orderly progress of the Architect's services.~~

ARTICLE 5 — BASIS OF COMPENSATION

~~§ 5.1 The Owner shall compensate the Architect FOR AMENDMENT SERVICES as described in Articles 2 and 3, and any other services described in Article 6 of this Amendment. Compensation shall be computed as follows:~~

ARTICLE 6 — OTHER CONDITIONS OR SERVICES

~~§ 6.1~~ The following Reimbursable Expenses are in addition to those listed in the Agreement modified by this Amendment:

(List Reimbursable Expenses not already listed in the Agreement between Owner and Architect referenced above.)

~~§ 6.2~~ This Amendment shall further modify the Agreement as follows:

(Insert descriptions of other services, identify Additional Services included within Basic Compensation and modifications to the payment and compensation terms included in this Amendment.)

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

OWNER

ARCHITECT

(Signature)

(Signature)

(Printed name and title)

(Printed name and title)

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, _____, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 13:56:35 CT on 11/28/2022 under Order No. 3104237535 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B144/ARCH-CM™ – 1993, Standard Form of Amendment for the Agreement Between Owner and Architect where the Architect Provides CONSTRUCTION MANAGEMENT Services as an Adviser to the Owner, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)

