DRAFT

AIA® Document B101™ – 2017

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the « » day of « » in the year «Two Thousand Twenty. »
(In words, indicate day, month and year.)

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

«Caledonia Community Schools »« »
«9753 Duncan Lake »
«Caledonia, Michigan 49316 »
«Telephone: (616) 891-8185 »

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

« »« »
« »
« »
« »

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

«Caledonia Community Schools, 2020 Bond Construction Project, in accordance with the relevant Application for Preliminary Qualification of Bonds, the applicable ballot language, the Owner's fixed Project budget, the approved plans and specifications, all applicable laws, and as otherwise approved by the Owner. »

The Construction Manager is:

References to the "Contractor" herein with respect to the Construction Phase or thereafter, or as pertains to actual, physical construction shall be deemed to apply to the Construction Manager, and references to the Owner/Contractor Agreement shall refer to the Owner/Construction Manager Agreement, unless context suggests otherwise.

The inclusion of any reference to or use of the term "Construction Manager" in this document shall in no way be read to limit the applicability of this document as provided in Owner-Construction Manager Agreement Section 1.3.

The Owner and Architect agree as follows.

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

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

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ARTICLE 1 INITIAL INFORMATION

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

«To be determined by the Owner after advice and recommendations from the Architect and any other consultant, individual or entity deemed appropriate by the Owner, in accordance with the relevant application for preliminary qualification of bonds. »

§ 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.)

«To be determined by the Owner after advice and recommendations from the Architect and any other consultant, individual or entity deemed appropriate by the Owner, in accordance with the relevant application for preliminary qualification of bonds. »

§ 1.1.3 The Owner's ~~budget for~~ fixed budgets for (i) the Project, and (ii) the Cost of the Work, as defined in Section ~~6.1:~~6.1.2, are both set forth below:
(Provide total and, if known, a line item breakdown.)
«The Owner's fixed budget for all aspects of the entire Project ("fixed Project budget") is $_____

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The Owner's fixed budget for the Cost of the Work, which includes hard construction costs and the Construction Manager's fees and costs only, is $ _____ . »

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

.1 Design phase milestone dates, if any:

«To be determined »

.2 Construction commencement date:

«To be determined »

.3 Substantial Completion date or dates:

«To be determined »

.4 Other milestone dates:

«To be determined »

§ 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.)

«Construction Manager-Constructor (or "at risk"), with trade contracts competitively bid in accordance with applicable laws. »

§ 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.)

«To be determined »

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

§ 1.1.7 The Owner identifies the following representative in accordance with Section 5.3:
(List name, address, and other contact information.)

« _____ »
«Caledonia Community Schools »« »
«9753 Duncan Lake »
«Caledonia, Michigan 49316 »

«Telephone: (616) 891-8185

§ 1.1.8 The persons or entities, in addition to the Owner's representative, who are required to review the Architect's submittals to the Owner are as follows:
(List name, address, and other contact information.)

«State of Michigan, any others deemed advisable by the Owner's board of education, and any others required by law. »

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§ 1.1.9 The Owner shall retain the following consultants and contractors:
(List name, legal status, address, and other contact information.)

.1 Geotechnical Engineer:

«To be determined »« »

.2 Civil Engineer:

«To be determined »« »

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

«To be determined »« »

§ 1.1.10 The Architect identifies the following representative in accordance with Section 2.3:
(List name, address, and other contact information.)
«To be determined. »« »
« »

« »

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

§ 1.1.11.1 Consultants retained under Basic Services:

.1 Structural Engineer:

«To be performed by Architect »« »

.2 Mechanical Engineer:

«To be performed by Architect »« »

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.3 Electrical Engineer:

«To be performed by Architect»« »

§ 1.1.11.2 Consultants retained under Supplemental Services:

«Not applicable. »

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

§ 1.1.12.1 The Architect shall remain primarily responsible for the services performed by any hired consultants. Any agreement between the Architect and a hired consultant shall identify the Owner as an intended third-party beneficiary.

§ 1.1.12.2 The Construction Manager's designated representative:
«To be determined. »« »
_____ »

§ 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~~ may mutually agree in writing to adjust the Architect's services, schedule for the Architect's services, and the Architect's ~~compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.~~compensation, as applicable.

§ 1.3 The parties ~~shall~~ may 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.~~

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

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

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

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

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

§ 2.4 ~~Except with the Owner's knowledge and consent, the~~ 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

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judgment with respect to this ~~Project.~~Project, except upon the Owner's written consent and the full disclosure by the Architect of all relevant facts.

§ 2.5 The Architect shall maintain ~~the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9.~~insurance until termination of this Agreement in the types and amounts set forth below, in any attached Certificate of Insurance, or as required by law, whichever is greater.

§ 2.5.1 Commercial General Liability with policy limits of not less than ~~($) for each occurrence and ($)~~ «One Million Dollars» ($ «1,000,000») for each occurrence and «Two Million Dollars» ($ «2,000,000») in the aggregate for bodily injury and property damage.

§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than ~~($)~~ «One Million Dollars» ($ «1,000,000») per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

§ 2.5.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.5.1 and 2.5.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers. The Architect shall provide umbrella liability insurance with policy limits not less than Four Million Dollars ($4,000,000) each occurrence.

§ 2.5.4 Workers' Compensation at statutory limits.

§ 2.5.5 Employers' Liability with policy limits not less than ~~($) each accident, ($) each employee, and ($)~~ «One Million Dollars» ($ «1,000,000») each accident, «One Million Dollars» ($ «1,000,000») each employee, and «Two Million Dollars» ($ «2,000,000») policy limit.

§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than ~~($)~~ «Two Million Dollars» ($ «2,000,000») per claim and ~~($)~~ in the aggregate.

§ 2.5.7 Additional Insured Obligations. To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella polices 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.

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

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services ~~consist of~~ include those described in this ~~Article 3~~ Agreement and include usual and customary structural, mechanical, ~~and electrical engineering services. Services not set forth in this Article 3 are~~ plumbing, civil, electrical, interior design, and other necessary architectural and engineering services. The Architect shall provide the services of professional structural, mechanical, civil, electrical, and other necessary engineers qualified by training and experience in their respective fields, as needed, to address the requirements of the Project. Services identified or referenced in this Agreement shall be Basic Services unless expressly identified herein as Supplemental or Additional Services.

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

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§ 3.1.2 The Architect shall coordinate its services and those of its consultants 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.~~ consultants, subject to the Architect's professional judgment, experience, and expertise. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's review and for the Owner's and Construction Manager's approval a written 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,~~ review and provision of information, 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,~~ cause and with the parties' mutual written agreement, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.4 The Architect shall 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.~~consent.

§ 3.1.5 The Architect shall advise the Owner as to all building and special permits required for the Project and shall assist the Owner in obtaining building permits and special permits for permanent improvements, except for permits required to be obtained directly by the various Multiple Prime Contractors. The Architect shall verify that the Owner has paid applicable fees and assessments. The Architect shall, at appropriate times, contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. ~~The~~ In designing the Project, the Architect shall respond to applicable design requirements imposed by those authorities and entities.

§ 3.1.6 The Architect shall assist and advise the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over ~~the Project.~~the Project, including, but not limited to plan review required by MCL 380.1263, first responder consultation required by MCL 380.1264, construction code inspections required by MCL 388.851, et seq., and fire safety inspection required by MCL 388.851, et seq.. The Architect shall have the primary responsibility to complete the required documents and shall properly file them on behalf of the Owner.

§ 3.1.7 Upon request of the Owner, the Architect shall make a presentation or presentations to explain the design of the Project to representatives of the Owner.

§ 3.1.8 The Architect shall submit design documents to the Owner at intervals appropriate to the design process, not less than monthly, for purposes of evaluation and approval by the Owner.

§ 3.1.9 The Architect acknowledges that the services to be provided by the Architect under this Agreement shall include assisting the Owner in complying with the Owner's obligations set forth in Public Act No. 306 of 1937, MCL 388.851, et seq., and Public Act 299 of 1980, MCL 399.2011. Therefore, the Architect hereby agrees to perform the services that may be performed by an "architect" or "engineer" pursuant to those Acts, including, but not limited to, construction supervision and cost estimating, and acknowledges that nothing contained in this Agreement shall be construed to limit such services, duties or obligations.

§ 3.1.10 Without eliminating or reducing any other Architect obligation set forth in the Contract Documents, the Architect shall provide the design phase deliverables set forth in Exhibit A, as part of its Basic Services.

§ 3.2 Schematic Design Phase Services

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

§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, fixed budget for the Cost of the Work, fixed Project budget, Project site, the proposed procurement and delivery method, and other Initial

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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. The Architect shall maintain a current budget statement for the Project.

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

§ 3.2.4 Based on the Project requirements agreed upon with the Owner, the Architect shall prepare and present, for the Owner's approval, a preliminary design illustrating the scale and relationship of the Project components. Approval by the Owner will not constitute approval of the means, techniques, or particular material recommended by the Architect for the Project. Selection by the Owner of a "particular material" recommended by the Architect for the Project shall constitute approval of that "particular material" by Owner for aesthetic purposes only.

§ 3.2.5 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.

§ 3.2.5.1 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~~ schedule, fixed budget for the Cost of the ~~Work.~~ Work, and fixed Project budget. The Owner may obtain more advanced sustainable design services ~~as a Supplemental Service~~ under Section 4.1.1.

§ 3.2.5.2 The Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on ~~program~~ program, fixed budgets, 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.~~ Work, and fixed Project budget.

§ 3.2.6 The Architect shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3. The Architect will review, revise, and update such estimates as necessary. The Architect shall perform cost estimation services at least to the extent necessary to comply with MCL 339.2011, acknowledging that other provisions of this Agreement may require more detailed, extensive, or frequent cost estimates. The Architect shall advise the Owner if it appears that the Cost of the Work may exceed the Owner's fixed budget for the Cost of the Work, and/or that total Project costs may exceed the fixed Project budget, and shall make recommendations for corrective action.

§ 3.2.7 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval. The Owner's approval shall be for general design concept purposes only and shall not be an approval of technical or design details.

§ 3.2.8 The Architect shall not proceed to the Design Development Phase unless and until it has received the Owner's written approval.

§ 3.3 Design Development Phase Services

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare and provide Design Development Documents for the Owner's approval. Approval by the Owner will not constitute approval of the means, techniques, or particular material recommended by the Architect for the Project. Selection by the Owner of a "particular material" recommended by the Architect for the Project shall constitute approval of that "particular material" by Owner for aesthetic purposes only. 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

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systems to fix and describe the size and character of the Project as to architectural, structural, ~~mechanical and electrical systems, and other appropriate elements.~~ mechanical, civil and electrical systems, and such other appropriate elements reasonably related to the Project. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels.

§ 3.3.2 The Architect shall review, revise, and update the estimate of the Cost of the Work prepared in accordance with Section ~~6.3.~~6.3 and MCL 339.2011.

§ 3.3.3 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.~~Owner and request the Owner's approval. The Owner's approval shall be for general design concept purposes only and shall not be an approval of technical or design details.

§ 3.3.4 The Architect shall not proceed to the Construction Documents Phase unless and until it has received the Owner's written approval.

§ 3.4 Construction Documents Phase Services

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the fixed budget for the Cost of the Work, the Architect shall prepare and provide Construction Documents for the Owner's approval. The Owner's approval shall be for general design concept purposes only and shall not be an approval of technical or design details. 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~~ materials and systems, their quality levels, 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 require in the relevant bid documents and review in accordance with Section 3.6.4.

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

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner and Construction Manager in the development and preparation of (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). 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. All such documents shall be developed to conform with the terms of this Agreement, including, but not limited to, dispute resolution provisions and shall comply with all public bidding, and contracting laws applicable to Michigan public school districts and this Project.

§ 3.4.3.1 Documents referenced in Section 3.4.3 shall consist of the unabridged AIA contract forms modified as necessary to be consistent with this Agreement. The Architect shall ensure that bid specifications (and any other relevant document provisions) indicate that modified version(s) of the standard AIA Owner/Contractor Agreement and General Conditions of the Contract will be utilized. Any contract form shall be subject to the Owner's approval. The Architect shall request the form of Owner/Contractor Agreement and the form of the General Conditions of the Contract be either drafted by, or reviewed by, the Owner's legal counsel and, upon receipt, shall include such documents in the bid specifications, the project manual, and all final project documents.

§ 3.4.4 The Architect shall review, revise, and update the estimate for the Cost of the Work prepared in accordance with Section ~~6.3.~~6.3 and MCL 339.2011.

§ 3.4.5 The Architect shall submit the Construction Documents to the ~~Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.~~Owner and request the Owner's approval. The Owner's approval shall be for general design concept purposes only and shall not be an approval of technical or design details. Further, approval by the Owner shall not

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constitute approval of the means, methods, techniques or particular material recommended by the Architect for the Project. Selection by the Owner of a "particular material" recommended by the Architect for the Project shall constitute approval of that "particular material" by the Owner for aesthetic purposes only.

§3.4.6 The Architect shall keep the Owner informed of any known or reasonably suspected changes in requirements, general market conditions or in construction materials, systems or equipment as the Drawings and Specifications are developed.

§3.4.7 The Architect shall not proceed to the Procurement/Bidding Phase without the Owner's written approval.

§ 3.5 ~~Procurement~~ Procurement/Bidding Phase Services

§ 3.5.1 General

The Architect ~~shall assist the Owner in establishing~~ shall, in consultation with the Owner, establish 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;~~ proposals and shall render interpretations and the clarifications of the Drawings and Specifications in appropriate written form; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for ~~construction.~~construction, which contracts shall be either prepared or reviewed by the Owner's legal counsel as described in Section 3.4.3.1. The Architect shall conduct pre-award conferences with apparent low bidders, shall assist the Owner in evaluating bids, and shall make award recommendations to the Owner.

§ 3.5.1.2 All references to arbitration shall be replaced in each trade contract or subcontract with non-binding mediation, leaving the parties to resolve disputes through any legal and/or equitable means if non-binding mediation fails.

§ 3.5.1.3 The Architect shall include in the bidding information, plans, or specifications a requirement that the successful Contractor(s) shall provide operation manuals to the Owner and that Contractor(s) shall provide adequate training for the Owner in the operation of any and all facility systems installed by the Contractor(s), including mechanical, civil, electrical, HVAC systems, and any other building systems.

§ 3.5.1.4 The Architect shall consider, propose, develop and implement a reasonable plan to develop bidders' interest in the Project(s), acknowledging the critical nature of ensuring sufficient bid coverage to satisfy requirements regarding Project quality and the Owner's fixed budget for the Cost of the Work and fixed Project budget.

§ 3.5.2 Competitive Bidding

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

§ 3.5.2.2 The Architect shall assist the Owner (and, in the Owner's discretion, the Construction Manager) in bidding the Project by:

- **.1** developing bidders' interest in the Project and establish bidding schedules
- **.2** issuing bidding documents to bidders, preparing and publishing necessary bid notices and advertisements
- **.3** procuring the reproduction of and facilitating the distribution of Bidding Documents to prospective bidders;
- ~~**.2**~~ **.4** organizing and conducting a pre-bid conference for prospective bidders;
- ~~**.3**~~ **.5** 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**~~ **.6** organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the ~~Owner.~~Owner
- **.7** reviewing the bidding procedure to ensure compliance with competitive bidding laws, including with respect to MCL 380.1267, MCL 380.1274, and MCL 380.1274a, as applicable, and the publication of bid advertisements;
- **.8** ensuring all bid bonds, payment bonds, and performance bonds have been timely obtained; and
- **.9** preparing bid analyses, conducting post-bid interviews with apparent low bidders, and making recommendations to the Owner for the Owner's award of Contracts or rejection of bids.

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

§ 3.5.3 Negotiated Proposals

§ 3.5.3.1 Proposal Documents shall consist of proposal requirements and proposed Contract Documents. The Architect shall not solicit negotiated proposals when doing so would be contrary to law or the Owner's policies. Upon request, the Owner shall provide the Architect with a copy of its competitive bidding policies.

§ 3.5.3.2 The Architect shall assist the Owner (and, in the Owner's discretion, the Construction Manager) in obtaining proposals by:

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

§ 3.5.3.3 If the Proposal Documents permit substitutions, ~~upon the Owner's written authorization, the Architect shall, as an Additional Service,~~ the Architect shall consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective contractors. The Architect shall verify that competitive bidding thresholds established by applicable law are satisfied.

§ 3.6 Construction Phase Services

§ 3.6.1 General

§ 3.6.1.1 The Architect shall provide on-site administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document ~~A201™–2017,~~ 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 this Agreement unless the Owner and the Architect amend this Agreement.~~Construction, as amended (the modified document is sometimes referred to herein as the "General Conditions"). In the event there is any conflict between this Agreement and the General Conditions, the terms of this Agreement shall prevail. Otherwise, both documents shall govern.

§ 3.6.1.2 The Architect shall advise and consult with the Owner during the ~~Construction Phase Services.~~ services described in this Agreement. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the ~~Architect~~ Architect, except as otherwise provided in this Agreement, 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.

§ 3.6.1.3 Subject to Section 4.2 and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the later of: (1) the date the Architect issues the final Certificate for ~~Payment.~~Payment or (2) the end of the Contractors' relevant warranty periods (not less than one year beyond Substantial Completion of the Project).

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of ~~construction, or as otherwise required in Section 4.2.3,~~ construction to become generally familiar with the progress and quality of the portion of the Work completed, ~~and to determine, in general,~~ to guard the Owner against defects and deficiencies, and to determine 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~~

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~~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. Nothing in this Section shall reduce or limit the Architect's duty to supervise construction as provided in Section 3.1.9.

§ 3.6.2.2 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.

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

§ 3.6.2.4 Interpretations ~~and decisions~~ of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. When making such ~~interpretations and decisions,~~ interpretations, the Architect shall endeavor to secure faithful performance by ~~both Owner and Contractor, shall not show partiality to either,~~ the Construction Manager and Contractors/Subcontractors, and shall not be liable for results of interpretations or decisions rendered in good ~~faith. The Architect's decisions~~ faith and without negligence. The Architect's interpretations on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

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

§ 3.6.3 Certificates for Payment to Contractor

§ 3.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 3.6.2 and 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 and quantity of the Work is in accordance with the Contract Documents, that the Work has been performed in a good and workmanlike manner, 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.~~Architect in writing accompanying the relevant certification.

§ 3.6.3.2 The issuance of a Certificate for Payment shall not be a representation that the Architect has (1) ~~made exhaustive or continuous on-site inspections to check the quality or quantity of the Work, (2)~~ reviewed construction means, methods, techniques, sequences or procedures, ~~(3)~~ (2) 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)~~ (3) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum. Nothing in this Section 3.6.3.2 shall be interpreted to reduce or eliminate the Architect's supervision duties, including as set forth in Section 3.1.9.

§ 3.6.3.3 The Architect shall maintain a record of the Applications and Certificates for ~~Payment.~~Payment, certified copies of which shall be sent to the Owner.

§ 3.6.4 Submittals

§ 3.6.4.1 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.

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§ 3.6.4.2 ~~The~~ In accordance with the Architect-approved submittal schedule, the Architect shall review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, ~~but only~~ for the limited purpose of checking for general accuracy, completeness and 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~~ Unless otherwise agreed, the Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's review and approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect 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~~ adequacy, completeness, and accuracy of the services, certifications, and approvals performed or provided by such design ~~professionals.~~professionals, but shall provide prompt written notice to the Owner if the Architect becomes aware of any material error, omission, or inconsistency in such services, certifications, or approvals, in light of the Architect's professional experience and expertise.

§ 3.6.4.4 ~~Subject to Section 4.2, the Architect shall~~ The Architect shall timely 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. The Architect shall maintain a log of requests for information and the responses thereto.

§ 3.6.4.5 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.

§ 3.6.5 Changes in the Work

§ 3.6.5.1 The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, the Architect shall prepare and take other appropriate action on Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents. If necessary, the Architect shall prepare, reproduce and distribute Drawings and Specifications to describe the Work to be added, deleted, or modified.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work. The Architect shall contemporaneously review with the Owner all changes and potential changes in the Work for reason, cause, cost and responsibility. Said issues shall be recorded and reported in a Change Management Log for the Project, the review and approval of which by the Architect shall evidence concurrence in the resolution of the issue as identified therein.

§ 3.6.6 Project Completion

§ 3.6.6.1 ~~The Architect shall:~~When the Architect considers the Construction Manager's Work substantially complete, the Architect shall, jointly with the Construction Manager, prepare for the Owner a list of incomplete or unsatisfactory items and a schedule for their completion. The Architect shall then:

- **.1** conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;
- **.2** issue Certificates ~~of Substantial Completion;~~of Substantial Completion and, upon Substantial Completion, jointly with the Construction Manager, prepare a list of incomplete or unsatisfactory items

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and schedule their completion; the Architect shall then coordinate the correction and completion of the Work. Following issuance of a Certificate of Substantial Completion of the Work or a designated portion thereof, the Architect shall evaluate the completion of the Work of the Construction Manager or Contractor/Subcontractor(s), make a determination when the Work is ready for final inspection, and conduct final inspections

.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;~~ Construction Manager; and,

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

§ 3.6.6.2 The Architect's inspections shall be conducted with the Owner and Construction Manager 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. The Architect shall be solely responsible for the inspection, and the Owner shall be solely an observer.

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

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) certificates of insurance received by the Construction Manager and/or Contractor/Subcontractor(s), (2) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; ~~(2)~~ (3) affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; and ~~(3)~~ (4) any other documentation required of the Contractor under the Contract Documents.

§ 3.6.6.5 ~~Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.~~ The Architect shall deliver all keys, manuals, record drawings and maintenance stocks to the Owner. The Architect shall forward to the Owner a final Project Application for Payment and Project Certificate for Payment upon the Contractor's compliance with the requirements of the Contract Documents.

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

§ 3.6.6.6 Duties, responsibilities and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified or extended without written consent of the Owner and the Architect.

§ 3.6.6.7 As part of Basic Services, the Architect shall be prepared to serve, and shall serve when requested by the Owner, as a witness in connection with any public hearing, arbitration proceeding, legal proceeding or administrative law proceeding to which the Owner or the Architect is a party concerning the Project.

§ 3.6.6.8 To the extent required by law or as required by the Owner, the Architect shall require the Construction Manager to obtain and maintain a performance bond and payment bond in an amount covering the Construction Manager and all Contractor/Subcontractors in a form and with a surety acceptable to the Owner in connection with its obligations thereunder. The amount of each bond shall be equal to one hundred percent (100%) of the Contract Sum. The Architect shall deliver the required bonds to the Owner at least three (3) days before the commencement of any work at the Project site.

§ 3.6.6.9 The Architect shall assist the Owner in the planning and sequencing of construction activities in order to accommodate necessary Work during occupancy of the Project area in a manner acceptable to the Owner. The Architect acknowledges and agrees that the Owner needs and will be using the Project area or portions thereof for its educational purposes during construction. The Architect will perform its work and will coordinate and manage the work of the Contractors so as not to interfere with the Owner's use of the Project area for educational purposes, including but not limited to controlling and managing noise levels, safety, dirt, dust, debris, convenient access, etc.

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ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

§ 4.1.1 ~~The services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect's responsibility, and the~~ Supplemental Services or Additional Services (including the Services listed below in this Article 4 and not identified as Basic Services), may be provided by the Architect, and compensated by the Owner, as a Supplemental or Additional Service only if: (a) the services are either recommended by the Architect or requested by the Owner, (b) the Owner authorizes the performance of same in writing prior to the Architect's provision of any such service, and (c) the Architect provides a good faith estimate of the cost of same prior to the Owner's authorization. The Owner shall not be obligated to pay for any Supplemental or Additional Service in the absence of the foregoing. For properly authorized Supplemental or Additional Services, the Owner shall compensate the Architect as provided in Section ~~11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project.~~11.2 or 11.3, as applicable.

(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 4.1.2 below or attach the description of services as an exhibit to this ~~Agreement.)~~Agreement. In those instances where the second column is left blank, it is intended that such service is not a Basic Service of the Architect.)

Supplemental Services	**Responsibility** *(Architect, Owner, or not provided)*
§ 4.1.1.1 Programming	Architect Basic Service
§ 4.1.1.2 Multiple preliminary designs	Architect Basic Service
§ 4.1.1.3 Measured drawings of existing facilities unrelated to the Project	Not Provided
§ 4.1.1.4 Existing facilities surveys	Owner
§ 4.1.1.5 Site evaluation and planning	Architect Basic Service
§ 4.1.1.6 Building Information Model management responsibilities	Architect Basic Service
§ 4.1.1.7 Development of Building Information Models for post construction use	Not Provided
§ 4.1.1.8 Civil engineering	Architect Basic Service
§ 4.1.1.9 Landscape design	Architect Basic Service
§ 4.1.1.10 Architectural interior design	Architect Basic Service
§ 4.1.1.11 Value analysis	Architect Basic Service
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	Architect Basic Service
§ 4.1.1.13 On-site project representation	Architect Basic Service
§ 4.1.1.14 Conformed documents for construction	Architect Basic Service
§ 4.1.1.15 As-designed record drawings	Not Provided
§ 4.1.1.16 As-constructed record drawings	See Section 4.1.2
§ 4.1.1.17 Post-occupancy evaluation	Architect Basic Service
§ 4.1.1.18 Facility support services	Not Provided
§ 4.1.1.19 Tenant-related services	Not Provided
§ 4.1.1.20 Architect's coordination of the Owner's consultants	Architect Basic Service
§ 4.1.1.21 Telecommunications/data ~~design~~design/technology	Architect Basic Service
§ 4.1.1.22 Security evaluation and planning	Architect Basic Service

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Supplemental Services	Responsibility *(Architect, Owner, or not provided)*
§ 4.1.1.23 Commissioning	Architect Basic Service, See also Section 4.1.2
§ 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3	Not Provided
§ 4.1.1.25 Fast-track design services	Not Provided
§ 4.1.1.26 Multiple bid packages	Architect Basic Service
§ 4.1.1.27 Historic preservation	Not Provided
§ 4.1.1.28 Furniture, furnishings, and equipment design	Architect Basic Service
§ 4.1.1.29 Other services provided by specialty Consultants	Not Provided
§ 4.1.1.30 Other Supplemental Services	Not Provided

§ 4.1.2 Description of Supplemental Services

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

«Section 4.1.1.16: As a Basic Service, the Architect will collect the contractors' marked-up prints and deliver to the Owner in a reasonable condition and format.

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

Section 4.1.1.23: Without limiting the breadth of the Architect's Basic Services, the Architect will also, as a Basic Service, comply with Rule 1098a of the Michigan Energy Code, as applicable, coordinate with the Owner's commissioning agent, and otherwise participate in basic system start-up and balancing information provided by the Contractor. »

~~**§ 4.1.2.2** A description of each Supplemental Service identified in Section 4.1.1 as the Owner's responsibility is provided below.~~
~~*(Describe in detail the Owner's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit.)*~~

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

§ 4.2 Architect's Additional Services

The Architect may provide Additional Services after execution of this ~~Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.~~Agreement, in accordance with the first paragraph of Section 4.1, without invalidating the Agreement.

§ 4.2.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner in writing, with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following Additional Services until ~~the Architect receives the Owner's written authorization:~~all requirements of the first paragraph of Section 4.1 have been satisfied:

.1 ~~Services~~ Subject to Sections 6.7 and 6.8, 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

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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,~~ regulations after completion of drawings, 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 unforeseeable and occur after the preparation of such Instruments of Service and 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;~~care. (The Architect is expected to and shall provide its services in compliance with the most recent codes, laws, regulations, and interpretations.);

.4 Services necessitated by decisions of the Owner not rendered in a timely ~~manner~~ manner, acknowledging the Owner's status as a public body (subject to the Open Meetings Act, etc.), 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;~~Not Used;

.7 ~~Preparation for, and attendance at, a public presentation, meeting or hearing;~~Not Used;

.8 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party ~~thereto;~~thereto or the Architect's services are at issue, which shall be Basic Services;

.9 ~~Evaluation of the qualifications of entities providing bids or proposals;~~Not Used;

.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.

§ 4.2.2 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.~~ promptly comply with the first paragraph of Section 4.1 for the following Additional Services. 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.~~Architect. The Owner shall have no obligation to compensate the Architect for services not accepted in writing by the Owner.

.1 ~~Reviewing a Contractor's submittal out of sequence from the submittal schedule approved by the Architect;~~Not Used

.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;~~Not Used

.3 Preparing Change Orders and Construction Change Directives ~~that require evaluation of Contractor's proposals and supporting data, or the~~ approved by the Owner that exceed the scope of the Work and Project cost, that are initiated after bids have been accepted, and that require substantial preparation or revision of Instruments of Service; or

.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.~~therefrom after bids have been awarded.

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

~~**.1** [ ] ([ ]) 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~~

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~~.4 [ ] ([ ]) inspections for any portion of the Work to determine final completion.~~

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

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

ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information as expressly and specifically requested by the Architect 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.~~Project.

§ 5.2 The Owner ~~shall establish~~ has established the Owner's fixed budget for the ~~Project,~~ Project in Section 1.1.3, including (1) the fixed budget for the Cost of the Work as defined in ~~Section 6.1;~~ Section 1.1.3 and Section 6.1.2; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall periodically 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. The parties acknowledge the Owner's fixed budget for the Cost of the Work and the fixed Project budget have been established as a condition precedent to the enforceability of this Agreement.

§ 5.3 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the ~~Project.~~ Project, subject to the Owner's parameters. 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.~~services, subject to the Owner's status as a public body, including compliance with the Open Meetings Act.

§ 5.4 ~~The~~ When required by the circumstances of the Project and upon the Architect's request, 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. The Architect shall assist the Owner in obtaining such services as a part of the Architect's Basic Services, and the Owner will contract and pay for such services as applicable.

§ 5.5 ~~The~~ When required by the circumstances of the Project and upon the Architect's request, the Owner shall furnish services of geotechnical engineers, which may ~~include~~ 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. The Architect shall assist the Owner in obtaining such services as a part of the Architect's Basic Services, and the Owner will contract and pay for such services as applicable.

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

§ 5.7 ~~If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E204™–2017, Sustainable Projects Exhibit, attached to this Agreement.~~**NOT USED**

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§ 5.8 The ~~Owner~~ Architect shall coordinate the services of its own consultants with those services provided by the ~~Architect.~~ Owner and its consultants. 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,~~ Service in accordance with Article 4, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Architect shall assist the Owner in selecting a service provider as a part of Basic Services. The Owner shall require that its consultants and contractors maintain ~~insurance, including professional liability insurance, as appropriate to the services or work provided.~~professional liability insurance.

§ 5.9 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials. The Architect shall assist the Owner in obtaining such services as a part of the Architect's Basic Services, and the Owner will contract and pay for such services.

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

§ 5.11 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service. The Architect shall give the Owner prompt written notice of any fault or defect in the Contract Documents or the Architect's Instruments of Service and shall correct the same as part of the Architect's Basic Services. The Owner's failure to provide any notice described herein shall not serve as a waiver of or excuse of the Architect's performance or failure to perform pursuant to this Agreement. This Section does not impose a duty of observation or inspection on the Owner.

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

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

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

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

~~**ARTICLE 6 COST OF THE WORK**~~

~~**§ 6.1** For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the 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.~~

ARTICLE 6 PROJECT BUDGET / COST OF THE WORK

§ 6.1.1 For purposes of this Agreement, the fixed Project budget shall include the total cost to the Owner to construct all elements of the Project and shall include, but is not limited to, contractors' general conditions costs, overhead and profit, compensation of the Construction Manager and the Construction Manager's consultants (if any), compensation

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of any other Owner-hired consultants for the Project (including, for example, an Owner's Representative), and compensation of the Architect and the Architect's consultants, including respective compensation for reimbursable expenses at the job site, if any.

§ 6.1.2 For purposes of this Agreement, the Cost of the Work shall include only hard construction costs for that work designed or specified by the Architect, as well as the Construction Manager's fees and costs. Without limiting the breadth of the preceding sentence, the Cost of the Work does not include the compensation of the Architect or its consultants; work for which the Architect is not providing services (e.g., unused contingency dollars, Owner-purchased equipment, other Owner-hired consultants); the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's fixed budget for the Cost of the Work ~~is provided in Initial Information, and shall be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's~~ and fixed Project budget are provided in the Initial Information. Evaluations of the Owner's fixed 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.~~ design professional familiar with the school design and construction industry in Michigan. 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 fixed 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. See MCL 339.2011.

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

§ 6.4 ~~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.~~ **NOT USED**

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's fixed 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 reasonably cooperate with the Architect in making such adjustments. Further, if at any time the Architect's estimate of the Project budget (or actual Project costs plus the Architect's estimate of remaining Project costs) exceeds the Owner's fixed budget for the Project budget, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality, or fixed Project budget, and the Owner shall reasonably cooperate with the Architect in making such adjustments.

§ 6.6 If the Owner's fixed 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,~~ bid(s) or negotiated proposal(s) and the Construction Manager's total fixed or estimated fees and costs, the Owner shall

- **.1** give written approval of an increase in the budget for the Cost of the Work;
- **.2** authorize rebidding or renegotiating of the Project within a reasonable time;
- **.3** terminate in accordance with Section 9.5;
- **.4** in consultation with the 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.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the ~~Architect~~ Architect, without additional compensation, shall modify the Construction Documents as necessary to comply with the Owner's fixed budget for the Cost of the ~~Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1.~~

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~~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 11.3; otherwise the~~ Work. The Architect's services for modifying the Construction Documents shall be without additional compensation. ~~In any event, the~~ The Architect's modification of the Construction Documents shall be ~~the limit of~~ the Architect's responsibility under this Article 6.

§ 6.8 In the event the lowest bid(s) or negotiated proposal(s), together with the Construction Manager's total fixed or estimated fees and costs, exceeds the fixed budget for the Cost of the Work, the Architect, in consultation with and at the direction of the Owner, shall without additional compensation modify the Contract Documents and provide related bidding and other services as necessary to bring the cost of the Cost of the Work within the fixed budget for the Cost of the Work.

ARTICLE 7 COPYRIGHTS AND LICENSES

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

§ 7.2 ~~The~~ Except as otherwise stated herein, 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. The Owner shall be permitted to retain copies including reproducible copies of the Architect's drawings, specifications and other documents for information and reference in connection with the Owner's use and occupancy of the Project, modifications, renovation, or additions to the Project, and to complete the Project in the event the Architect is not retained through completion.

§ 7.3 ~~The~~ Upon execution of this Agreement, the Architect grants to the Owner a ~~nonexclusive license to use the Architect's Instruments of Service solely and exclusively~~ nonexclusive, irrevocable license to access, use, and reproduce the Architect's Instruments of Service, in whatever form then they exist and regardless of stage of their completion, for purposes of constructing, using, maintaining, ~~altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums due pursuant to Article 9 and Article 11. The~~ altering, adding to the Project, and completing the Project if the Architect does not provide services through completion. On behalf of and for the benefit of the Owner, the Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The ~~license granted~~ licenses granted or referenced 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,~~ contractors and design professionals, to reproduce applicable portions of the Instruments of Service, ~~subject to any protocols established pursuant to Section 1.3, solely and exclusively~~ for use in performing services or construction for the Project. ~~If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.~~Any termination of this Agreement for any reason or under any condition shall in no way terminate or otherwise diminish the licenses described herein. See also Section 7.5.

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

§ 7.4 Except for the licenses granted or referenced in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. ~~The~~ Except as provided herein, the Owner shall not assign, delegate, sublicense, pledge

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or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. ~~Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.~~

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

§ 7.6 In addition to, and not in limitation of, the licenses otherwise granted or referenced in this Article 7, all construction plans, specifications, drawings and all other documents and like materials relating to the Project, including those in electronic form, prepared by the Architect and the Architect's consultants ("Instruments of Service") shall become the property of the Owner at the conclusion of the Project.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, ~~in accordance with the requirements of 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.~~ within the period specified by Michigan law. No claim by the Owner shall be barred as untimely if filed within six years of Substantial Completion of the Project. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 ~~To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201–2017, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.~~ The Owner and Architect both acknowledge and agree that the Owner is not waiting any rights its insurer(s) may have to subrogation. To the extent any term in the Agreement is contrary to this provision, such term is void and unenforceable.

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

§ 8.2 Mediation

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

§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by non-binding 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.~~ Agreement, except that either party may, if in good faith declare a mediation impasse and proceed with litigation after one full day of mediation. 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.~~ During the pendency of mediation, the parties agree that all limitations periods applicable to all claims that are the subject of this process or that are related to claims subject to this process shall be tolled.

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

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

[« »] Arbitration pursuant to Section 8.3 of this Agreement

[« X »] Litigation in a court of competent jurisdiction

[« »] Other: *(Specify)*

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

§ 8.3 ~~Arbitration~~NOT USED

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

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

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

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

~~**§ 8.3.4 Consolidation or Joinder**~~
~~**§ 8.3.4.1** Either party, at its sole discretion, may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation; (2) the arbitrations to be consolidated substantially involve common questions of law or fact; and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).~~

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

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

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

§ 8.4 Standard of Care

§ 8.4.1 This Section 8.4 shall apply only to the extent permitted by law.

§ 8.4.2 Consistent with, and without invalidating, the Architect's standard of care set forth in Section 2.2 and Section 12.1, the Architect represents to the Owner that the Architect will produce documents that are complete, correct, within the Project schedule as set forth in the Initial Information, and when completed will be within the Owner's fixed budget for the Cost of the Work.

The Architect agrees that if, as a result of any errors, omissions, negligent acts, or legal liability for which the Architect has responsibility in whole or in part (Errors and Omissions), the Owner incurs an accumulation of excess costs over percent (%) of the Cost of the Work (established based on the most-recent estimated Cost of the Work, but in no even more than the fixed Cost of the Work set forth in Section 1.1.3) (the "Threshold Amount"), the Architect shall share the burden of excess costs over the Threshold Amount ("Owner's Excess Cost") in accordance with Section 8.4.3. The Threshold Amount is not to be used towards any deductible amount in a professional liability claim for which the Architect is otherwise liable, or for Architect attributed delays described in this Agreement, which shall remain the sole responsibility of the Architect.

§ 8.4.3 The Architect's responsibility for the Owner's Excess Cost shall be determined as follows:

.1 The parties acknowledge and agree that Architect's responsibility for damages related to the Owner's Excess Costs are difficult to ascertain, and the parties further acknowledge that the Architect's responsibility for the Owner's Excess Costs set forth below is a fair and reasonable estimate of such damages. The Architect hereby expressly waives any argument that the Architect's responsibility described below is a penalty;

.2 For Errors and Omissions discovered prior to the deadline(s) for bid submission related to the Error or Omission, the Architect shall pay twenty five percent (25%) of the cost to correct the Error or Omission, as well as one hundred percent (100%) of any delay expenses related to the Error or Omission;

.3 For Errors and Omissions discovered after the deadline(s) for bid submission but prior to installation of the affected work, the Architect shall pay fifty percent (50%) of the cost to correct the Error or Omission, as well as one hundred percent (100%) of any delay expenses related to the Error and Omission; and

.4 For Errors and Omissions discovered after partial or complete installation of the affected work, the Architect shall pay one hundred percent (100%) of the cost to correct the Error or Omission (including, but not limited to, all applicable tear down and replacement cost), as well as one hundred percent (100%) of any delay expenses related to the Error and Omission.

§ 8.4.4 The Owner may deduct the Architect's share of the Owner's Excess Costs from any payments due the Architect, or, if remaining payments due the Architect are insufficient to cover such costs, the Architect shall immediately reimburse the Owner upon demand for its share of the Owner's Excess Costs. The Owner's right to deduct or receive such amounts is immediate and absolute, subject only to the Architect's right to dispute resolution under Sections 8.1 and 8.2, above. The Owner may continue to deduct or retain such amounts pending final resolution of any such dispute resolution.

§ 8.4.5 The rights under this Section 8.4 are cumulative and not exclusive or in abrogation of any other rights or remedies that may be available to the Owner whether they provided under this or any other agreement, law, equity, or otherwise.

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

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 ~~If the Owner fails to make payments to the Architect in accordance with this Agreement,~~ Unless the Owner's failure to make a timely payment in accordance with this Agreement is because the services or invoiced amounts are in

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reasonable dispute, such failure shall be considered substantial ~~nonperformance~~ non-performance by the Owner 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,~~ services because the Owner fails to make an undisputed payment, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of ~~services,~~ services because the Owner fails to make an undisputed payment, 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.~~ suspension. The Architect's fees for the remaining services and the time schedules shall be ~~equitably adjusted.~~subject to negotiation.

§ 9.2 If the Owner suspends the ~~Project,~~ Project for more than 30 consecutive days for reasons within its control, 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.~~subject to negotiation.

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

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination. In the event the Architect proposes to terminate this Agreement, the Architect shall notify the Owner in writing, stating with specificity the alleged non-performance, and further stating that the proposed termination shall be effective if the non-performance remains uncorrected for a period of not less than 15 days following the Owner's receipt of said notice.

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

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

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

~~.1 Termination Fee:~~

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

NOT USED

§ 9.8 ~~Except as otherwise expressly provided herein, this Agreement shall terminate one year from the date of Substantial Completion.~~**NOT USED**

§ 9.9 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement ~~are set forth in Article 7 and Section 9.7.~~continue and shall not be terminated or diminished in any manner.

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ARTICLE 10 MISCELLANEOUS PROVISIONS

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

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

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

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

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

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site. Notwithstanding the foregoing, the Architect shall immediately notify the Owner if it becomes aware of the presence of any such materials or substances.

§ 10.7 The Architect shall have the right to lawfully 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.~~ information. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the ~~Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this~~ Project, unless the Owner terminates the Agreement for cause pursuant to Section 9.4. The Architect shall obtain the Owner's approval prior to disclosures of information for purposes of verifying that such disclosures contain no confidential information (including, for example, information protected by FERPA).

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

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

§ 10.9 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or

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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.

§ 10.10 The Architect agrees to retain records relating to the services performed for a period of at least six (6) years following submission of the construction documents, during which period the records will be made available to the Owner upon request.

§ 10.11 Integration, Waiver and Severability

§ 10.11.1 This is the entire agreement between the Owner and Architect with respect to the matters covered herein and supersedes all prior agreements between them, written or oral. This Agreement may be modified only in writing signed by both parties. Any waivers hereunder must be in writing. No waiver or right or remedy in the event of default hereunder shall constitute a waiver of such right or remedy in the event of any subsequent default.

§ 10.11.2 A waiver of any term, condition, or covenant by a party shall not constitute a waiver of any other term, condition or covenant. If any court of competent jurisdiction declares a provision of this Agreement invalid, illegal or otherwise unenforceable, the remaining provisions of the Agreement shall remain in full force and effect.

ARTICLE 11 COMPENSATION

§ 11.1 For the Architect's Basic ~~Services described under Article 3,~~ Services, the Owner shall compensate the Architect 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 11.6.~~

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

$ »

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

«As mutually agreed by the parties in writing prior to performance. »

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

«As mutually agreed by the parties in writing prior to performance. »

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

without mark-up.

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§ 11.5 When compensation for Basic Services is based on a stipulated sum or a percentage basis, the proportion of compensation for each phase of services shall be as follows: Compensation would be due and payable in monthly progress payments for services properly completed and expenses incurred. As a guideline for anticipating payments, architectural services would be in phases 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	%)

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

§ 11.6.1 ~~When compensation is on a percentage basis and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.~~**NOT USED**

§ 11.7 The hourly billing rates for ~~services~~ Supplemental or Additional 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.)

«As detailed in Exhibit E – Architect's Hourly Rate Schedule. »

Employee or Category	Rate ($0.00)

§ 11.8 Compensation for Reimbursable Expenses

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

.1 Transportation ~~and authorized out-of-town travel and subsistence;~~in connection with authorized out-of-town travel and subsistence, excluding travel to and from the project site(s);

.2 ~~Long distance services, dedicated~~ 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;~~documents, except that reproductions of Instruments of Service will be part of the Architect's basic fee when for office use by the Architect and the Architect's consultants;

.5 Postage, handling, and delivery;

.6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the ~~Owner;~~Owner in writing;

.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;~~Not Used

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.9 ~~All taxes levied on professional services and on reimbursable expenses;~~Not Used

.10 Site office expenses; and

.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.~~Objective.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants ~~plus ( ) percent ( ) %) of the expenses incurred.~~at cost and without markup. Reimbursable expenses shall not exceed $ _____ without the express written approval of the Owner. If the preceding sentence contains a blank amount, the Architect shall not charge the Owner any reimbursable expenses until the Owner agrees, in writing, to a not-to-exceed amount for the Architect's reimbursable expenses.

§ 11.9 Architect's Insurance. ~~If the~~ The types and limits of coverage required in Section 2.5 are not in addition to the types and limits the Architect normally maintains, unless the Architect so indicates below and the Owner agrees in writing. If applicable, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below:

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

«Insurance required of Architect is greater than normally maintained: ____ Yes ____ No
If "Yes" is marked, the Owner acknowledges the additional cost: ____ Yes ____ No»

§ 11.10 Payments to the Architect

§ 11.10.1 Initial Payments

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

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

§ 11.10.2 Progress Payments

§ 11.10.2.1 ~~Unless otherwise agreed,~~ Undisputed 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~~ Undisputed payments are due within thirty (30) days of the Owner's receipt of the Architect's invoice. Undisputed amounts unpaid «thirty» («30») days after the due 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.~~below.

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

~~ %~~ «Five percent (5%) « per annum, per MCL 483.31. »

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

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

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

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

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

«**§ 12.1** The Architect shall perform its responsibilities and services in a manner consistent with the professional standards of the Architectural profession in the State of Michigan for an architect familiar with school construction.

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Without limiting the breadth of the foregoing, the Architect shall comply with all applicable federal, state, and local laws, rules, regulations and policies/procedures. See Section 2.2.

§ 12.2 The Architect shall not be entitled to additional compensation in the event it is necessary to extend the contract completion date because the Project is delayed due to conditions beyond the control of the Owner, such as strikes, weather, material shortages, etc.

§ 12.3 The Architect shall immediately notify the Owner, in writing, of the presence of any hazardous materials or toxic substances in connection with this Project of which the Architect is aware. The Owner, at its cost, shall be responsible for analysis, design, removal, remediation or other action related to any asbestos or hazardous substances. However, the Architect shall have no independent duty or responsibility for making such discoveries.

§ 12.4 The Architect agrees that it will be the Architect responsible for the construction described in this Agreement and shall not specify as a building material in any Construction Document for the Project any material which the Architect knew or reasonably should have known was an asbestos containing building material (ACBM), as defined in Section 763.83 of 40 CFR Part 763, as amended. Upon the issuance of the final certificate for payment, the Architect shall furnish the Owner a signed statement (dated current) that, to the best of the Architect's knowledge, no asbestos containing building material was used as a building material in the Project. The Architect shall include in specifications that no ACBM shall be used in the construction of the school building and that each Contractor shall certify to the Owner and the Architect that none was used in the construction. The Architect shall cooperate with the Owner in obtaining all Contractor certifications.

§ 12.5 The Architect shall provide the Owner the necessary bidding information and shall assist the Owner in the preparation of the General Conditions of the contract and the Form of Agreement Between Owner and Construction Manager (and, if requested, agreements related to work of Contractors/Subcontractors), which documents shall be subject to Owner approval. The referenced documents shall consist of modified AIA contract forms prepared or reviewed by the Owner's legal counsel, which the Architect shall include in the necessary bidding information and in the project manual. The Architect shall include in bid specifications and in any of the relevant document provisions indicating that modified version(s) of standard AIA Owner/Contractor Agreement(s) will be utilized. See also Section 3.4.3.1.

§ 12.6 It is acknowledged that the Architect will work with the Construction Manager in providing, reviewing, and confirming cost estimates related to the Project. However, nothing herein shall be deemed to eliminate or reduce the Architect's obligation to comply with MCL 339.2011 related to cost estimates, which shall remain the Architect's responsibility.

§ 12.7 The Owner reserves the right in its discretion to require consolidation or joinder of mediation or litigation arising out of or relating to this Agreement with another mediation or litigation involving a person or entity not a party to this Agreement, in the event the Owner believes such consolidation or joinder is necessary in order to resolve a dispute or avoid duplication of time, expense, or effort.

§ 12.8 In the event of mediation arising out of or relating to this Agreement, the Owner reserves the right to require that the mediation hearing be conducted in the general area where the Owner's principal place of business is located. In the event litigation arising out of or relating to this Agreement is related to litigation that is subject to the required jurisdiction/venue of another court, the Owner reserves the right determine the applicable court in its sole discretion.

§ 12.9 The Architect further agrees to include a similar mediation provision as identified herein in the form Owner/Contractor Agreement (per Section 3.4.3) and in all agreements with independent contractors and consultants retained for the Project and to require all independent contractors and consultant also to include a similar mediation provision in all agreements with subcontractors, sub-consultants, suppliers, or fabricators so retained, thereby providing for mediation as the primary method for dispute resolution between parties to those agreements. The Architect shall be responsible for ensuring the inclusion of this provision in pertinent bid documents and contract forms, the preparation of which the Architect provides or with which the Architect assists in preparation.

§ 12.10 The Architect, without additional cost to the Owner, shall maintain in force professional liability insurance providing coverage for the Architect for any negligent act in the Architect's rendering of or failure to render

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professional services and protecting the Owner from damages arising from results of such errors and omissions. Any "claims made" insurance shall be maintained in force during the life of the Project and for a period of no less than seven (7) years following the date of substantial completion. Any "occurrence based" insurance shall be maintained in force during the life of the Project and for a period of no less than twelve (12) months after the date of substantial completion. The Architect shall notify the Owner thirty (30) days in advance if this coverage becomes unavailable or if the coverage amount is substantially changed. The Architect shall provide the Owner with certificates of insurance evidencing the insurance coverage of the Architect, which certificates shall be attached to this Agreement. The Owner shall be listed as "additional insured" on all coverages to the extent reasonably permitted by the carrier. See attached Certificate of Insurance.

§ 12.11 The Owner reserves the right to approve the identity of the Architect's Project's representative(s) and to require their replacement upon two (2) weeks' notice. The Architect shall provide the services of *<AE Project Manager Name>* and all other individuals required for the Project and shall not replace any such individual until the completion of all services related to the Project, unless that person is discharged, dies, is disabled, is promoted to take on a substantially different responsibility, or is removed pursuant to the Owner's request for a personnel change. In the event that any individual identified above is discharged, dies, is disabled, or is promoted to take on a substantially different responsibility, or at such time as the Owner requests a personnel change, the Architect shall promptly submit to the Owner a qualification and experience resume of the person(s) proposed as replacement(s) and shall furnish replacement(s) upon agreement by the Owner.

§ 12.12 As a part of Basic Services, the Architect shall provide assistance for at least two (2) years beyond the date of substantial completion if there are actual performance and/or function issues related to the Project.

§ 12.13 To the fullest extent permitted by law, the Architect shall indemnify the Owner, its Board members, officers, and employees from and against any and losses, damages, including reasonable attorneys' fees and any additional expenses, and judgments arising from the Architect's negligence, the Architect's breach of this Agreement, or from claims by third parties that are attributable to the Architect's failures. The Architect's indemnity and hold harmless agreement shall not be applicable to any liability caused by the negligence of the Owner, its Board members, officers, and employees, but shall be to the fullest extent of the Architect's responsibility.

§ 12.14 Production of original drawings and specifications, as well as all construction bulletin drawings and specifications in a CAD and a PDF form acceptable to the Owner shall be a part of Basic Services. Additionally, the Architect shall assemble and deliver all field drawings used for the Project as a part of Basic Services. All drawings and specifications of any medium, shall be available to the Owner at any time upon request, regardless of the stage of completion.

§ 12.15 Services deleted from Article 4 and its subparts shall be deemed to be a part of Basic Services.

§ 12.16 As part of Basic Services, the Architect shall conduct a post-occupancy inspection of the Project at six (6) months and eleven (11) months following the Date of Substantial Completion, and, if different, thirty (30) days before the expiration of applicable warranties. The inspection shall include architectural, plumbing, mechanical, electrical, civil and structural review of the Project, to determine whether the Project components are performing as specified. The Architect's post-occupancy evaluations shall be in accordance with its professional standard of care.

§ 12.17 The Architect shall not utilize photographs of this Project for any advertising or promotional purpose that include the image of any student of the Owner without the express written permission of the parent or guardian of that student if that student is a minor. If the student is of the age of majority or is an emancipated minor, the Architect must obtain express written permission from that student. Such express written permission shall acknowledge the Architect's intent for use of those images. The Owner, in its discretion, may assist the Architect in securing such permission.

§ 12.18 The Architect shall be accessible to the Owner, either on-site or via communication media, as is reasonably necessary to address issues that arise during the Project.

§ 12.19 The Architect will not discriminate against any employee or applicant for employment, to be employed in the performance of this contract, with respect to hire, tenure, conditions or privilege of employment, or any matter directly

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or indirectly related to employment, because of race, age, sex, color, religion, national origin, ancestry or physical disability. Breach of this covenant may be regarded as a material breach of this contract.

§ 12.20 The Architect will, as part of Basic Services, attend the Owner's Board of Education meetings and staff meetings (in person or via communication media) as reasonably requested by the Owner.

§ 12.21 The Architect shall actively enforce all applicable policies of the Owner, including but not limited to those related to alcohol and tobacco.

ARTICLE 13 SCOPE OF THE AGREEMENT

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

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

.1 AIA Document B101™–2017, Standard Form Agreement Between Owner and ~~Architect~~Architect, as modified.

.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.)*~~

Not Used

.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.)*~~

~~[ ]~~[« X »] Other Exhibits incorporated into this Agreement:

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

Exhibit A – Design Phase Deliverables
Exhibit B – AIA Document G704-2017 Certificate of Substantial Completion
Exhibit C – Not Used
Exhibit D – Architect Amendment Form
Exhibit E – Architect's Hourly Rate Schedule
Exhibit F – Preliminary Project Milestone Schedule
Exhibit G – Architect's Certificate of Insurance
Exhibit H – AIA Document G701-2017 Change Order Form
Exhibit I – AIA Document G714-2017 Construction Change Directive Form »

.4 Other documents:

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

«AIA Document A201-2017 General Conditions of the Contract for Construction, as modified for the Project;
Project Manual; and
Owner's Request for Proposal, dated on or about May 26, 2020.

In the event of any inconsistency or ambiguity within, between, or among one or more of the Contract Documents, the term(s) most beneficial to the Owner, as determined in the Owner's sole discretion, shall govern.

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User Notes: (1160467532)

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

CALEDONIA COMMUNITY SCHOOLS, _____,

OWNER *(Signature)*	**ARCHITECT** *(Signature)*
« »« »	« »« »
(Printed name and title)	*(Printed name, title, and license number, if required)*
(date)	*(date)*

Modified: 05/20/20; 11:46AM

DRAFT

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