



**AIA**<sup>®</sup>

# Document B101™ – 2007

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

**AGREEMENT** made as of the 2nd day of November in the year 2016  
*(In words, indicate day, month and year.)*

**BETWEEN** the Architect's client identified as the Owner:

**School District Five of Lexington and Richland Counties**  
**1020 Dutch Fork Road**  
**Ballentine, SC 29002**  
**Telephone Number: 803-732-8000**  
**Fax Number: 803-732-8017**

and the Architect:

**Quackenbush Architects + Planners, Limited Liability Company**  
**1217 Hampton Street**  
**Columbia SC 29201**  
**Telephone Number: 803-771-2999**  
**Fax Number: 803-771-2858**

for the following Project:

**Chapin Middle School - Third Wing Addition**  
**1130 Old Lexington Hwy**  
**Chapin, SC 29036**

The Owner and Architect agree as follows.

**ADDITIONS AND DELETIONS:**

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

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

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**EXHIBIT A INITIAL INFORMATION**

**ARTICLE 1 INITIAL INFORMATION**

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

*(Paragraph deleted)*

Initial concept design for third wing as conceived as part of the original Chapin Middle School project. Together with the updated programmatic document used for the initial design of Chapin Middle School

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

- .1 Commencement of construction date:

June 15, 2017

- .2 Substantial Completion date:

June 30, 2018

§ 1.3 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Architect shall, when appropriate, adjust the terms of this Agreement accordingly. The consultants approved by the Owner shall be the consultants used for the Project. The Architect shall not substitute any consultant listed in the Initial Information without consent of the Owner. The architectural professionals listed in Initial Information shall not be changed without consent of the Owner.

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**ARTICLE 2 ARCHITECT'S RESPONSIBILITIES**

§ 2.1 The Architect shall provide the professional services as set forth in this Agreement. Architect represents that it has experience in the design and construction administration of projects of similar or like size, complexity, and nature as the Project.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project. The Architect will assign to the Project only persons with similar skill, knowledge, experience, and ability to perform to the standard of care of their respective professions. The Owner is relying upon these representations. Architect agrees to perform the obligations imposed upon it by documents that are incorporated in this Agreement by reference or by documents otherwise issued, created or promulgated by the Architect and agreed to by the Owner. Nothing in this Agreement shall be construed to limit those obligations.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project. The Architect's representative shall remain the principal contact relative to this Agreement throughout the life of the Project. The Owner shall have the right to require replacement of said representative if, in its opinion, the terms of the contract are not being fulfilled.

- .1 The Architect shall not change the designated representative or other key personnel proposed to and accepted by the Owner in awarding this Agreement without the consent of the Owner, which consent shall not be unreasonably withheld.

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

§ 2.5 The Architect shall maintain the following insurance for the duration of this Agreement. If any of the requirements set forth below exceed the types and limits the Architect normally maintains, the Owner shall reimburse the Architect for any additional cost:

*(Paragraph deleted)*

- .1 General Liability  
Comprehensive General Liability \$1,000,000 occurrence / \$2,000,000 aggregate
- .2 Automobile Liability  
\$1,000,000 combined single limit
- .3 Workers' Compensation  
Statutory
- .4 Professional Liability. Architect and listed Consultants below shall provide professional liability insurance, issued by an insurance carrier approved in advance by the Owner and authorized to provide such coverage in the State of South Carolina, to insure the Architect and listed Consultants for negligent acts, errors, and omissions by the Architect, his firm, his agents, his employees, and his Consultants arising out of this Agreement. The Architect and the Consultants listed below shall submit proof of such insurance with coverage amounts not less than:

Entity:*	Amount:
Architect	\$2,000,000 aggregate / \$1M occurrence
Civil Engineer	\$1,000,000 aggregate / \$1,000,000 occurrence
Structural Engineer	\$2,000,000 aggregate / \$1,000,000 occurrence
Mechanical Engineer	\$500,000 aggregate / \$500,000 occurrence
Electrical Engineer	\$500,000 aggregate / \$500,000 occurrence
Plumbing Engineer	\$500,000 aggregate / \$500,000 occurrence

\* if any firm is performing more than one of the above-listed professional disciplines, it shall provide either (1) a separate professional liability insurance policy for each discipline, or (2) a professional liability policy in the amount of the sum of the listed amounts.

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

§ 3.1 The Architect's Basic Services consist of those described in Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Additional Services. For the purposes of this Agreement, "usual and customary services" shall be those services reasonably required to provide complete design and construction phase design professional services for the Project. Services not set forth in Article 3 are Additional Services. The Architect will make presentations to the Board of Trustees and (if requested by the Owner) to the public at the end of each design phase. The Architect will assist in providing services relating to landscaping and furniture, fixtures and equipment.

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

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission or inconsistency in such services or information.

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

§ 3.1.4 The Architect shall not be responsible for an Owner's directive or substitution made without the Architect's approval.

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

§ 3.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project. The Architect shall prepare on behalf of the Owner, applications and supporting documentation for all design-related and land-use permits, variances and approvals required by state and local governmental authorities having jurisdiction over the Project (e.g. grading, utilities, zoning and encroachment). The Architect shall revise applications and supporting documentation as required to resolve comments received from such governmental authorities, in coordination and collaboration with such Owner consultants as may be necessary to respond to such requirements.

§ 3.1.7 The Architect shall prepare and distribute conference memoranda, meeting minutes, summaries of telephone conversations, documentation of site visits and inspection reports (with photographs) as required by the Owner to maintain a comprehensive record of the Project. The Project Number and Name shall be shown on all documents. This shall be formatted for use internally with other Owner staff and also for presentation to the Board of Trustees.

§ 3.1.8 The Architect will provide interior design for the selection of all building finishes specified by the Architect and colors required by the Project. This includes selecting interior furnishings, furniture or equipment at the Owners' request.

§ 3.1.9 The Architect will, upon Owner's request provide recommendations on specific issues of construction feasibility, actions designed to minimize adverse effects of labor or material shortages; time requirements for

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procurement, installation, and construction completion; the sequential phasing of components of construction to facilitate the orderly and timely completion of the Project with minimal disruption of the Owner's operations.

### § 3.1.10 AS-BUILT DRAWINGS

§ 3.1.10.1 Record Drawings. Architect shall review the Contractor's recorded changes which the Contractor should prepare and submit as Record Drawings. Record Drawings are documents that show changes made during the construction project, including changes necessitated by change orders, and recorded by the Contractor on a conforming set.

§ 3.1.10.2 As-Built Drawings. The Architect shall incorporate the information on all Record Drawings and prepare one set of final As-Built Drawings for the Owner. The As-Built Drawings shall incorporate onto one set of drawings the Contractors' recorded changes from the Record Drawings, sketches, details, and clarifications. The Architect shall deliver the As-Built Drawings, one as a hard copy, one on a CD in PDF and the latest AutoCAD formats to the Owner at completion of construction, and it shall be a condition precedent to the Owner's approval of the Architect's final payment.

### § 3.2 SCHEMATIC DESIGN PHASE SERVICES

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services. Architect shall review the Owner's Standards within sixty (60) days of execution of this Agreement and advise the Owner in writing of anything in the Owner's Standards to which Architect has reasonable objection. Unless deviation from Owner's Standards is agreed in writing, the Architect shall conform the Projects' designs and specifications to the Owner's Standards.

- .1 Owner's "Design & Construction Standards issued by Lexington Richland School District Five" outline principles underlying the technical requirements mandatory for LRSD5 specific requirements for all buildings, recommended practices, project documentation and requirements; LRSD5 code related issues, and steps follow to complete LRSD5 Public Schools. The designer of record and its consultants are required to comply with the Guidelines. All non-compliance issues must be approved by the Owner. The Guidelines do not diminish or reduce the standard of care owed by an architect or engineer to the LRSD5 Public Schools. The Guidelines may be updated to reflect changes in code, local practice, and knowledge gained during the design and construction process.

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

§ 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, 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's 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.

§ 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 modeling. 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 environmentally responsible design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain other environmentally responsible design services under Article 4.

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

§ 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.

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

### § 3.3 DESIGN DEVELOPMENT PHASE SERVICES

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

§ 3.3.2 Until the point where the Owner and CM at Risk agree to a Guaranteed Maximum Price (GMP) the Architect shall update the estimate of the Cost of the Work.

§ 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. The review and approval of the Design Development Documents by the Owner shall not relieve the Architect or its consultants of their responsibility for compliance with the requirements of the South Carolina School Facilities Planning and Construction Guide, with applicable statutes, regulations and codes, or for design deficiencies, omissions or errors.

### § 3.4 CONSTRUCTION DOCUMENTS PHASE SERVICES

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

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

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner 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.

§ 3.4.4 Until the point where the Owner and CM at Risk agree to a Guaranteed Maximum Price (GMP) the Architect shall update the estimate of the Cost of the Work.

§ 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. The review and approval of the Design Development Documents by the Owner shall not relieve the Architect or its consultants of their responsibility for compliance with the requirements of the South Carolina School

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Facilities Planning and Construction Guide, with applicable statutes, regulations and codes, or for design deficiencies, omissions or errors. The Construction Documents shall incorporate the final resolution of all review comments from the Owner and other authorities having jurisdiction.

## § 3.5 BIDDING OR NEGOTIATION PHASE SERVICES

### § 3.5.1 GENERAL

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

- .1 If the Owner elects to use prequalification of contractors or any other means of contractor selection that may be available by the Owner's Procurement Code, the Architect shall participate and consult with the Owner during the procurement solicitation and evaluation process. Architect's pre-construction phase services in cooperating with additional consultants retained by the Owner is part of Basic Services.

*(Paragraphs deleted)*

### §3.5.2 NEGOTIATED PROPOSALS

§3.5.2.1 Proposal Documents shall consist of the documents necessary for the Architect to coordinate with the CM at Risk to develop the project plans and construction documents.

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

- .1 Maintaining a drop box site or providing all documents to the Owner so that a site can be maintained with current design and programmatic information to assist proposers with the development of proposals most advantageous to the Owner.

## § 3.6 CONSTRUCTION PHASE SERVICES

### § 3.6.1 GENERAL

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

§ 3.6.1.2 The Architect shall advise and consult with the Owner during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, 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 4.3, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract to the CM at Risk and terminates on the date the Owner pays the final Certificate for Payment.

### § 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 4.3.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. Site visits shall be made by representatives of the Architect and its consultants who are professionally licensed architects or engineers, and who are also knowledgeable of the Project requirements and competent in evaluating the trades in progress. The field observations made by the Architect and its consultants do not transfer the contractor's responsibility to perform the Work in accordance with the Contract Documents to the Architect. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the

site visits, the Architect shall submit a field report to the Owner within one (1) week of each site visit, indicating the date and times of the visit, the persons making the visit, a general description of the Work observed and otherwise keep the Owner promptly and reasonably informed about the progress and quality of the portion of the Work completed, and report in writing to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work and (3) any threats to achievement of the Project milestones for construction activities

§ 3.6.2.2 The Architect shall report to the Owner known or observed deviations from the Contract Documents that impact the quality of the Work required by the Construction Documents. The Architect shall reject Work that does not conform to the Contract Documents, unless otherwise directed by the Owner. 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 such 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, material and equipment 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 Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

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

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

### § 3.6.3 CERTIFICATES FOR PAYMENT TO CONTRACTOR

§ 3.6.3.1 The 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 and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the Architect.

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

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

### § 3.6.4 SUBMITTALS

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

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

§ 3.6.4.3 If the Contract Documents specifically require the 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 Shop Drawings and other submittals related to the Work designed or certified by the design professional retained by the Contractor that bear such professional's seal and signature when submitted to the Architect. The Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals.

§ 3.6.4.4 Subject to the provisions of Section 4.3, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth in the Contract Documents the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to requests for information.

§ 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 with Owner approval may authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. In conjunction with the Owner, subject to the provisions of Section 4.3, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents. As part of Basic Services, Architect shall analyze written requests by Owner or Contractor for changes in the Work, including requests for adjustments to the Contract Sum or Contract Time, and shall report the results of its analysis in writing to the Owner within a reasonable period of time. No Change Order or Adjustment to Contract Sum or Contract Time shall be issued by the Architect without the specific written authorization of the Owner.

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

### § 3.6.6 PROJECT COMPLETION

§ 3.6.6.1 The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; receive from the Contractor and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and assembled by the Contractor; and issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents. The Architect will not certify Substantial Completion and final completion unless inspection of Work completed pursuant to designs and/or specifications created by one of the Architect's Consultants is performed by a person licensed to practice in the discipline of the work being inspected; however Owner acknowledges that the punchlist preparation by the various disciplines may be performed by other non-licensed individuals in the immediate employ of the Architect and its consultants.

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

§ 3.6.6.3 When the Work is found to be substantially complete, 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) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens or bonds indemnifying the Owner against liens; and (3) any other documentation required of the Contractor under the Contract Documents.

§ 3.6.6.4.1 Upon final completion of construction, the Architect shall prepare and provide to the Owner electronic record drawings showing all significant changes to the work made during construction known to the Architect and submitted to the Architect by the Contractor to the Owner no later than fifteen days following receipt by the Owner of final close-out documents and the final Contractor Certificate of Payment. Final payment to the Architect for project close out shall not be made until record drawings are received.

§ 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. During the tenth (10<sup>th</sup>) month after substantial completion and in any case prior to the expiration of the Contractor's call-back period under the Contract Documents, the Architect shall visit the Project to review the Work and prepare a report to be issued to the Owner, at the Owner's direction, to the Contractor, indicating work to be corrected and warranty issues to be addressed by the Contractor. The Architect shall assist the Owner in securing corrective actions by the Contractor to correct all deficiencies including at least one (1) complete follow-up inspection and report at least ten (10) days prior to the expiration of the call-back period.

**ARTICLE 4 "INCLUDED ADDITIONAL SERVICES" AND "UNPLANNED ADDITIONAL SERVICES"**

§ 4.1 "Included Additional Services" shall be defined as services required for the Project that are included in this Agreement or otherwise customarily furnished in accordance with generally accepted architectural practice for South Carolina public school construction projects, including but not limited to contract administration, cooperation with the Owner's consultants and warranty claim services. The Architect shall provide the listed Additional Services only if specifically designated in the table below as the Architect's responsibility.

Additional Services	Responsibility (Architect, Owner or Not Provided)	Location of Service Description (Section 4.2 below or in an exhibit attached to this document and identified below)
§ 4.1.1 Programming (B202™-2009)	NP	NP
§ 4.1.2 Multiple preliminary designs	Architect	As described herein
§ 4.1.3 Measured drawings	NP	NP
§ 4.1.4 Existing facilities surveys	NP	NP
§ 4.1.5 Site Evaluation and Planning (B203™-2007)	Architect	As necessary for Architect's design
§ 4.1.6 Building Information Modeling (E202™-2008)	Architect	As necessary for Architect's design
§ 4.1.7 Civil engineering	Architect	As necessary for Architect's design
§ 4.1.8 Landscape design	NP	NP
§ 4.1.9 Architectural Interior Design (B252™-2007)	Architect	As necessary for Architect's design
§ 4.1.10 Value Analysis (B204™-2007)	Architect	As necessary for Architect's design
§ 4.1.11 Detailed cost estimating	Owner	Through CMR
§ 4.1.12 On-site Project Representation (B207™-2008)	Not included	Owner may provide
§ 4.1.13 Conformed construction documents	Architect	As described elsewhere in this Agreement
§ 4.1.14 As-Designed Record drawings	Architect	As described elsewhere in this Agreement
§ 4.1.15 As-Built Record drawings	Architect	As described elsewhere in this Agreement
§ 4.1.16 Post occupancy evaluation	NP	NP

Init.

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§ 4.1.17	Facility Support Services (B210™-2007)	NP	NP
§ 4.1.18	Tenant-related services	NP	NP
§ 4.1.19	Coordination of Owner's consultants	Architect	As described elsewhere in this Agreement
§ 4.1.20	Telecommunications/data design	Architect	As necessary for Architect's design so far as infrastructure components of IT system are to be integrated into or through the Work.
§ 4.1.21	Security Evaluation and Planning (B206™-2007)	Architect	Passive security and IT-based security integrated into the Work, as discussed in Programming
§ 4.1.22	Commissioning (B211™-2007)	NP	NP
§ 4.1.23	Extensive environmentally responsible design	NP	NP
§ 4.1.24	LEED® Certification (B214™-2012)	NP	NP
§ 4.1.25	Fast-track design services	NP	NP
§ 4.1.26	Historic Preservation (B205™-2007)	NP	NP
§ 4.1.27	Furniture, Furnishings, and Equipment Design (B253™-2007)	Architect	Attachment A

*(Row deleted)*

§ 4.2 Items marked "Architect" in § 4.1 are agreed to be included in the scope of Basic Services and the compensation for the same is included in the Basic Services compensation.

§ 4.3 "Unplanned Additional Services" are those services outside the scope of Basic Services and § 4.1 and required by post-Agreement developments adverse to the planned completion of the Project and may be provided after execution of this Agreement, without invalidating the Agreement. Except for services required due to the fault of the Architect, any Unplanned Additional Services provided in accordance with this Section 4.3 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

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

- .1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including, but not limited to, size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method;
- .2 Services necessitated by the Owner's request for extensive environmentally responsible design alternatives, such as unique system designs, in-depth material research, energy modeling, or LEED® certification;
- .3 Changing or editing previously prepared Instruments of Service necessitated by the enactment or revision of codes, laws or regulations or official interpretations;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 Preparation of design and documentation for substantially complex "either / or" designs in the Design Development or later phases for alternate bid or proposal requests proposed by the Owner;

*(Paragraph deleted)*

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

*(Paragraph deleted)*

- .7 Consultation concerning replacement of Work resulting from fire or other cause during construction; or
- .8 Any other service not included in this Agreement. Additional compensation shall not be allowed for any services of the Architect in connection with correction of Architect errors or omissions.

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

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Owner subsequently determines that all or parts of those services are not required, the Owner shall give prompt written notice to the Architect, and the Owner shall have no further obligation to compensate the Architect for those services:

.1

*(Paragraphs deleted)*

To the extent the Architect's Basic Services are affected, providing Construction Phase Services 60 days after the date of Substantial Completion of the Work.

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

- .1 Two (2) reviews of each Shop Drawing, Product Data item, sample and similar submittal of the Contractor
- .2 An average of bi-weekly visits to the site by the Architect over the duration of the Project during construction
- .3 Two (2) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 Two (2) inspections for any portion of the Work to determine final completion

*(Paragraph deleted)*

#### ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements. 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.

§ 5.2 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. 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.

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

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

§ 5.5 The Owner shall furnish services of geotechnical engineers, which may include 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.

§ 5.6 The Owner shall coordinate the services of its own consultants with those services provided by the Architect. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests

such services and demonstrates that they are reasonably required by the scope of the Project. The Owner shall require that its consultants maintain professional liability insurance as appropriate to the services provided.

§ 5.7 The Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 5.8 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.

§ 5.9 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. This section does not create an affirmative duty on the part of the Owner to review or investigate the Project for the purpose of finding defects.

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

§ 5.11 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.

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

## 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 does not include the compensation of the Architect, the costs of the land, rights-of-way, financing, contingencies for changes in the Work or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and may be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work, represent the judgment of the professional preparing the estimates. 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, neither the Architect nor the Owner warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work or from any estimate of the Cost of the Work or evaluation prepared or agreed to by the Architect.

§ 6.3 Estimates of the Cost of Work shall 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 make reasonable adjustments in the program and scope of the Project; and to include in the Contract Documents alternate bids as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget for the Cost of the Work.

*(Paragraph deleted)*

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

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

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;

- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the 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, without additional compensation, shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. The Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

#### 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 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, except as otherwise agreed herein. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants.

§ 7.3 Upon execution of this Agreement, the Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service for purposes of constructing, using, maintaining, altering and adding to the Project. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the author 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 in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. Except as contemplated in § 7.3, the Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

#### ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 All disputes between the Owner, Architect, Architect's consultants, Bidders, and Contractors shall be resolved in accordance with the Owner's Procurement Code, except that the time for limitations and repose of any claim to be asserted under the Procurement Code shall be concurrent with the applicable limitations and repose time for civil actions relating to the same dispute under South Carolina law. Except in the instance where the appeal, claim, or dispute is between the Owner and the Architect, the Architect shall provide any interpretations or assistance required by the Owner in rendering a decision within the time frames stipulated in the Owner's Procurement Code.

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*(Paragraphs deleted)*

§ 8.2 After exhausting the administrative process under the Owner's Procurement Code, Architect and the Architect's consultants agree that judicial review made be had via appeal to the Court of Common Pleas for Lexington County South Carolina pursuant to the Owner's Procurement Code..

*(Paragraphs deleted)*

§ 8.3 Notwithstanding any other provision of this Agreement, the Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina, and any suit, action or proceeding arising out of or relating to the Agreement shall be governed by the laws of the State of South Carolina.

*(Paragraphs deleted)*

§ 8.4 Architect and the Architect's consultants agree that any act by the Owner regarding the Agreement is not a waiver of the Owner's sovereign immunity. Architect and the Architect's consultants agree to participate as a party in a multi-party proceedings along with every other party deemed necessary by the Owner for the full and proper examination, settlement or judgement of each dispute, claim, contract controversy, or civil action, whether in mediation, proceedings under the Owner's Procurement Code, or any court of competent jurisdiction.

§ 8.5 The Architect and the Architect's consultants and Owner waive Listed Damages for claims, disputes or other matters in question arising out of or relating to this Agreement. The Listed Damages are damages incurred for principal office expenses and overhead (including, but not limited to, the compensation of personnel stationed there, rent, utilities, and office equipment), losses of financing, business and reputation, for loss of profit other than anticipated profits arising directly from the Work and for attorney's fees, insurance, and interest (excluding post-judgement).

§ 8.6 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.

§ 8.7 The terms of Article 8 of this Agreement shall be binding upon the Architect's consultants and shall be incorporated into any agreement between the Architect and the Architect's consultants.

#### **ARTICLE 9 TERMINATION OR SUSPENSION**

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give twenty-one (21) days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Architect shall be paid all sums due prior to suspension. The Architect shall file a claim, subject to Dispute Resolution if not negotiated, for any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Architect shall file a claim with the Owner pursuant to its Procurement Code for compensated for services performed prior to notice of such suspension, unless the same are negotiated. When the Project is resumed, the Architect shall file a claim, pursuant to Owner's Procurement Code for expenses incurred in the interruption and resumption of the Architect's services, unless the same are negotiated. The time schedules shall be equitably adjusted. Damages recoverable pursuant to this section are subject to the limitations contained in § 8.5, above.

§ 9.3 If the Owner suspends the Project for more than 120 cumulative days for reasons other than the fault of the Architect or as the result of legal action against the Owner, 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.

§ 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 In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Section 9.7.

§ 9.7 Termination Expenses are in addition to compensation for the Architect's services and include expenses directly attributable to the Architect's disengagement from the Project(s) and for which the Architect is not otherwise compensated. Termination expenses are subject to audit at the Owner's option, unless negotiated. Damages recoverable pursuant to this section are subject to the limitations contained in § 8.5, above.

§ 9.8 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 11.9.

#### ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 Notwithstanding any other provision of this Agreement, the Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina, and any suit, action or proceeding arising out of relating to the Agreement shall be governed by the laws of the State of South Carolina.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2007, General Conditions of the Contract for Construction except that where any term is altered or modified in this Agreement, this Agreement shall control.

§ 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.

§ 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. 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 a third party against either the Owner or Architect.

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

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

§ 10.8 If the Architect or Owner receives information specifically designated by the other party as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information.

§ 10.9 All documents, transmittals, products, and plans shall be identified with the Owner's name and the Project name and number(s).

**ARTICLE 11 COMPENSATION**

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

Two hundred and Twenty-Seven Thousand Five Hundred Dollars (\$227,500), plus reimbursable expenses provided herein.

§ 11.2 For Additional Services designated in Section 4.1, the Owner shall compensate the Architect as follows:

*(Paragraph deleted)*

An additional lump sum fee of Twenty-Five Thousand One Hundred Sixty-Eight Dollars (\$25,168). See Attachment A for description of additional services.

§ 11.3 For Unplanned Additional Services that may arise during the course of the Project, including those under Section 4.3, the Owner shall compensate the Architect as follows:

*(Paragraph deleted)*

Per rates agreed pursuant to § 11.7 or otherwise agreed.

*(Paragraphs deleted)*

§ 11.4 Compensation for Unplanned 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 Five percent (5%).

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

Schematic Design Phase	fifteen	percent (	15	%)
Design Development Phase	twenty	percent (	20	%)
Construction Documents Phase	forty	percent (	40	%)
Bidding or Negotiation Phase	five	percent (	5	%)
Construction Phase	eighteen	percent (	18	%)
Upon certification of Final Completion	two	percent (	2	%)
<b>Total Basic Compensation</b>	<b>one hundred</b>	<b>percent (</b>	<b>100</b>	<b>%)</b>

§ 11.6 When portions of the Project for which Construction Documents have been completed are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions, in accordance with the schedule set forth in Section 11.5 based on (1) the lowest bona fide bid or negotiated proposal, or (2) if no such bid or proposal is received, the most recent estimate of the Cost of the Work for such portions of the Project. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.6.1 If a Construction Change Order or Change Directive is generated:

§ 11.6.1.1 at the request of the Owner, including Owner-approved suggestions from the Architect or the Contractor, then the cost of generating and processing the request shall be paid either in accordance with Paragraph 11.3 or based on the percentage of the net change in construction cost, as determined by the Owner.

§11.6.1.2 OMITTED

§ 11.6.1.3 in response to a proposal from the Architect to correct an error and/or omission on the part of the Architect, then the required documentation shall be generated and processed at no additional cost to the Owner.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants, if any, are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices.

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*(Paragraphs deleted)*

Architect's Rate Sheet is attached. Hourly rates for Principals and for each classification and/or category of employee include all expenses related to individual.

*(Table deleted)*

#### § 11.8 COMPENSATION FOR REIMBURSABLE EXPENSES

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic 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;
- .2 Dedicated data and communication services, teleconferences, Project Web sites, and extranets;
- .3 Fees paid for securing approval of authorities having jurisdiction over the Project;
- .4 Printing, reproductions, plots, standard form documents;
- .5
- .6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
- .7 Renderings, models, mock-ups, professional photography, and presentation materials requested by the

*(Paragraphs deleted)*

Owner for purposes other than presentations to the Owner or its Board of Trustees;

- .8 Special Project-related expenditures approved by the Owner in advance as in furtherance of the Project as a whole.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus Five percent (5%) of the expenses incurred.

#### § 11.9 COMPENSATION FOR USE OF ARCHITECT'S INSTRUMENTS OF SERVICE

If the Owner terminates the Architect for its convenience under Section 9.5, or the Architect terminates this Agreement under Section 9.3, the Owner shall pay a licensing fee as compensation for the Owner's continued use of the Architect's Instruments of Service solely for purposes of completing, using and maintaining the Project as follows:

one dollar (\$1.00)

#### § 11.10 PAYMENTS TO THE ARCHITECT

§ 11.10.1 An initial payment of Zero Dollars and Zero Cents (\$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.

§ 11.10.2 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid Forty-five (45) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

5% per annum

§ 11.10.3 The Owner shall not 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. Owner may, however, sequester Architect payments where the Owner has reasonable cause to hold the payment to the Architect pending resolution of a matter in which the Owner contends the Architect bears at least partial responsibility. In such cases the Owner shall not withhold any undisputed amount, and the Owner will provide a written statement of its reasonable cause to the Architect. Sequestered amounts may be released by the Architect's posting of reasonable security or a letter of credit, or otherwise ensuring that the Owner's financial interest in the disputed matter is secured and/or protected.

§ 11.10.4 Records of Reimbursable Expenses, expenses pertaining to Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times within five (5) business days of a written request.

#### § 11.11 LIMITATION

§ 11.11.1 Compensation as described in Article 11 shall not be exceeded without prior written approval by the Owner.

## ARTICLE 12 SPECIAL TERMS AND CONDITIONS

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

§ 12.1 In addition to the documentation requirements of § 3.1.10, the Architect shall ensure that one hard copy set of any project documents containing original signatures, official stamps or other such notations of authenticity including, but not be limited to, bid documents, project manuals, plans, drawings, specifications, Contract Documents, change orders or change directives, approval letters or documents by regulatory authorities, warranties, proof of bid advertising, and documents required at substantial and final completion, shall be forwarded to the Owner for official files. The Architect shall also deliver one electronic copy of said documentation to Owner in both PDF and AutoCAD file formats. Any documents determined to be missing from the submission of the file shall be supplied by the Architect within seven (7) calendar days upon request of the Owner, unless the Architect can demonstrate that the document(s) was previously given to the Owner, in which case the Architect shall be compensated for producing the document(s) as an Additional Service.

§ 12.2 The undersigned certifies that the Architect listed below will provide a "Drug-Free Workplace" as that term is defined in Section 44-107-30 of the SC Code of Laws by complying with the requirements set forth in Title 44, Chapter 107.

§ 12.3 The Owner shall have the right to audit the books and records of the Architect to the extent that the books and records relate to the performance of this Agreement and shall include all pricing data, change order or Agreement modifications for changes in cost. Such books and records related to this Agreement and to the Project files for those Projects covered under this agreement shall be maintained by the Architect for a period of three years from the date of final payment under this Agreement. This requirement shall apply to any Consultant performing services under the Architect's direction.

§ 12.4 The following meeting schedule shall be considered part of Basic Services. Meetings beyond those identified hereunder shall be considered Unplanned Additional Services:

Schematic Design: Two meetings with Architect and Owner's Project Team  
Design Development: Three meetings with Architect and Owner's Project Team  
Construction Documents: Two meetings with Architect and Owner's Project Team  
Construction Administration: 24 site visits by Architect

Six meetings of the Owner's Board of Trustees.

## 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 Owner and Architect.

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

.1 AIA Document B101™-2007, Standard Form Agreement Between Owner and Architect

.2

*(Paragraphs deleted)*

Attachment A: Description of Additional Services

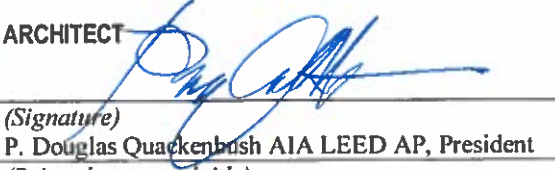
This Agreement entered into as of the day and year first written above.

OWNER

  
\_\_\_\_\_  
(Signature)

Dr. Stephen Hefner, Superintendent  
(Printed name and title)

ARCHITECT

  
\_\_\_\_\_  
(Signature)

P. Douglas Quackenbush AIA LEED AP, President  
(Printed name and title)

Ink.

# **Additions and Deletions Report for AIA® Document B101™ – 2007**

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

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 12:52:14 on 02/08/2017.

## **PAGE 1**

**AGREEMENT** made as of the 2nd day of November in the year 2016

...

~~(Name, legal status, address and other information)~~  
**School District Five of Lexington and Richland Counties**  
**1020 Dutch Fork Road**  
**Ballentine, SC 29002**  
**Telephone Number: 803-732-8000**  
**Fax Number: 803-732-8017**

...

~~(Name, legal status, address and other information)~~  
**Quackenbush Architects + Planners, Limited Liability Company**  
**1217 Hampton Street**  
**Columbia SC 29201**  
**Telephone Number: 803-771-2999**  
**Fax Number: 803-771-2858**

...

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

**Chapin Middle School - Third Wing Addition**  
**1130 Old Lexington Hwy**  
**Chapin, SC 29036**

## **PAGE 2**

~~(Complete Exhibit A, Initial Information, and incorporate it into the Agreement at Section 13.2, or state below Initial Information such as details of the Project's site and program, Owner's contractors and consultants, Architect's consultants, Owner's budget for the Cost of the Work, authorized representatives, anticipated procurement method, and other information relevant to the Project.)~~

**Initial concept design for third wing as conceived as part of the original Chapin Middle School project.**  
**Together with the updated programmatic document used for the initial design of Chapin Middle School**

...

June 15, 2017

...

June 30, 2018

§ 1.3 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Architect ~~shall appropriately adjust the schedule, the Architect's services and the Architect's compensation, shall, when appropriate, adjust the terms of this Agreement accordingly.~~ The consultants approved by the Owner shall be the consultants used for the Project. The Architect shall not substitute any consultant listed in the Initial Information without consent of the Owner. The architectural professionals listed in Initial Information shall not be changed without consent of the Owner.

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§ 2.1 The Architect shall provide the professional services as set forth in this Agreement. Architect represents that it has experience in the design and construction administration of projects of similar or like size, complexity, and nature as the Project.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project. The Architect will assign to the Project only persons with similar skill, knowledge, experience, and ability to perform to the standard of care of their respective professions. The Owner is relying upon these representations. Architect agrees to perform the obligations imposed upon it by documents that are incorporated in this Agreement by reference or by documents otherwise issued, created or promulgated by the Architect and agreed to by the Owner. Nothing in this Agreement shall be construed to limit those obligations.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project. The Architect's representative shall remain the principal contact relative to this Agreement throughout the life of the Project. The Owner shall have the right to require replacement of said representative if, in its opinion, the terms of the contract are not being fulfilled.

.1 The Architect shall not change the designated representative or other key personnel proposed to and accepted by the Owner in awarding this Agreement without the consent of the Owner, which consent shall not be unreasonably withheld.

...

*(Identify types and limits of insurance coverage, and other insurance requirements applicable to the Agreement, if any.)*

Comprehensive General Liability \$1,000,000 occurrence / \$2,000,000 aggregate

...

\$1,000,000 combined single limit

...

Statutory

.4 Professional Liability. Architect and listed Consultants below shall provide professional liability insurance, issued by an insurance carrier approved in advance by the Owner and authorized to provide such coverage in the State of South Carolina, to insure the Architect and listed Consultants for negligent acts, errors, and omissions by the Architect, his firm, his agents, his employees, and his

Consultants arising out of this Agreement. The Architect and the Consultants listed below shall submit proof of such insurance with coverage amounts not less than:

<u>Entity:*</u>	<u>Amount:</u>
<u>Architect</u>	<u>\$2,000,000 aggregate / \$1M occurrence</u>
<u>Civil Engineer</u>	<u>\$1,000,000 aggregate / \$1,000,000 occurrence</u>
<u>Structural Engineer</u>	<u>\$2,000,000 aggregate / \$1,000,000 occurrence</u>
<u>Mechanical Engineer</u>	<u>\$500,000 aggregate / \$500,000 occurrence</u>
<u>Electrical Engineer</u>	<u>\$500,000 aggregate / \$500,000 occurrence</u>
<u>Plumbing Engineer</u>	<u>\$500,000 aggregate / \$500,000 occurrence</u>

\* if any firm is performing more than one of the above-listed professional disciplines, it shall provide either (1) a separate professional liability insurance policy for each discipline, or (2) a professional liability policy in the amount of the sum of the listed amounts.

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§ 3.1 The Architect's Basic Services consist of those described in Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Additional Services. For the purposes of this Agreement, "usual and customary services" shall be those services reasonably required to provide complete design and construction phase design professional services for the Project. Services not set forth in Article 3 are Additional Services. The Architect will make presentations to the Board of Trustees and (if requested by the Owner) to the public at the end of each design phase. The Architect will assist in providing services relating to landscaping and furniture, fixtures and equipment.

...

§ 3.1.6 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project. The Architect shall prepare on behalf of the Owner, applications and supporting documentation for all design-related and land-use permits, variances and approvals required by state and local governmental authorities having jurisdiction over the Project (e.g. grading, utilities, zoning and encroachment). The Architect shall revise applications and supporting documentation as required to resolve comments received from such governmental authorities, in coordination and collaboration with such Owner consultants as may be necessary to respond to such requirements.

§ 3.1.7 The Architect shall prepare and distribute conference memoranda, meeting minutes, summaries of telephone conversations, documentation of site visits and inspection reports (with photographs) as required by the Owner to maintain a comprehensive record of the Project. The Project Number and Name shall be shown on all documents. This shall be formatted for use internally with other Owner staff and also for presentation to the Board of Trustees.

§ 3.1.8 The Architect will provide interior design for the selection of all building finishes specified by the Architect and colors required by the Project. This includes selecting interior furnishings, furniture or equipment at the Owners' request.

§ 3.1.9 The Architect will, upon Owner's request provide recommendations on specific issues of construction feasibility, actions designed to minimize adverse effects of labor or material shortages; time requirements for procurement, installation, and construction completion; the sequential phasing of components of construction to facilitate the orderly and timely completion of the Project with minimal disruption of the Owner's operations.

**§ 3.1.10 AS-BUILT DRAWINGS**

§ 3.1.10.1 Record Drawings. Architect shall review the Contractor's recorded changes which the Contractor should prepare and submit as Record Drawings. Record Drawings are documents that show changes made during the construction project, including changes necessitated by change orders, and recorded by the Contractor on a conforming set.

§ 3.1.10.2 As-Built Drawings. The Architect shall incorporate the information on all Record Drawings and prepare one set of final As-Built Drawings for the Owner. The As-Built Drawings shall incorporate onto one set of drawings the Contractors' recorded changes from the Record Drawings, sketches, details, and clarifications. The

Architect shall deliver the As-Built Drawings, one as a hard copy, one on a CD in PDF and the latest AutoCAD formats to the Owner at completion of construction, and it shall be a condition precedent to the Owner's approval of the Architect's final payment.

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§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations applicable to the Architect's services. Architect shall review the Owner's Standards within sixty (60) days of execution of this Agreement and advise the Owner in writing of anything in the Owner's Standards to which Architect has reasonable objection. Unless deviation from Owner's Standards is agreed in writing, the Architect shall conform the Projects' designs and specifications to the Owner's Standards.

.1 Owner's "Design & Construction Standards issued by Lexington Richland School District Five" outline principles underlying the technical requirements mandatory for LRSD5 specific requirements for all buildings, recommended practices, project documentation and requirements; LRSD5 code related issues, and steps follow to complete LRSD5 Public Schools. The designer of record and its consultants are required to comply with the Guidelines. All non-compliance issues must be approved by the Owner. The Guidelines do not diminish or reduce the standard of care owed by an architect or engineer to the LRSD5 Public Schools. The Guidelines may be updated to reflect changes in code, local practice, and knowledge gained during the design and construction process.

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§ 3.3.2 ~~The~~Until the point where the Owner and CM at Risk agree to a Guaranteed Maximum Price (GMP) the Architect shall update the estimate of the Cost of the Work.

§ 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. The review and approval of the Design Development Documents by the Owner shall not relieve the Architect or its consultants of their responsibility for compliance with the requirements of the South Carolina School Facilities Planning and Construction Guide, with applicable statutes, regulations and codes, or for design deficiencies, omissions or errors.

...

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

...

§ 3.4.4 ~~The Architect shall update the estimate for~~Until the point where the Owner and CM at Risk agree to a Guaranteed Maximum Price (GMP) the Architect shall update the estimate of the Cost of the Work.

§ 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. The review and approval of the Design Development Documents by the Owner shall not relieve the Architect or its consultants of their responsibility for compliance with the requirements of the South Carolina School Facilities Planning and Construction Guide, with applicable statutes, regulations and codes, or for design deficiencies, omissions or errors. The Construction Documents shall incorporate the final resolution of all review comments from the Owner and other authorities having jurisdiction.

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

- .1 If the Owner elects to use prequalification of contractors or any other means of contractor selection that may be available by the Owner's Procurement Code, the Architect shall participate and consult with the Owner during the procurement solicitation and evaluation process. Architect's pre-construction phase services in cooperating with additional consultants retained by the Owner is part of Basic Services.

~~§ 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 in bidding the Project by~~

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

~~§ 3.5.2.3 The Architect shall consider requests for substitutions, if the Bidding Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective bidders.~~

~~§ 3.5.3 NEGOTIATED PROPOSALS~~

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

~~§ 3.5.3.2 The Architect shall assist the Owner in obtaining proposals by~~

- ~~.1 procuring the reproduction 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; and~~
- ~~.3 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 The Architect shall consider requests for substitutions, if the Proposal Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective contractors.~~

§3.5.2 NEGOTIATED PROPOSALS

§3.5.2.1 Proposal Documents shall consist of the documents necessary for the Architect to coordinate with the CM at Risk to develop the project plans and construction documents.

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

- .1 Maintaining a drop box site or providing all documents to the Owner so that a site can be maintained with current design and programmatic information to assist proposers with the development of proposals most advantageous to the Owner.

...

§ 3.6.1.3 Subject to Section 4.3, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract ~~for Construction to the CM at Risk~~ and terminates on the date the Architect issues Owner pays the final Certificate for Payment.

...

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.3.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. Site visits shall be made by representatives of the Architect and its consultants who are professionally licensed architects or engineers, and who are also knowledgeable of the Project requirements and competent in evaluating the trades in progress. The field observations made by the Architect and its consultants do not transfer the contractor's responsibility to perform the Work in accordance with the Contract Documents to the Architect. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall submit a field report to the Owner within one (1) week of each site visit, indicating the date and times of the visit, the persons making the visit, a general description of the Work observed and otherwise keep the Owner promptly and reasonably informed about the progress and quality of the portion of the Work completed, and report in writing to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule submitted by the Contractor, and (2) defects and deficiencies observed in the Work. ~~Work and (3) any threats to achievement of the Project milestones for construction activities~~

§ 3.6.2.2 ~~The Architect has the authority to~~ shall report to the Owner known or observed deviations from the Contract Documents that impact the quality of the Work required by the Construction Documents. The Architect shall reject Work that does not conform to the Contract Documents, unless otherwise directed by the Owner. 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 such 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, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work.

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

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§ 3.6.5.1 The Architect with Owner approval may authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject in conjunction with the Owner, subject to the provisions of Section 4.3, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents. As part of Basic Services, Architect shall analyze written requests by Owner or Contractor for changes in the Work, including requests for adjustments to the Contract Sum or Contract Time, and shall report the results of its analysis in writing to the Owner within a reasonable period of time. No Change Order or Adjustment to Contract Sum or Contract Time shall be issued by the Architect without the specific written authorization of the Owner.

...

§ 3.6.6.1 The Architect shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; receive from the Contractor and forward to

the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and assembled by the Contractor; and issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents. The Architect will not certify Substantial Completion and final completion unless inspection of Work completed pursuant to designs and/or specifications created by one of the Architect's Consultants is performed by a person licensed to practice in the discipline of the work being inspected; however Owner acknowledges that the punchlist preparation by the various disciplines may be performed by other non-licensed individuals in the immediate employ of the Architect and its consultants.

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§ 3.6.6.4.1 Upon final completion of construction, the Architect shall prepare and provide to the Owner electronic record drawings showing all significant changes to the work made during construction known to the Architect and submitted to the Architect by the Contractor to the Owner no later than fifteen days following receipt by the Owner of final close-out documents and the final Contractor Certificate of Payment. Final payment to the Architect for project close out shall not be made until record drawings are received.

§ 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. During the tenth (10<sup>th</sup>) month after substantial completion and in any case prior to the expiration of the Contractor's call-back period under the Contract Documents, the Architect shall visit the Project to review the Work and prepare a report to be issued to the Owner, at the Owner's direction, to the Contractor, indicating work to be corrected and warranty issues to be addressed by the Contractor. The Architect shall assist the Owner in securing corrective actions by the Contractor to correct all deficiencies including at least one (1) complete follow-up inspection and report at least ten (10) days prior to the expiration of the call-back period.

**ARTICLE 4 — ADDITIONAL SERVICES**

**ARTICLE 4 "INCLUDED ADDITIONAL SERVICES" AND "UNPLANNED ADDITIONAL SERVICES"**

§ 4.1 Additional Services listed below are not included in Basic Services but may be required for the Project. "Included Additional Services" shall be defined as services required for the Project that are included in this Agreement or otherwise customarily furnished in accordance with generally accepted architectural practice for South Carolina public school construction projects, including but not limited to contract administration, cooperation with the Owner's consultants and warranty claim services. The Architect shall provide the listed Additional Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2.

(Designate the Additional Services the Architect shall provide in the second column of the table below. In the third column indicate whether the service description is located in Section 4.2 or in an attached exhibit. If in an exhibit, identify the exhibit.) responsibility.

...

§ 4.1.1	Programming (B202™-2009)	NP	NP
§ 4.1.2	Multiple preliminary designs	Architect	As described herein
§ 4.1.3	Measured drawings	NP	NP
§ 4.1.4	Existing facilities surveys	NP	NP
§ 4.1.5	Site Evaluation and Planning (B203™-2007)	Architect	As necessary for Architect's design
§ 4.1.6	Building Information Modeling (E202™-2008)	Architect	As necessary for Architect's design
§ 4.1.7	Civil engineering	Architect	As necessary for Architect's design
§ 4.1.8	Landscape design	NP	NP
§ 4.1.9	Architectural Interior Design (B252™-2007)	Architect	As necessary for Architect's design
§ 4.1.10	Value Analysis (B204™-2007)	Architect	As necessary for Architect's design
§ 4.1.11	Detailed cost estimating	Owner	Through CMR
§ 4.1.12	On-site Project Representation (B207™-2008)	Not included	Owner may provide
§ 4.1.13	Conformed construction documents	Architect	As described elsewhere in this Agreement
§ 4.1.14	As-Designed Record drawings	Architect	As described elsewhere in this

		<u>Agreement</u>
§ 4.1.15 <del>As-Constructed-As-Built</del> Record drawings	<u>Architect</u>	<u>As described elsewhere in this Agreement</u>
§ 4.1.16 Post occupancy evaluation	<u>NP</u>	<u>NP</u>
§ 4.1.17 Facility Support Services (B210™-2007)	<u>NP</u>	<u>NP</u>
§ 4.1.18 Tenant-related services	<u>NP</u>	<u>NP</u>
§ 4.1.19 Coordination of Owner's consultants	<u>Architect</u>	<u>As described elsewhere in this Agreement</u>
§ 4.1.20 Telecommunications/data design	<u>Architect</u>	<u>As necessary for Architect's design so far as infrastructure components of IT system are to be integrated into or through the Work.</u>
§ 4.1.21 Security Evaluation and Planning (B206™-2007)	<u>Architect</u>	<u>Passive security and IT-based security integrated into the Work, as discussed in Programming</u>
§ 4.1.22 Commissioning (B211™-2007)	<u>NP</u>	<u>NP</u>
§ 4.1.23 Extensive environmentally responsible design	<u>NP</u>	<u>NP</u>
§ 4.1.24 LEED® Certification (B214™-2012)	<u>NP</u>	<u>NP</u>
§ 4.1.25 Fast-track design services	<u>NP</u>	<u>NP</u>
§ 4.1.26 Historic Preservation (B205™-2007)	<u>NP</u>	<u>NP</u>
§ 4.1.27 Furniture, Furnishings, and Equipment Design (B253™-2007)	<u>Architect</u>	<u>Attachment A</u>

~~§ 4.2 Insert a description of each Additional Service designated in Section 4.1 as the Architect's responsibility, if not further described in an exhibit attached to this document.~~

Items marked "Architect" in § 4.1 are agreed to be included in the scope of Basic Services and the compensation for the same is included in the Basic Services compensation.

§ 4.3 "Unplanned Additional Services" are those services outside the scope of Basic Services and § 4.1 and required by post-Agreement developments adverse to the planned completion of the Project and may be provided after execution of this Agreement, without invalidating the Agreement. Except for services required due to the fault of the Architect, any Unplanned Additional Services provided in accordance with this Section 4.3 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

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

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- ~~.5~~ Preparing digital data for transmission to the Owner's consultants and contractors, or to other Owner authorized recipients;
- ~~.6~~ Preparation of design and documentation for substantially complex "either / or" designs in the Design Development or later phases for alternate bid or proposal requests proposed by the Owner;
- ~~.7~~ Preparation for, and attendance at, a public presentation, meeting or hearing;
- ~~.8~~ Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- ~~.9~~ Evaluation of the qualifications of bidders or persons providing proposals;
- ~~.10~~ .7 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. .8 Any other service not included in this Agreement. Additional compensation shall not be allowed for any services of the Architect in connection with correction of Architect errors or omissions.

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

...

- .1 ~~( )~~ Two (2) reviews of each Shop Drawing, Product Data item, sample and similar submittal of the Contractor
- .2 ~~( )~~ An average of bi-weekly visits to the site by the Architect over the duration of the Project during construction
- .3 ~~( )~~ Two (2) inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 ~~( )~~ Two (2) inspections for any portion of the Work to determine final completion

~~§ 4.3.4 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.~~

...

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

§ 5.9 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. This section does not create an affirmative duty on the part of the Owner to review or investigate the Project for the purpose of finding defects.

...

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and may be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the ~~Work prepared by the Architect, represent the Architect's judgment as a design professional. Work, represent the judgment of the professional preparing the estimates.~~ 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 neither the Architect nor~~

the Owner warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work or from any estimate of the Cost of the Work or evaluation prepared or agreed to by the Architect.

~~§ 6.3 In preparing estimates of the Cost of Work, the Architect shall be permitted to~~ Estimates of the Cost of Work shall 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 make reasonable adjustments in the program and scope of the Project; and to include in the Contract Documents alternate bids as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget for the Cost of the Work. 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 requests detailed cost estimating services, the Architect shall provide such services as an Additional Service under Article 4.

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

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

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

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

...

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. ~~The Except as contemplated in § 7.3, the~~ Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

...

~~§ 8.1 GENERAL~~ All disputes between the Owner, Architect, Architect's consultants, Bidders, and Contractors shall be resolved in accordance with the Owner's Procurement Code, except that the time for limitations and repose of any claim to be asserted under the Procurement Code shall be concurrent with the applicable limitations and repose time for civil actions relating to the same dispute under South Carolina law. Except in the instance where the appeal, claim, or dispute is between the Owner and the Architect, the Architect shall provide any interpretations or assistance required by the Owner in rendering a decision within the time frames stipulated in the Owner's Procurement Code.

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

~~§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2007, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.~~

~~§ 8.1.3 The Architect 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 After exhausting the administrative process under the Owner's Procurement Code, Architect and the Architect's consultants agree that judicial review made be had via appeal to the Court of Common Pleas for Lexington County South Carolina pursuant to the Owner's Procurement Code..

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

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

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

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

~~Arbitration pursuant to Section 8.3 of this Agreement~~

~~Litigation in a court of competent jurisdiction~~

~~Other (Specify)~~

§ 8.3 ARBITRATION Notwithstanding any other provision of this Agreement, the Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina, and any suit, action or proceeding arising out of or relating to the Agreement shall be governed by the laws of the State of South Carolina.

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

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

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

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

#### ~~§ 8.3.4 CONSOLIDATION OR JOINDER~~

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

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

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

§ 8.4 Architect and the Architect's consultants agree that any act by the Owner regarding the Agreement is not a waiver of the Owner's sovereign immunity. Architect and the Architect's consultants agree to participate as a party in a multi-party proceedings along with every other party deemed necessary by the Owner for the full and proper examination, settlement or judgement of each dispute, claim, contract controversy, or civil action, whether in mediation, proceedings under the Owner's Procurement Code, or any court of competent jurisdiction.

§ 8.5 The Architect and the Architect's consultants and Owner waive Listed Damages for claims, disputes or other matters in question arising out of or relating to this Agreement. The Listed Damages are damages incurred for principal office expenses and overhead (including, but not limited to, the compensation of personnel stationed there, rent, utilities, and office equipment), losses of financing, business and reputation, for loss of profit other than anticipated profits arising directly from the Work and for attorney's fees, insurance, and interest (excluding post-judgement).

§ 8.6 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.

§ 8.7 The terms of Article 8 of this Agreement shall be binding upon the Architect's consultants and shall be incorporated into any agreement between the Architect and the Architect's consultants.

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give ~~seven~~ twenty-one (21) days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Architect shall be paid all sums due prior ~~to suspension and to suspension. The Architect shall file a claim, subject to Dispute Resolution if not negotiated,~~ for any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Architect shall ~~be file a claim with the Owner pursuant to its Procurement Code for compensated for services performed prior to notice of such suspension, suspension, unless the same are negotiated.~~ When the Project is resumed, the Architect shall ~~be compensated file a claim, pursuant to Owner's Procurement Code~~ for expenses incurred in the interruption and resumption of the Architect's services. ~~The Architect's fees for the remaining services and the services, unless the same are negotiated.~~ The time schedules shall be equitably adjusted. Damages recoverable pursuant to this section are subject to the limitations contained in § 8.5, above.

§ 9.3 If the Owner suspends the Project for more than ~~90~~ 120 cumulative days for reasons other than the fault of the Architect, ~~of the Architect or as the result of legal action against the Owner,~~ the Architect may terminate this Agreement by giving not less than seven days' written notice.

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§ 9.7 Termination Expenses are in addition to compensation for the Architect's services and include expenses directly attributable to ~~termination the Architect's disengagement from the Project(s) and for which the Architect is not otherwise compensated, plus an amount for the Architect's anticipated profit on the value of the services not performed by the Architect compensated.~~ Termination expenses are subject to audit at the Owner's option, unless negotiated. Damages recoverable pursuant to this section are subject to the limitations contained in § 8.5, above.

...

§ 10.1 ~~This Agreement shall be governed by the law of the place where the Project is located, except that if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3. Notwithstanding any other provision of this Agreement, the Agreement shall be governed by and construed in accordance with the laws of the State of South Carolina, and any suit, action or proceeding arising out of relating to the Agreement shall be governed by the laws of the State of South Carolina.~~

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201-2007, General Conditions of the Contract for ~~Construction. Construction~~ except that where any term is altered or modified in this Agreement, this Agreement shall control.

...

§ 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.

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§ 10.9 All documents, transmittals, products, and plans shall be identified with the Owner's name and the Project name and number(s).

...

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

Two hundred and Twenty-Seven Thousand Five Hundred Dollars (\$227,500), plus reimbursable expenses provided herein.

...

*(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)*

An additional lump sum fee of Twenty-Five Thousand One Hundred Sixty-Eight Dollars (\$25,168). See Attachment A for description of additional services.

...

§ 11.3 For Unplanned Additional Services that may arise during the course of the Project, including those under Section 4.3, the Owner shall compensate the Architect as follows:

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

Per rates agreed pursuant to § 11.7 or otherwise agreed.

~~§ 11.4 Compensation for 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 otherwise stated below:~~

§ 11.4 Compensation for Unplanned 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 Five percent (5%).

Schematic Design Phase	<u>fifteen</u>	percent (	<u>15</u>	%)
Design Development Phase	<u>twenty</u>	percent (	<u>20</u>	%)
Construction Documents Phase	<u>forty</u>	percent (	<u>40</u>	%)
Bidding or Negotiation Phase	<u>five</u>	percent (	<u>5</u>	%)
Construction Phase	<u>eighteen</u>	percent (	<u>18</u>	%)
<u>Upon certification of Final Completion</u>	<u>two</u>	<u>percent</u> (	<u>2</u>	<u>%)</u>

...

§ 11.6 ~~When compensation is based on a percentage of the Cost of the Work and any portions of the Project portions of the Project for which Construction Documents have been completed are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions, in accordance with the schedule set forth in Section 11.5 based on (1) the lowest bona fide bid or negotiated proposal, or (2) if no such bid or proposal is received, the most recent estimate of the Cost of the Work for such portions of the Project. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.~~

§ 11.6.1 If a Construction Change Order or Change Directive is generated:

§ 11.6.1.1 at the request of the Owner, including Owner-approved suggestions from the Architect or the Contractor, then the cost of generating and processing the request shall be paid either in accordance with Paragraph 11.3 or based on the percentage of the net change in construction cost, as determined by the Owner.

§11.6.1.2 OMITTED

§ 11.6.1.3 in response to a proposal from the Architect to correct an error and/or omission on the part of the Architect, then the required documentation shall be generated and processed at no additional cost to the Owner.

*(If applicable, attach an exhibit of hourly billing rates or insert them below.)*

Architect's Rate Sheet is attached. Hourly rates for Principals and for each classification and/or category of employee include all expenses related to individual.

**Employee or Category** **Rate**

...

~~.2 Long distance services, dedicated~~ Dedicated data and communication services, teleconferences, Project Web sites, and extranets;

...

~~.5 Postage, handling and delivery;~~

...

~~.7 Renderings, models, mock-ups, professional photography, and presentation materials requested by the Owner;~~

~~.8 Architect's Consultant's expense of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits if the Owner requests such insurance in excess of that normally carried by the Architect's consultants;~~

~~.9 All taxes levied on professional services and on reimbursable expenses;~~

~~.10 Site office expenses; and~~

~~.11 Other similar Project related expenditures; Owner for purposes other than presentations to the Owner or its Board of Trustees;~~

~~.8 Special Project-related expenditures approved by the Owner in advance as in furtherance of the Project as a whole.~~

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus percent (~~—~~%) Five percent (5%) of the expenses incurred.

...

one dollar (\$1.00)

...

§ 11.10.1 An initial payment of (~~\$—~~) Zero Dollars and Zero Cents (\$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.

§ 11.10.2 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid (~~—~~) Forty-five (45) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect. ~~(Insert rate of monthly or annual interest agreed upon.)~~

% ~~—~~ 5% per annum

§ 11.10.3 The Owner shall not withhold amounts from the Architect's compensation to impose a penalty or liquidated damages on the Architect, or to offset sums requested by or paid to contractors for the cost of changes in the Work unless the Architect agrees or has been found liable for the amounts in a binding dispute resolution proceeding. Owner may, however, sequester Architect payments where the Owner has reasonable cause to hold the payment to the Architect pending resolution of a matter in which the Owner contends the Architect bears at least partial responsibility. In such cases the Owner shall not withhold any undisputed amount, and the Owner will provide a written statement of its reasonable cause to the Architect. Sequestered amounts may be released by the Architect's posting of reasonable security or a letter of credit, or otherwise ensuring that the Owner's financial interest in the disputed matter is secured and/or protected.

§ 11.10.4 Records of Reimbursable Expenses, expenses pertaining to Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times: times within five (5) business days of a written request.

§ 11.11 LIMITATION

§ 11.11.1 Compensation as described in Article 11 shall not be exceeded without prior written approval by the Owner.

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§ 12.1 In addition to the documentation requirements of § 3.1.10, the Architect shall ensure that one hard copy set of any project documents containing original signatures, official stamps or other such notations of authenticity including, but not be limited to, bid documents, project manuals, plans, drawings, specifications, Contract Documents, change orders or change directives, approval letters or documents by regulatory authorities, warranties, proof of bid advertising, and documents required at substantial and final completion, shall be forwarded to the Owner for official files. The Architect shall also deliver one electronic copy of said documentation to Owner in both PDF and AutoCAD file formats. Any documents determined to be missing from the submission of the file shall be supplied by the Architect within seven (7) calendar days upon request of the Owner, unless the Architect can demonstrate that the document(s) was previously given to the Owner, in which case the Architect shall be compensated for producing the document(s) as an Additional Service.

§ 12.2 The undersigned certifies that the Architect listed below will provide a "Drug-Free Workplace" as that term is defined in Section 44-107-30 of the SC Code of Laws by complying with the requirements set forth in Title 44, Chapter 107.

§ 12.3 The Owner shall have the right to audit the books and records of the Architect to the extent that the books and records relate to the performance of this Agreement and shall include all pricing data, change order or Agreement modifications for changes in cost. Such books and records related to this Agreement and to the Project files for those Projects covered under this agreement shall be maintained by the Architect for a period of three years from the date of final payment under this Agreement. This requirement shall apply to any Consultant performing services under the Architect's direction.

§ 12.4 The following meeting schedule shall be considered part of Basic Services. Meetings beyond those identified hereunder shall be considered Unplanned Additional Services:

- Schematic Design: Two meetings with Architect and Owner's Project Team
- Design Development: Three meetings with Architect and Owner's Project Team
- Construction Documents: Two meetings with Architect and Owner's Project Team
- Construction Administration: 24 site visits by Architect

Six meetings of the Owner's Board of Trustees.

...

.2 AIA Document E201™ 2007, Digital Data Protocol Exhibit, if completed, or the following:

~~3~~ ~~Other documents:~~

~~(List other documents, if any, including Exhibit A, Initial Information, and additional scopes of service, if any, forming part of the Agreement.)~~

Attachment A: Description of Additional Services

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Dr. Stephen Hefner, Superintendent

P. Douglas Quackenbush AIA LEED AP, President

**Certification of Document's Authenticity**  
AIA® Document D401™ – 2003

I, \_\_\_\_\_, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 12:52:14 on 02/08/2017 under Order No. 9982860029\_1 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B101™ – 2007, Standard Form of Agreement Between Owner and Architect, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)



(Title)

PRESIDENT

(Dated)

2/14/17

## **Attachment A: Description of Additional Services**

### **Chapin Middle School Third Wing Addition**

#### **Landscape Architectural services (Rebecca M. Looney & Associates):**

##### **Planting plan and irrigation design phase:**

- Production of preliminary planting plan and cost estimate for Chapin Middle School Campus. Planting plan to be in harmony with existing plantings on site. Planting plan to include new wing expansion. Modifications of plantings along back wall of school building to use more durable plants where students are wearing them down. Front entry on both sides of entry road off Broad River to improve appearance of existing stands of trees along with sod for both sides and accent plantings. Additional tree groupings in drop off island.
- Meeting to present preliminary planting plan to owner and owner representatives along with cost estimate.
- Coordination of irrigation modification for new sod at entrance off Broad River Road.
- Production of final planting plan, details and specifications.

##### **Bid phase:**

- Respond to questions during bid preparation.

##### **Construction observation phase:**

- Attend pre-construction meeting.
- Provide up to 2 site visits during construction and produce field reports on status of installation.
- Provide up to 2 site visits during warranty periods and produce field reports on status of installation.

**LANDSCAPE DESIGN FEE \$4,500 x 1.1= \$4,950**

#### **Furniture Selection services (Quackenbush Architects + Planners):**

Based on the approved written program, Furniture Selection Services shall be provided for the project. The scope shall include the development of an overall furniture plan and selection of loose furniture and corresponding fabrics/finishes. Furniture selections shall be based on South Carolina State Contract Manufacturers. Assistance with bidding, procurement, and installation of furnishings is not included.

**FURNITURE SELECTION DESIGN FEE \$8,860**

#### **Voice/Data/CATV/AV infrastructure services (Belka Engineering):**

Data (CAT6) cabling shall be included in this scope of work including data room backboards, grounding, racks, punch down blocks, terminations, jacks/plates. Data rack equipment and final commissioning shall be provided by owner. A/V infrastructure shall be coordinated with selected A/V consultant.

**VOICE/DATA/CATV/AV INFRASTRUCTURE DESIGN FEE \$4,000 X 1.1= \$4,400**



**Audio Visual Consulting and Design Services (Unified AV Systems, Inc.):**

UAVS will provide audio visual consulting and design services to include three onsite and Video Conferencing meetings for consulting, system descriptions, AV system design, and infrastructure drawings for the areas specified.

The design cost is based on three types of classrooms typically seen in k12 environments and 2 display/digital signage locations. This does not mean the district is limited to these exact specifications. If the district decides on a more complex classroom type, there will be additional design fees.

The three typical classroom types in this environment are:

1. SMART Board on wall, Ultra Short Throw Projector above SMART Board, SMART Side speakers, wall plate directly below board. No control panel.
2. Interactive touch panel on wall, sound bar at panel location, wall plate directly below board. No control panel.
3. Projection screen, in-ceiling projector, in-ceiling speakers, and wall plate at front of classroom. No control panel.

The design cost is based off of the following:

- A1.10 - 9 classrooms
  - 7 classrooms, Drama, and Science
  - Digital Signage Location
- A1.20 - 11 classrooms
  - 8 Classrooms, 2 Science Classrooms, 1 Science Lab
  - Digital Signage Location
  - Potential display in Resource or Team Room

**AUDIO VISUAL CONSULTING DESIGN FEE \$6,325 x 1.1= \$6,958**

End of Additional Services Descriptions



LETTER OF TRANSMITTAL

PROJECT Richland Lexington Five- Chapin MS Third Wing PROJECT NO. 16.199.00  
TO Ms. Sybil Stowers DATE 2/16/17  
ADDRESS School District Five of Lexington & Richland Counties  
1020 Dutch Fork Road  
Ballentine SC 29002  
FROM Doug Quackenbush AIA LEED AP

We are sending you:

DRAWINGS  PLANS  DOCUMENTS  SPECIFICATIONS  SUBMITTAL  OTHER

NO. OF COPIES	DESCRIPTION
2	AIA B101-2007 Standard Form of Agreement Between Owner and Architect

This information is transmitted as noted below:

AS REQUESTED  FOR REVIEW/COMMENT  FOR APPROVAL

REMARKS: Please have Dr. Hefner sign both copies of the AIA B101 and return one to me for my file. Thank you!

Transmitted by:

OVERNIGHT DELIVERY  STANDARD MAIL  COURIER  OTHER



