

**GAHANNA-JEFFERSON PUBLIC SCHOOL DISTRICT BOARD OF EDUCATION  
REQUEST FOR QUALIFICATIONS  
FOR DESIGN PROFESSIONAL SERVICES**

**Date October 25, 2024**

**Project Owner:** Gahanna-Jefferson Public School District Board of Education  
**Project Name:** GJPS FY25 Civil Improvement Projects  
**Project Location:** Various locations throughout the District  
**Delivery Method:** General Contractor per the Ohio Revised Code  
**Deadline to Submit Qualifications:** 2:00 p.m. local time, **November 15, 2024**

Gahanna-Jefferson Public School District Board of Education (the “District” or “Owner”), is soliciting Statements of Qualifications (“SOQs”) from qualified individuals or firms to provide Design Professional Services for its GJPS FY25 Civil Improvement Projects (the “Project”). The District reserves the right to add additional or remove existing scope as necessary. The District anticipates that it will use a general contractor for the construction of the Project and statutory competitive bidding or other methods in accordance with the law.

Qualifications received may be retained in a file maintained by the District for design professional qualifications, unless the firm specifically requests not to be included in this file. The file may be used for projects or design needs for which design fees are estimated to be less than \$50,000. Each firm is requested to provide annual updates to the qualifications to keep them current.

**Submittals:**

Interested individuals or firms must submit **1 electronic copy in PDF format** of the SOQ’s via email directly to Business Operations, at [BusinessOPS@gjps.org](mailto:BusinessOPS@gjps.org). Place the project name listed in the RFQ and your firm’s name in the subject line.

Electronic submittals should be combined into one PDF file named with the project name listed on the RFQ and your firm’s name. Use the “print” feature of Adobe Acrobat or similar software for creating a PDF rather than using a scanner. If possible, please reduce the file size of the PDF. In Acrobat, go to Advanced, then PDF Optimizer.

Facsimile copies of the Statement of Qualifications will not be accepted.

The District reserves the right to waive any defect or technicality in any SOQ received or to eliminate any firm that submits an incomplete or inadequate SOQ or that is not responsive to the requirements of this RFQ.

**Questions, Clarifications and Addenda:**

All questions concerning this RFQ shall be directed in writing via email to Business Operations at [BusinessOPS@gjps.org](mailto:BusinessOPS@gjps.org) by **5:00 p.m., 7 calendar days prior to the submittal deadline**. Questions will be reviewed, and the District will determine whether any addenda should be issued as a result of any pertinent or substantive inquiries. Addenda will be posted in the “Projects for Bid” section of the Business Operations page on our District website. Firms shall not rely on any oral instructions or answers.

**Background and Project Description:**

1. The Project is anticipated to include civil improvement projects throughout the District, including;
  - i. Gahanna Middle School West – 350 N. Stygler Rd., Gahanna, OH 43230
    - Concrete Apron Replacement (2)
    - Asphalt Bus Loop and Playground Replacement
    - Related Striping
    - Curb Painting
    - Irrigation to Football Field
  - ii. Gahanna Middle School South – 349 Shady Spring Dr., Gahanna, OH 43230
    - Asphalt Drainage Improvements
    - Asphalt Path Addition
    - Irrigation to Football Field
  - iii. Gahanna Middle School East – 730 Clotts Rd., Gahanna, OH 43230
    - Irrigation to Football Field
  - iv. Jefferson Elementary – 136 Carpenter Rd., Gahanna, OH 43230
    - Asphalt Playground and Path Repairs
    - Crackfill & Seal
    - Associated Striping
  - v. Royal Manor Elementary
    - Asphalt Playground and Walk Replacement
  - vi. Chapelfield Elementary
    - Asphalt Playground and Path Repairs
    - Crackfill & Seal
    - Associated Striping
2. The Design Professional will assist with budget development, subject to the District's approval.
3. The District anticipates that the Design Professional will assist the Owner in program development/evaluating the program for the Project. The Owner anticipates the Design Professional will provide cost estimating (for base bid scope and individual alternates), design phase services, bid phase services (including assistance with bid tabulation/evaluation and scope review with bidder(s)), and construction administration services.
4. The District anticipates that the Design Professional will assist with developing the schedule for the Project.

**Qualifications:**

Submittals shall include the following:

**1. Firm's History**

- i. Information about the firm's history
- ii. Number of Years in Business

**2. Education & Technical Training/Experience of the Assigned Team**

- i. Identify the assigned team for the Project.
- ii. Provide the education, technical training, and experience of the principal in charge of the Project and the Project Manager, as well as any other individuals assigned to the Project
- iii. Identify all consultants and the members of their team, if any.
- iv. Detail the assigned team's experience in providing substantially similar services (i.e., programming/program evaluation, estimating, design/construction administration services for similar facilities and similar projects with an emphasis on similar civil improvements projects) and the team's experience working together on similar projects.
- v. Experience, planned approach, and specific expertise in assisting with Project planning, estimating, and schedule development. Include the team's experience leading and participating in meetings with the public entity boards on similar projects.
- vi. Approach to incorporating practical, tested, energy efficiency and sustainability features into similar projects that will enhance the design, be easy/economic to maintain and contribute to energy conservation and savings for the long-term maintenance and operations;
- vii. Experience and approach to obtaining all applicable permits and governmental approvals (including approval of plans) from the Authorities Having Jurisdiction, including but not limited to interpreting requirements/obtaining approval for zoning and the design review board.

**3. Workload**

- i. Describe the current workload and availability of the firm and assigned team to the Project, the available equipment and facilities.
- ii. Describe the team's ability to perform the required professional design services competently and expeditiously (i.e., are resources currently available or committed to other projects).

**4. Proposed Schedule**

- i. Proposed design phase milestones for completion of the Design Professional's services including completion dates or durations in calendar days for programming, design documents, and construction documents, as well as an anticipated timeline for the bidding, construction and close-out phases of the Project.
- ii. Provide a detailed narrative demonstrating the firm's ability to manage the Project schedule during the design phase and construction phase.

**5. Past Performance based on References -** Past performance as reflected in evaluations of previous and current clients for which the firm has provided or is providing similar services; please include a list of at least five (5) relevant projects involving similar services

performed by the firm during the past five (5) years. Include the following information for each project:

- i. Project owner, name of project and location;
- ii. Brief description of the project, including size of project (e.g., square footage/area) and project delivery model (e.g., general contractor, construction manager at risk, design-build, etc.);
- iii. The initial scheduled completion date and the actual date services were completed or the current anticipated completion date;
- iv. Construction budget, change order amounts, and actual construction cost;
- v. Your firm's assigned team members for the project;
- vi. Other relevant information about the project and the firm's services; and
- vii. Reference contact person and phone number.

**6. Past Performance with District**

- i. Describe the firm's past experience with the District or applicable personnel within the District, if any.

**7. Proximity to the Site**

- i. Describe the firm's location and proximity to the site for purposes of site visits and attending meetings with the District.

**8. Project Estimates and Budget**

- i. Describe the firm's procedures for budget development, including but not limited to, procedures for initial budget development with the District and the process for reviewing and evaluating the budget in coordination with the District at various stages of the design process; and
- ii. Describe the firm's experience over the past five years with preparing or evaluating project estimates and construction costs, monitoring project costs, and completing a project within the initial budget with emphasis on any experience with general contractor projects.

**9. Unique Qualities and/or Expertise of the Assigned Team**

- i. Identify the unique competence, qualities, and/or expertise that set the firm's assigned team apart from other firms and teams as it relates to the required services for the Project. List a maximum of four specific and unique qualities that set your team apart from others in relation to the District's Project.

**10. Professional Liability Insurance Coverage & Claims History - Include:**

- i. The coverage amounts and types of insurance coverage, particularly the firm's commercial general liability and professional liability limits;
- ii. Specific information about any claims asserted against the firm or its professional liability carrier within the last five years, including the resolution of the claim(s);
- iii. Any statistics kept internally on change order history, project completion, and budget considerations, recognizing that each change order is unique as to its causes. The District is interested in information that will show consideration of

budget requirements; and

- iv. Specific information about any claims asserted by the firm within the last five (5) years, including the resolution of the claim(s).

#### **11. Construction Phase Services**

- i. Describe the firm's practices with respect to site visits and oversight of the Project.
- ii. Generally, does the frequency of visits typically change based upon the stage of construction?
- iii. What amount of time is spent on average on site during the construction phase?
- iv. What is the background of the individuals who would be visiting the Project during construction?
- v. What documentation of such site visits is prepared and maintained?

#### **12. Proposed Modification to Agreement Terms**

- i. The Architect Agreement, which is a modified AIA Document B101-2017 Standard Abbreviated Form of Agreement Between Owner and Architect, is attached hereto as **Exhibit A** (the "Architect Agreement").
- ii. If your firm would like to propose any deviation from the terms of the Architect Agreement, you must identify those terms and submit your proposed modified language in detail in your SOQ in a section clearly titled "Proposed Modification to Agreement Terms". **Failure to do so shall be deemed to be a waiver of the right to negotiate the terms.** Modifications may be accepted in the District's sole discretion and may be taken in to account by the District when ranking the most-qualified firms.

#### **Pre-Submittal Site Visit:**

During the RFQ phase, Respondents may schedule a visit to the site(s), after contacting Business Operations at [BusinessOPS@gjps.org](mailto:BusinessOPS@gjps.org). Visits will only be allowed from the general public's perspective. The District reserves the right to have a representative present.

#### **Evaluation & Selection:**

Firms submitting SOQs for the available contract will be evaluated and the District will select and rank at least three firms which it considers to be the most-qualified to provide the required services. However, if the District determines that fewer than three qualified firms are available, it will select and rank those firms. Such evaluation and selection is subject to the District's absolute right to stop the process and refrain from entering into any contract. The District may require additional information from one or more Respondents to supplement or clarify the SOQs submitted. The individual project teams from select firms may be asked to meet with the District's representatives to present the firm's qualifications and proposed approach for the Project before final ranking and selection is made. The individual team members that will be involved with the Project must attend such meeting.

Upon selection of the firm determined to be most qualified to provide the requested services for the Project, the District reserves the right to negotiate the price for services to be provided, with such firm. If the District and the selected firm agree to a price and scope of services, the form of agreement between the District and the selected firm will be the attached Architect Agreement with modifications proposed in accordance with this RFQ, if accepted by the District in its sole

discretion. Any modifications to the attached Architect Agreement will be in the District's sole discretion, and the District at its option may accept or reject the proposed modifications. The District reserves the right to take any action affecting the RFQ process or the Project that it deems to be in its best interest.

Qualifications received may be retained in the file maintained by the District for design professional qualifications; each firm is requested to provide annual updates to the qualifications to keep them current.

**Attachments:**

Exhibit A – Architect Agreement



Royal Manor Elementary School  
299 Empire Dr.  
Gahanna, Ohio 43230

Chapelfield Elementary School  
280 Chapelfield Rd.  
Gahanna, Ohio 43230

The Owner reserves the right to add services and improvements to the Project through executed amendment(s) to this Agreement or to enter into separate agreement(s) with different design professionals, in its sole discretion. Such future phases of the Project will be pursued only if the Owner determines in its discretion to do so.

The Owner and Design Professional agree as follows.



## TABLE OF ARTICLES

1	INITIAL INFORMATION
2	<del>ARCHITECT'S DESIGN PROFESSIONAL'S RESPONSIBILITIES</del>
3	<del>SCOPE OF ARCHITECT'S DESIGN PROFESSIONAL'S BASIC SERVICES</del>
4	<del>SUPPLEMENTAL AND ADDITIONAL OTHER BASIC SERVICES</del>
5	OWNER'S RESPONSIBILITIES
6	COST OF THE WORK
7	COPYRIGHTS AND LICENSES
8	CLAIMS AND DISPUTES
9	TERMINATION OR SUSPENSION
10	MISCELLANEOUS PROVISIONS
11	COMPENSATION
12	SPECIAL TERMS AND CONDITIONS
13	SCOPE OF THE AGREEMENT

### ARTICLE 1 INITIAL INFORMATION

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

*(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")*

§ 1.1.1 The Owner's program for the Project:

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

The Owner's initial program for the Project is set forth in the Request for Qualifications (RFQ) issued by the Owner dated October 25, 2024, and anticipated to include the following:

i. Gahanna Middle School West:

- Concrete Apron Replacement (2);
- Asphalt Bus Loop and Playground Replacement;
- Related Striping;
- Curb Painting; and
- Irrigation to Football Field.

ii. Gahanna Middle School South:

- Asphalt Drainage Improvements;

Init.

/

- Asphalt Path Addition; and
- Irrigation to Football Field.

iii. Gahanna Middle School East:

- Irrigation to Football Field.

iv. Jefferson Elementary:

- Asphalt Playground and Path Repairs;
- Crackfill & Seal; and
- Associated Striping.

v. Royal Manor Elementary:

- Asphalt Playground and Walk Replacement.

vi. Chapelfield Elementary

- Asphalt Playground and Path Repairs;
- Crackfill & Seal; and
- Associated Striping.

**§ 1.1.2** The Project's physical characteristics:

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

Physical characteristics of the Project shall be based upon the information provided in the Request for Qualifications and Section 1.1.1 of this Agreement. Additional or alternative physical characteristics are to be determined in coordination with the Owner, based upon the Owner's project criteria, including the Project budget.

**§ 1.1.3** The Owner's budget for the Cost of the Work, as defined in Section 6-4:6.1 is to be determined.

(Provide total and, if known, a line item breakdown.)As part of its Basic Services, the Design Professional will assist the Owner in developing the total budget for the Project ("Project Budget") including the Cost of the Work as defined in Section 6.1 (including cost of construction, contractor fees, site improvements, and appropriate contingencies) plus design fees, subject to the Owner's approval.

Throughout the term of this Agreement the Design Professional will perform its services based upon the Owner's then-current budget.

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

- .1 Design phase milestone dates, if any:

<u>Task</u>	<u>Completed by Design Professional by</u>
<u>Schematic Design</u>	<u> calendar days from execution of this Agreement</u>
<u>Design Development</u>	<u> calendar days from execution of this Agreement</u>
<u>Construction Documents</u>	<u> calendar days from execution of this Agreement</u>

**.2 Construction**

The Design Professional shall complete its Schematic Design, Design Development, and Construction Documents phase services including review and approval by the Owner, so that competitive bidding of the general contractor may begin within   calendar days from execution of this Agreement. As part of its Basic Services, the Design Professional will assist with schedule development for the Project, as requested by the Owner. The Design milestone and completion dates stated herein shall only be changed by written, signed agreement between the Owner and Design Professional.

**.2 Anticipated construction commencement date:**

May 27, 2025

**.3 Anticipated Substantial Completion date or dates:**

August 4, 2025

**.4 Other milestone dates:**

None anticipated at the time of execution of this Agreement; TBD in the Owner's sole discretion.

**§ 1.1.5 The Owner intends the following procurement and delivery method for the Project:**

*(Identify method such as competitive bid or negotiated contract, as well as any requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction.)*

Competitive Bid as contemplated by Ohio Revised Code Section ORC 3375.41 (General Contractor).

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

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

Where possible, the Design Professional shall provide the Owner with various design and material options and advise on the added or reduced costs and savings for operation costs and over the life of the Project.

~~§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Architect shall complete and incorporate AIA Document E204™ 2017, Sustainable Projects Exhibit, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E204 2017 is incorporated into this agreement, the Owner and Architect shall incorporate the completed E204 2017 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective. [Not Used.]~~

**§ 1.1.7 The Owner identifies the following representative representatives in accordance with Section 5.3:**

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

Primary Owner Contact: Kevin Klingler, COO  
Gahanna-Jefferson Public Schools Board of Education  
630 Morrison Road, Suite 200  
Gahanna, Ohio 43230  
Email: [Klinglerk@ajps.org](mailto:Klinglerk@ajps.org)

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

N/A

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

.1 Geotechnical Engineer:

To be provided by the Design Professional, as needed.

.2 Civil Engineer:

To be provided by the Design Professional, as needed.

.3 Other, if any:

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

None.

§ 1.1.10 The Architect-Design Professional identifies the following representative in accordance with Section 2.3:  
(List name, address, and other contact information.)

[Redacted]

§ 1.1.11 The Architect-Design Professional shall retain the consultants identified in Sections 1.1.11.1 and 1.1.11.2 and as identified in the Design Professional’s qualifications submission dated \_\_\_\_\_ which is incorporated by reference to the extent not inconsistent with this Agreement:  
(List name, legal status, address, e-mail, and other contact information.)

§ 1.1.11.1 Consultants retained under Basic Services:

.1 Structural Engineer:

[Redacted]

.2 Mechanical Engineer:

[Redacted]

.3 Electrical Engineer:

.2 Mechanical Engineer: [REDACTED]

.4 Civil Engineer:

[REDACTED]

.5 Landscape Architect:

[REDACTED]

.6 Design Architect and ADA Compliance:

[REDACTED]

.7 Cost Estimating/Scheduling Consultant:

~~.3 Electrical~~

[REDACTED]

.8 Land Surveyor:

[REDACTED]

.9 Geotechnical Engineer:

[REDACTED]

.10 Lighting Design:

[REDACTED]

.11 Computer Technology/Data Comm.:

[REDACTED]

.12 Third-Party Commissioning

None anticipated

§ 1.1.11.2 Consultants retained under ~~Supplemental~~ Additional Services:

To be determined in accordance with this Agreement, if any

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

.1 If Design Professional must retain additional consultants, such consultants are subject to the Owner's approval. The Design Professional shall not contract with a proposed consultant with whom the Owner has made a reasonable and timely objection. If the Owner has a reasonable objection to a consultant proposed by the Design Professional, the Design Professional shall propose another consultant with whom the Owner has no reasonable objection at no additional cost to the Owner. The Design Professional shall not change a consultant previously selected and approved by the Owner, if the Owner makes a reasonable objection to the substitution.

.2 The Owner reserves the right to review and approve staff proposed by the Design Professional to be assigned to the Project and any staff changes in key project roles, including those identified in the Design Professional's submitted Statement of Qualifications. The Design Professional will inform the Owner of any proposed staff assignments and changes in staffing before the change is implemented and obtain approval from the Owner, which will not be unreasonably withheld. The Design Professional

Init.

shall not replace any of the representatives listed herein without the consent of the Owner while such representative is employed by the Design Professional, except with another representative who is satisfactory to the Owner. If the Design Professional proposes to change the representative, the Design Professional shall submit to the Owner a written request for the change, including the justification for the change and the name and qualifications for the proposed replacement. The Design Professional shall provide promptly any related additional information the Owner requests.

- .3 The Design Professional's agreements with its consultants and subcontractors must be consistent with the Design Professional's contractual obligations to the Owner, include a provision incorporating the terms of this Agreement by reference, incorporate relevant portions of the Design Professional's scope of services for the Project, and name the Owner as a third-party beneficiary.
- .4 The Design Professional shall obtain, and unless otherwise approved in advance in writing by the Owner, shall require its consultants or subcontractors to maintain insurance coverage and workers compensation coverage in at least the same limits and specifications as the requirements set forth for Design Professional in Section 2.6, and to provide the Owner with an insurance certificate if so requested.
- .5 The Design Professional will respond to inquiries from the Owner or the Owner's representative within three (3) business days from the receipt of the inquiry. Each response will address the questions raised in the inquiry and, if requested, will be in writing; provided, however, that if three (3) business days is not an adequate period of time under the circumstances to prepare the response, the period for the response will be extended to give the Design Professional a reasonable amount of time to respond. If a decision or approval is required by the Owner under this Agreement, the Owner will have at least three (3) business days written notice in advance that its decision or approval is required and will be furnished with sufficient information from which a decision or approval can be made, provided, however that if the 3-day period is not sufficient under the circumstances, the period for the response will be extended to give the Owner a reasonable period of time to respond.

§ 1.2 The Owner and Architect-Design Professional may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the Architect's services, schedule for the Architect's services, and the Architect's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information. Design Professional may agree to adjust the Design Professional's services, schedule for the Design Professional's services, and the Design Professional's compensation pursuant to a written, signed agreement between the Owner and Design Professional.

§ 1.3 The parties shall agree upon written protocols governing the transmission and use of, and reliance on, Instruments of Service or any other information or documentation in digital form. [Not Used.]

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to written protocols governing the use of, and reliance on, the information contained in the model shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees. [Not Used.]

## **ARTICLE 2 — ARCHITECT'S RESPONSIBILITIES**

§ 1.4 In the event of any inconsistency, the provisions of this Agreement shall control over any purchase order, proposal, exhibit, or separate terms and conditions. In the event of inconsistencies within or between parts of the Contract Documents, or between the Contract Documents and applicable standards, codes, and ordinances, the Design Professional shall (i) provide the better quality or greater quantity of Work; or (ii) comply with the more stringent requirements.

§ 1.5 During the design services, the Design Professional shall keep Owner apprised of any deviation from Owner's preliminary design documents or design criteria and respond timely to the Owner's comments regarding any such deviation.

## **ARTICLE 2 DESIGN PROFESSIONAL'S RESPONSIBILITIES**

**§ 2.1** ~~The Architect-Design Professional~~ shall provide professional services as set forth in this Agreement. The ~~Architect-Design Professional~~ represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals. The Design Professional shall comply with the Owner's rules, regulations, and policies. The Design Professional will provide professional services necessary for the design and documentation of the Project.

The Design Professional agrees that the Basic Services compensation, as stated in Article 11, represents adequate and sufficient consideration for its provision of professional services, identified as Basic Services in this Agreement (including those of its consulting structural, mechanical, fire protection, plumbing, and electrical engineers and all other consultants under the Design Professional's responsibility) necessary to design the Project and prepare the documents that are necessary to fully indicate the requirements for construction, whether or not those services are individually expressed in this Agreement, the only exceptions to this being (1) the costs of those services that are provided by third parties and are expressly designated herein as being the "Owner's responsibility" or are "Owner-provided" and (2) the cost of those engineering or consulting services that become necessary as a result of a material change in Project scope affecting the Design Professional and that are the subject of a written agreement between the Owner and the Design Professional as limited by the terms of Subparagraph 11.3 or 11.4.

**§ 2.2** ~~The Architect-Standard of Care.~~ The Design Professional shall perform its services consistent with the professional skill and care ordinarily provided by architects skill, competence, and care ordinarily provided by Design Professionals licensed to practice in the State of Ohio and practicing in the same or similar locality under the same or similar circumstances. ~~The Architect~~ circumstances (the "Standard of Care"). The Design Professional shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

**§ 2.2.1 Project Schedule.** After consultation with the Owner, the Design Professional will prepare a preliminary project schedule for the Project that includes milestones for completion of key phases of the Project through completion of construction. The Owner will approve such dates and milestones and any modifications to them, and the milestone dates will be included in the Contract Documents. Following the award of the contract for construction of the Project, the Design Professional will promptly review the construction schedule prepared by the General Contractor, and any subsequent updates to the Construction Schedule. If at any time the Design Professional believes the time of completion of the Project or any milestone will be exceeded, the Design Professional shall promptly notify the Owner in writing of this situation and work with the Owner and the Contractor to develop alternatives for maintaining the project schedule. The Design Professional will perform these services with reasonable diligence and expediency consistent with sound professional practices.

**§ 2.2.2** The Design Professional shall review laws, codes, and regulations applicable to the Design Professional's services. The Design Professional shall respond in the design requirements imposed by governmental authorities having jurisdiction over the Project and shall perform Design Professional's services in conformance with all such laws, codes, and regulations. Further, the Design Professional acknowledges that design requirements of agencies and entities that accredit the Owner must be used in designing the Project. The Design Professional will conform its services and the Project design to meet the applicable standards of such accrediting agencies and entities.

**§ 2.3** ~~The Architect-Design Professional~~ shall identify a representative authorized to act on behalf of the ~~Architect~~ with respect to the ~~Project-Design Professional~~ with respect to the Project. Such representative shall be subject to the approval of the Owner. The Owner is entitled to assume that written direction from the Owner to the Design Professional may be provided to any of the Design Professional's designated representatives to the extent that the Design Professional provides specifically assigned areas of authority for each of the designated representatives.

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

**§ 2.5** ~~The Architect-Insurance.~~ The Design Professional shall maintain the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9. Agreement and for a period of five (5) years following final completion of the Project. The insurance shall cover the Design Professional and its employees and shall be obtained from an insurance company rated A- or better by the Best Insurance Reports. The Design

Professional will require its consultants to maintain appropriate levels of insurance coverage based upon the services to be provided by the consultant.

**§ 2.5.1** Commercial General Liability with policy limits of not less than one million dollars (\$ 1,000,000 ) for each occurrence and two million dollars (\$ 2,000,000 ) in the aggregate for bodily injury and property damage. A per project aggregate endorsement shall be included in the General Liability and shall provide that the general aggregate limit applies separately to the Project. This endorsement shall be Insurance Services Office, Inc. (ISO) endorsement CG 25 03, or equivalent.

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

**§ 2.5.3** ~~The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.5.1 and 2.5.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.~~In lieu of the total Limits of Liability being provided under the Primary Liability insurance, the Design Professional and consultants may provide the liability limit specified by means of a combination of Primary and Umbrella Liability insurance. The Umbrella Liability coverage must be as broad or broader than the Primary Insurance policies.

**§ 2.5.4** Workers' Compensation at statutory ~~limits~~limits as required by Ohio law.

**§ 2.5.5** ~~Employers' Liability with policy limits not less than (\$ ) each accident, (\$ ) each employee, and (\$ ) policy limit.~~Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits as set forth below:

Project Budget Defined in 1.1.3	Professional Liability Policy Limits Not Less Than	
	Per Claim	In Aggregate
\$0-\$5 Million	\$1 Million	\$2 Million
Greater than \$5 Million - \$10 Million	\$2 Million	\$2 Million
Greater than \$10 Million - \$50 Million	\$2 Million	\$4 Million

**§ 2.5.6** ~~Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than (\$ ) per claim and (\$ )~~Pollution Liability insurance with a limit for any one incident of not less than one million dollars (\$1,000,000) per claim and one million dollars (\$1,000,000) in the aggregate.

**§ 2.5.7 Additional Insured Obligations.** ~~To the fullest extent permitted by law, the Architect shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Architect's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations. The Owner must be named as a certificate holder of each policy and, except for professional liability coverage, will also be named as an additional insured.~~

**§ 2.5.8** ~~The Architect shall provide certificates of insurance to the Owner~~Design Professional shall provide certificates of insurance to the Owner prior to execution of this Agreement and a copy of its errors and omissions coverage to the Owner upon request that evidence compliance with the requirements in this Section 2.5. The Design Professional shall deliver to Owner, upon request, copies of the actual insurance policies. Design Professional is required to notify Owner of any adverse material change in, or cancellation of, the policy or policies evidenced, via certified mail to Owner, and that 5 days after the renewal date, the Design Professional shall furnish Owner, with updated or replacement certificates of insurance that clearly evidence continuation of all coverages in the same manner, limits and protection, as required.



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

**§ 2.5.9** If professional liability and/or commercial general liability coverage is claims-made coverage, coverage must be maintained in effect for ten (10) years after Final Completion of Work.

### **ARTICLE 3 SCOPE OF DESIGN PROFESSIONAL'S BASIC SERVICES**

**§ 3.1** The ~~Architect's~~ Design Professional's Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. 3, as set forth in the Owner's Request for Qualifications which is incorporated herein by reference to the extent not inconsistent with this Agreement, and as set forth in the Design Professional's Proposal attached hereto as Exhibit A to the extent not inconsistent with this Agreement. As applicable all authorized services shall include usual and customary architectural, civil, structural, mechanical, plumbing, fire protection, and electrical engineering services and other engineering and consulting services necessary, in accordance with the Design Professional's Standard of Care to design the Project. The Design Professional's design for the Project will comply with the Owner's planned objectives and criteria, as communicated by the Owner, for both functions to be accomplished by the construction and improvements and the Owner's budget as defined in Section 1.1.3 for the Project. If the Design Professional's design is not consistent with the Owner's planned objectives and criteria, the Design Professional will notify the Owner in writing of the differences between the design and the Owner's planned objectives and criteria in sufficient time so that the differences can be resolved to the Owner's satisfaction prior to soliciting bids or proposals, at the Design Professional's expense. The design of each part or phase of the Project and the Plans and Specifications for each part or phase of the Project are subject to approval by the Owner. The Design Professional shall assist the Owner in the procurement of consultants and suppliers, as requested by Owner, and provide all required information and coordination of its services with the Owner and any of Owner's consultants and suppliers as part of its Basic Services. Services not set forth in this Article 3 are Supplemental or Agreement as Basic Services are Additional Services.

**§ 3.1.1** The ~~Architect shall manage the Architect's services,~~ Design Professional shall manage the Design Professional'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. The Design Professional shall be responsible for memorializing all Project meetings during the design phases of the Project.

**§ 3.1.2** The ~~Architect~~ Design Professional shall coordinate its services with those services provided by the Owner and the Owner's consultants. The ~~Architect~~ If Owner performs work on the Project with separate consultants, equipment suppliers, or other vendors, Design Professional shall cooperate with and coordinate its design and activities with those of such separate consultants, equipment suppliers, or other vendors so that the Project can be completed in an orderly and coordinated manner without disruption. As applicable, the Design Professional shall review the reports and shop drawings from Owner's consultants, equipment suppliers, or other vendors and coordinate its design accordingly. The Design Professional shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. The ~~Architect~~ Design Professional shall provide prompt written notice to the Owner if the ~~Architect~~ Design Professional becomes aware of any error, omission, delay, or inconsistency in such services or information.

**§ 3.1.3** As soon as practicable after the date of this Agreement, the ~~Architect~~ Design Professional shall submit for the Owner's approval a schedule for the performance of the ~~Architect's~~ Design Professional'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~~ Design Professional or Owner. With the Owner's approval, the ~~Architect~~ Design Professional shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

**§ 3.1.4** The ~~Architect~~ Design Professional shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work, made or given without the ~~Architect's~~ written approval. Design Professional's written approval. The Design Professional shall timely notify the Owner and Contractor of any objections it has to such substitution, in writing.

§ 3.1.5 The Architect shall contact governmental authorities. Design Professional shall, at appropriate times, contact governmental authorities or other Authorities Having Jurisdiction, required to approve the Construction Documents and entities providing utility services to the Project. The Architect. In designing the Project, the Design Professional shall respond to applicable design requirements imposed by those authorities and entities such authorities and by such entities providing utility services. The Design Professional shall advise the Owner, in writing, of the results of these contacts and any impacts on Project requirements.

§ 3.1.6 The Architect. Design Professional 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.

§ 3.1.7 The Design Professional's Basic Services include all utility connections along the parcel boundary for the Project. Any utility connections or design associated with off-site utilities are not included in Basic Services.

§ 3.1.8 The Design Professional shall review laws, codes, and regulations applicable to the Design Professional's services. The Design Professional shall respond in the design of the Project to requirements imposed by governmental authorities having jurisdiction over the project, and shall perform Design Professional's services and design the Project in conformance with all such laws, codes, and regulations including but not limited to all national, state, and local regulatory and statutory requirements.

§ 3.1.9 The American with Disabilities Act (ADA) provides that designs of new facilities must meet the requirements of the ADA. The Owner has contracted with the Design Professional in reliance upon the Design Professional's skill and judgment in addressing the ADA requirements of the Project. The Design Professional will comply with the applicable ADA requirements as they apply to the Project and ensure that the Project is ADA compliant.

§ 3.1.10 The Design Professional warrants and represents that it presently has, and will at all times during the term of this Agreement maintain: (i) all skills, experience, knowledge, staffing and resources necessary to perform the services set forth herein, and (ii) all required licenses, accreditations, certifications and registrations necessary to perform the services set forth herein.

§ 3.1.11 To the extent needed to provide its Basic Services and to the extent existing conditions are reasonably visible and accessible, the Design Professional shall investigate existing conditions or facilities.

### **§ 3.2 Schematic Design Phase Services**

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

§ 3.2.2 The Architect. Design Professional shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, the proposed procurement and delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect. Design Professional shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project. The Design Professional will advise the Owner of design alternatives, which could result in savings to the Owner, including savings in the construction cost and the cost of operating the Project when completed.

§ 3.2.3 The Architect. Design Professional shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project. The Architect. Project, including design alternatives, which could result in savings to the Owner, including savings in the construction cost and operating costs when the Project is completed. The Design Professional shall reach an understanding with the Owner regarding the requirements of the Project.

§ 3.2.4 Based on the Project requirements agreed upon with the Owner, the Architect. Design Professional shall prepare and present, for the Owner's approval, a preferred 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. Design Professional shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings

and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 3.2.5.1 The ~~Architect-Design Professional~~ shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain more advanced sustainable design services as a ~~Supplemental~~ an Additional Service under Section 4.1.1-4.1.1 and/or 4.2.

§ 3.2.5.2 The ~~Architect shall consider~~ Design Professional shall consider and discuss with Owner the value of alternative materials, building systems and equipment, together with other considerations based on ~~program-program,~~ life cycle costs, operating costs, staffing costs, 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-Design Professional~~ 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-Design Professional~~ 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-Design Professional~~ shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels.

§ 3.3.2 The ~~Architect-Design Professional~~ shall update the estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.3.3 The ~~Architect-Design Professional~~ 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.

### § 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-Design Professional~~ 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 customary detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and ~~Architect-Design Professional~~ acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the ~~Architect-Design Professional~~ shall review in accordance with Section 3.6.4.

§ 3.4.2 The ~~Architect-Design Professional~~ shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the ~~Construction Documents~~ Documents and will 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.

§ 3.4.3 During the development of the Construction Documents, the ~~Architect-Design Professional~~ shall assist the Owner and the Owner's legal counsel in the development and preparation of (1) procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary

and other Conditions). The ~~Architect-Design Professional~~ 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 The ~~Architect-Design Professional~~ shall update the estimate for the Cost of the Work prepared in accordance with Section 6.3.

§ 3.4.5 The ~~Architect-Design Professional~~ 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.

§ 3.4.6 The ~~Design Professional~~ is responsible for timely submittal of plans to the local authority(ies) having jurisdiction over the Project to support plan review and the building permit process by these authority(ies).

§ 3.4.7 In addition to other terms to be included in the Contract Documents on behalf of the Owner, to the extent that the following items are within the scope of the Project, the ~~Design Professional~~ will (a) include in the Contract Documents test requirements for the following building systems: air conditioning system (which will be conducted during the summer months), heating system (which shall be conducted during the winter months), electrical system, plumbing system, fire protection system, communications system, security systems and other such systems as are reasonably requested by the Owner; (b) provide that the respective contractors participate in such series of systems tests; and (c) provide that such tests will be conducted during the first eleven (11) months following the date the Owner receives the occupancy permit and Substantial Completion. It is intended that the testing shall be a comprehensive series of operation tests designed to determine whether the systems, including hardware and software, are fully operational in accordance with the requirements of the Contract Documents.

## § 3.5 Procurement Phase Services

### § 3.5.1 General

The ~~Architect-Design Professional~~ shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the ~~Architect-Design Professional~~ shall assist the Owner and the Owner's legal counsel in (1) obtaining either competitive bids or negotiated proposals; bids; (2) confirming responsiveness of bids or proposals; bids; (3) determining the successful bid or proposal, bid, if any; and, (4) awarding and preparing contracts for construction. As soon as possible after the award of a contract, the ~~Design Professional~~ will coordinate with the Owner and the Owner's legal counsel to assist with obtaining the Contractor's signature on the contract, delivering the signed contract to the Owner for approval and execution, and returning an original signed copy of the Contract to the Contractor for its records. The ~~Design Professional~~ will also work with the Owner and its legal counsel to prepare the notice of commencement for the Project.

### § 3.5.2 Competitive Bidding

§ 3.5.2.1 Bidding Documents shall consist of bidding requirements and ~~proposed Contract Documents~~. Contract Documents prepared by Owner's legal counsel and the Construction Documents and any other technical documents prepared by the ~~Design Professional~~.

§ 3.5.2.2 The ~~Architect-Design Professional~~ shall assist the Owner in bidding the Project by:

- .1 placing the legal notice that is prepared by Owner's legal counsel to solicit bids for the Work, soliciting bids for the Work, facilitating the distribution of Bidding Documents to prospective bidders; 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;
- .2 organizing and conducting a pre-bid conference for prospective bidders;
- .3 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to the prospective bidders in the form of addenda; and,
- .4 organizing and conducting the opening of the bids, and subsequently preparing bid tabulations and analysis of bid results or negotiated proposals, documenting and distributing the bidding results, furnishing recommendations on the award of the construction contracts, and distributing the contracts for construction prepared by Owner's legal counsel for execution, as directed by the Owner.

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

~~§ 3.5.2.4~~ If the lowest bona-fide bid by a responsible general contractor exceeds the published construction cost estimate by 20% or more, then the Design Professional will, at its sole cost and expense and consistent with Section 6.7 of this Agreement, revise the drawings and specifications as may be required by the Owner in consultation with the Design Professional to reduce or modify the quality or quantity, or both, of the Project so that the total construction cost of the Project will not exceed the total construction cost set forth in the Owner' approved estimate of construction cost.

**~~§ 3.5.3 Negotiated Proposals – This Section 3.5.3 and related Sections 3.5.3.1 through 3.5.3.3 are deleted.~~**

~~§ 3.5.3.1~~ Proposal Documents shall consist of proposal requirements and proposed Contract Documents. ~~[Not Used.]~~

~~§ 3.5.3.2~~ The Architect shall assist the Owner in obtaining proposals by: ~~[Not Used.]~~

- ~~1~~ facilitating the distribution of Proposal Documents for distribution to prospective contractors and requesting their return upon completion of the negotiation process; ~~[Not Used.]~~
- ~~2~~ organizing and participating in selection interviews with prospective contractors; ~~[Not Used.]~~
- ~~3~~ preparing responses to questions from prospective contractors and providing clarifications and interpretations of the Proposal Documents to the prospective contractors in the form of addenda; and, ~~[Not Used.]~~
- ~~4~~ participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner. ~~[Not Used.]~~

~~§ 3.5.3.3~~ If the Proposal Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective contractors. ~~[Not Used.]~~

**§ 3.6 Construction Phase Services**

**§ 3.6.1 General**

~~§ 3.6.1.1~~ The ~~Architect-Design Professional~~ shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™–2017, General Conditions of the Contract for Construction. ~~If the Owner and Contractor modify AIA Document A201–2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.~~ Construction, as modified by the Owner for the Project.

~~§ 3.6.1.2~~ The ~~Architect-Design Professional~~ shall be a representative of and advise and consult with the Owner during the Construction Phase Services. The ~~Architect-Design Professional~~ shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The ~~Architect-Design Professional~~ 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-Design Professional~~ be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The ~~Architect-Design Professional~~ shall be responsible for the ~~Architect's-Design Professional'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. Nothing in this Agreement will relieve the Design Professional of its duty to use reasonable care to protect the Owner from defective and non-conforming Work in accordance with its Standard of Care.

~~§ 3.6.1.3~~ Subject to Section 4.2 and except as provided in Section 3.6.6.5, the ~~Architect's-Design Professional's~~ responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the ~~Architect-Design Professional~~ issues the final Certificate for Payment.

**~~§ 3.6.1.4~~ Communication with Contractor.** The Design Professional agrees to act as the representative of the Owner in connection with any communication by or with the Contractor; in most situations, communications from the Contractor to the Owner and from the Owner to the Contractor will be issued through the Design Professional. Notwithstanding anything to the contrary in this Agreement, the Owner has not relinquished its right to communicate

with the Contractor directly. The Design Professional will not be responsible for any acts or omissions of the Contractor resulting from such communications made directly by the Owner.

**§ 3.6.1.5 Coordination of Responsibilities Regarding Underground Utility Facilities.** The Design Professional, on behalf of and in the name of the Owner, will assist the Owner to give the notices required to be given by the Owner under Section 153.64(B), Revised Code. The Design Professional will include in the Drawings and Specifications the identity and location of existing underground utility facilities located in the construction area of the Project as provided by the Owner of the utility facility.

**§ 3.6.1.6 Construction Administration.** As part of its Basic Services, the Design Professional shall provide construction administration services, which shall include visiting the site to observe construction activities and progress and providing written and photographic reports to the Owner on such activities and progress.

**§ 3.6.1.7** During the Construction Phase, the Design Professional will do all of the following:

- .1 Attend regular (weekly) job meetings and perform field review of work for quality assurance and compliance with Contract Documents;
- .2 Prepare and distribute meeting minutes;
- .3 Perform a first work inspection and regular, intermittent observations during the Project to confirm for the Owner that Work is being installed in accordance with the Plans and Specifications;
- .4 Provide separate written reports for each observation day, specifically noting for that day the Work progress observed, overall progress to date, safety observations, and quality control concerns, with pictures to illustrate clearly the conditions described in the report.
- .5 Prepare Project Record Documents, which include architectural and engineering modifications of the Construction Documents and as-built information for the purposes of creating a record set of documents in PDF and AutoCAD formats;
- .6 Manage:
  - .1 Submittals
  - .2 Scope review and pricing recommendations for all proposed changes
  - .3 RFIs and responses
  - .4 Bulletins, Change Orders, and Construction Change Directives
  - .5 Applications for Payment
  - .6 Punch Lists and Final Inspection, including initial preparation for and follow-through on each
  - .7 Certificate of Substantial Completion
  - .8 Closeout document review
- .7 Schedule and participate in the 11-month walk-through with the Owner and the Contractor, including any specialty subcontractors as appropriate

Listing of these items in this section does not limit or otherwise modify the provisions in the Agreement addressing any one of them as related to the services to be provided by the Design Professional.

### **§ 3.6.2 Evaluations of the Work**

**§ 3.6.2.1** The ~~Architect~~ Design Professional shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, consistent with its Standard of Care, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the ~~Architect~~ Design Professional 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~~ Design Professional shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, to guard the Owner against defects and deficiencies in the Work, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Design Professional will memorialize its site visits in a written report to the Owner in a format acceptable to the Owner. Nothing in this section will relieve the Design Professional of its duty to use reasonable care to endeavor to protect the Owner from defective and non-conforming Work in accordance with its Standard of Care.

**§ 3.6.2.2** ~~The Architect has the authority to reject Work that~~ Design Professional shall reject Work that it knows or within the Standard of Care should have known does not conform to the Contract Documents. Whenever the Architect Documents and shall notify the Owner and Contractor of the rejection of such Work. Whenever the Design Professional considers it necessary or advisable, the Architect-Design Professional shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect-Design Professional 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-Design Professional 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-Design Professional 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-Design Professional's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness. The Design Professional will keep a record of all such interpretations that includes information such as the date of each request for interpretation, the person making the request, the date of the Design Professional's response, and a summary of the response. The Design Professional will keep all correspondence and documentation related to such requests organized in a systematic manner and will make such documentation available to the Owner upon the Owner's request.~~

**§ 3.6.2.4** Interpretations and decisions of the Architect-Design Professional 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-Design Professional 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-Design Professional's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents.

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

**§ 3.6.2.6** The Design Professional shall give prompt written notice to the Owner if the Design Professional becomes aware of any fault, defect, error, omission, or inconsistency in the Project or in the Contract Documents.

### **§ 3.6.3 Certificates for Payment to Contractor**

**§ 3.6.3.1** ~~The Architect-Design Professional shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's-Design Professional's certification for payment shall constitute a representation to the Owner, based on the Architect's-Design Professional'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-Design Professional's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect.~~ by the Design Professional. The Design Professional will not certify any payment application to the extent the Contractor has not submitted all appropriate waivers of claim waivers of lien, or other documents required by the Contract Documents, except as provided herein.

**§ 3.6.3.2** The issuance of a Certificate for Payment shall not be a representation that the Architect-Design Professional 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-Design Professional shall maintain a record of the Applications and Certificates for Payment.~~

§ 3.6.3.4 Consistent with its Standard of Care, the Design Professional will advise the Owner and the Owner's representative in writing, which writing may consist of notations in the job progress meetings, at the time of the delivery of each certification for payment of any known defects or problems with respect to the Work, which can be reasonably observed in the course of the Design Professional's observations, given the stage of completion of the Work. The Design Professional will not certify any payment application to the extent the Contractor has not submitted any waivers of claim under the Ohio Mechanic's Lien laws or other documents required by the Contract Documents for labor and/or materials listed on the attachment to the Contractor's previous applications for Payment or other documents required by the Contract Documents.

#### **§ 3.6.4 Submittals**

§ 3.6.4.1 The ~~Architect~~ Design Professional shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The ~~Architect's~~ Design Professional'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 in an effort to avoid delay in the Work or in the activities of the Owner, Contractor, or separate subcontractors, while allowing sufficient time, in the ~~Architect's~~ Design Professional's professional judgment, to permit adequate review.

§ 3.6.4.2 ~~The Architect~~ In accordance with the Design Professional-approved submittal schedule, and consistent with its Standard of Care, the Design Professional 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 and required by the Contract Documents, i.e., whether the items that are the subject of the Shop Drawings, Product Data, and Samples will be in general compliance with the requirements of 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~~ ~~The Design Professional~~ shall provide reasonable assistance to clarify certain dimensions if those indicated in the Contract Documents conflict with existing field conditions or because the dimensions in the Contract Documents contain erroneous, inconsistent, or incomplete information. The Design Professional's review shall not constitute approval of safety precautions ~~or~~ or, unless otherwise specifically stated by the Design Professional, of any construction means, methods, techniques, sequences or procedures. The ~~Architect's~~ Design Professional'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~~ Design Professional shall specify the appropriate performance and design criteria that such services must satisfy. The ~~Architect~~ Design Professional shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the ~~Architect~~. ~~The Architect's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy~~ Design Professional. The Design Professional shall notify the Owner and the Contractor, in writing, of any inconsistencies discovered by the review. The Design Professional shall be entitled to rely upon the adequacy, completeness, and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

§ 3.6.4.4 Subject to Section 4.2, the ~~Architect~~ The Design Professional shall review and respond to requests for information about the Contract Documents. The ~~Architect~~ Design Professional 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~~ Design Professional'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 **3 business days** unless otherwise agreed upon by the Owner, in writing. If appropriate, the Design Professional shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

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



### § 3.6.5 Changes in the Work

~~§ 3.6.5.1 The Architect may order~~ Design Professional may authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. ~~Subject to Section 4.2, the Architect~~ However, the Design Professional will notify the Owner and Contractor in writing, of such minor changes. ~~Subject to Section 4.2, the Design Professional shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.~~

~~§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work.~~ Design Professional shall maintain records relative to changes in the Work, including but not limited to, RFIs, Bulletins, Change Orders, Construction Change Directives, submittals, and Design Professional's Supplemental Instructions and upon completion, represent all changes in the Record Documents. The Design Professional will maintain a record of all change orders for the Project that shows the status of each change order, identifies known issues that could potentially be the basis for a change order, and includes the name of the contractor, the subject of the change order, the dates of approval, the estimated cost of the change order (if not approved), the number of days additional time requested by the contractor for the Work, and the number of days approved by the Design Professional and Owner to accomplish the Work. The Design Professional will furnish an updated copy of the change order record to the Owner upon request.

~~§ 3.6.5.3 The Design Professional shall review properly prepared, timely requests by the Owner or Contractor for changes in the Work, including adjustments to the Contract Sum or Contract Time. A properly prepared request for a change in the Work shall be accompanied by sufficient supporting data and information to permit the Design Professional to make a reasonable determination without extensive investigation or preparation of additional drawings or specifications. If the Design Professional determines that requested changes in the Work are not materially different from the requirements of the Contract Documents, the Design Professional may issue an order for a minor change in the Work or recommend to the Owner that the requested change be denied.~~

~~§ 3.6.5.4 If the Design Professional determines that implementation of the requested changes would result in a material change to the Project that may cause an adjustment in the Contract Time or Contract Sum, the Design Professional shall make a recommendation to the Owner, who may authorize further investigation of such change. Upon such authorization, and based upon information furnished by the Contractor, if any, the Design Professional, shall estimate the additional cost and time that might result from such change, including any additional costs attributable to a modification to the Design Professional's services. With the Owner's approval, the Design Professional shall incorporate those estimates into a Change Order or other appropriate documentation for the Owner's execution or negotiation with the Contractor.~~

### § 3.6.6 Project Completion

~~§ 3.6.6.1 The Architect~~ Design Professional shall:

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

To the extent the Contractor has not completed its Work or there are defects or non-conforming Work following the date for Substantial Completion, the Design Professional in its role as design professional will work with the Owner to pursue the Contractor to complete its Work and correct any defective or non-conforming Work; however, the Design Professional is not a guarantor that the Contractor will complete its Work. The Design Professional will receive and review for compliance with the Contract Documents written guarantees and related documents required by the Contract Documents to be assembled by the Contractor and will issue when so warranted a Final Certificate of Payment.

~~§ 3.6.6.2 The Architect's~~ Design Professional'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 Substantial Completion has been achieved, the ~~Architect-Design Professional~~ 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-Design Professional~~ 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.

§ 3.6.6.5 Upon request of the Owner, and 1 month prior to the expiration of one year from the date of Substantial Completion, the ~~Architect-Design Professional~~ shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance. The Design Professional shall document deficiencies and notify the Contractor in writing with a copy to Owner, that corrective work is required, prior to the 1 year anniversary of Substantial Completion unless agreed upon otherwise.

**ARTICLE 4 — SUPPLEMENTAL AND ADDITIONAL SERVICES**

§ 3.6.6.6 **Record Drawings.** Before final payment is due the Design Professional, the Design Professional will assemble, annotate as appropriate, and deliver to the Owner one (1) set of Record Drawings for the Project in paper form and in an electronic PDF file provided by the Contractor. The Record Drawings, to the best of the Design Professional’s knowledge based upon the record drawings delivered to the Design Professional by the Contractor and the Design Professional’s knowledge of change orders and observations during the progress of the Project, will document the construction of the Project and contain such annotations by the Design Professional as may be necessary for someone unfamiliar with the Project to understand the changes made to the original plans. As part of the payment approval process for the Contractor during the course of the Project, the Design Professional will implement a system that requires the Contractor to update the working sets of drawings to reflect Work in progress. The Record Drawings will be in good condition, legible, and suitable for reproduction. At the completion of the Project the Design Professional shall have the information contained on the Record Drawings for the Project transferred to the electronic files for the Project, and provide such electronic files to the Owner.

**ARTICLE 4 OTHER BASIC SERVICES**

§ 4.1 **Supplemental Scope of Services**

§ 4.1.1 The services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect’s responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project. following are included in Basic Services, except where indicated below.

*(Designate the ~~Architect’s Supplemental-Design Professional’s Services~~ and the Owner’s Supplemental-Services required for the Project by indicating whether the ~~Architect-Design Professional~~ or Owner shall be responsible for providing the identified Supplemental-Service. Insert a description of the Supplemental-Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.)*

Supplemental Services	Responsibility <i>(Architect, (Design Professional, Owner, or not provided)</i>
§ 4.1.1.1 Programming	<u>Design Professional – Included as a Basic Service</u>
§ 4.1.1.2 Multiple preliminary designs	<u>Design Professional – Included as a Basic Service</u>
§ 4.1.1.3 Measured drawings	<u>Design Professional – Included as a Basic Service</u>
§ 4.1.1.4 Existing facilities surveys	<u>Design Professional – Included as a Basic Service</u>
§ 4.1.1.5 Site evaluation and planning	<u>Design Professional – Included as a Basic Service</u>
§ 4.1.1.6 Building Information Model management responsibilities	<u>Not Provided</u>
§ 4.1.1.7 Development of Building Information Models for post construction use	<u>Not Provided</u>

<b>Supplemental Services</b>	<b>Responsibility</b> <i>(Architect, (Design Professional, Owner, or not provided)</i>
§ 4.1.1.8 Civil engineering	<u>Design Professional – Included as a Basic Service</u>
§ 4.1.1.9 Landscape design	<u>Design Professional – Included as a Basic Service</u>
§ 4.1.1.10 Architectural interior design	<u>Not Provided</u>
§ 4.1.1.11 Value analysis	<u>Design Professional– Included as a Basic Service</u>
§ 4.1.1.12 Cost estimating per Section 6.3	<u>Design Professional, consistent with the Owner’s budget requirements - cost estimates for the initial program verification, Schematic Design Phase, Design Development Phase and Construction Documents Phase are included as a Basic Service</u>
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	
§ 4.1.1.13 On-site project representation/ construction administration services	<u>Design Professional – Included as a Basic Service</u>
§ 4.1.1.13 On-site project representation	
§ 4.1.1.14 Conformed documents for construction	<u>Design Professional – Included as a Basic Service</u>
§ 4.1.1.15 As-designed record drawings	<u>Design Professional – Included as a Basic Service</u>
§ 4.1.1.16 As-constructed record drawings	<u>To be provided to the Owner per Section 3.6.6.6 and 4.1.2.1.1.</u>
§ 4.1.1.17 Post-occupancy evaluation (11 month walkthrough)	<u>Design Professional – Included as a Basic Service per Section 3.6.6.5</u>
§ 4.1.1.18 Facility support services	<u>Not Provided</u>
§ 4.1.1.19 Tenant-related services	<u>Not Provided</u>
§ 4.1.1.20 Design Professional’s coordination of the Owner’s consultants	<u>The Design Professional shall provide all required information and coordination of its services with all of Owner’s consultants and suppliers as part of its Basic Services</u>
§ 4.1.1.20 Architect’s coordination of the Owner’s consultants	
§ 4.1.1.21 Telecommunications/IT/data and security system design	<u>Design Professional – Included as a Basic Service</u>
§ 4.1.1.21 Telecommunications/data design	
§ 4.1.1.22 Security evaluation and planning	<u>Not Provided</u>
§ 4.1.1.23 Commissioning	<u>Not Provided</u>
§ 4.1.1.24 Sustainable Project Services	<u>Design Professional – Included as a Basic Service, as set forth herein. See Section 1.1.6.</u>
§ 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3	
§ 4.1.1.25 Fast-track design services	<u>Not Provided</u>
§ 4.1.1.26 Multiple bid packages	<u>Not Provided</u>
§ 4.1.1.27 Historic preservation	<u>Design Professional – Included as a Basic Service to the extent applicable to the Project.</u>
§ 4.1.1.28 Furniture, furnishings, and equipment design	<u>Design Professional – Included as a Basic Service</u>
§ 4.1.1.29 Monitor and document successful testing and startup of all building systems	<u>Design Professional – Included as a Basic Service</u>
§ 4.1.1.29 Other services provided by specialty Consultants	
§ 4.1.1.30 Participating in community and Owner staff meetings for input in planning the conceptual program/design for the Project as well as participating in design review board meetings	<u>Design Professional – Included as a Basic Service</u>

Init.

AIA Document B101 – 2017. Copyright © 1974, 1978, 1987, 1997, 2007 and 2017. All rights reserved. “The American Institute of Architects,” “American Institute of Architects,” “AIA,” the AIA Logo, and “AIA Contract Documents” are trademarks of The American Institute of Architects. This document was produced at 15:46:54 ET on 10/25/2024 under Order No.3104241454 which expires on 10/28/2024, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail docinfo@aiacontracts.com.

User Notes:

(1633300558)

Supplemental Services	Responsibility <i>(Architect, Design Professional, Owner, or not provided)</i>
§ 4.1.1.30 Other Supplemental Services	

**§ 4.1.2 Description of Supplemental Services**

**§ 4.1.2.1** A description of each Supplemental Service identified in Section 4.1.1 as the Architect’s responsibility is provided below any Basic Service identified in Section 4.1.1, if further description is needed.  
*(Describe in detail the Architect’s Design Professional’s Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit. The AIA publishes a number of Standard Form of Architect’s Design Professional’s Services documents that can be included as an exhibit to describe the Architect’s Supplemental Services.)*

*Design Professional’s Services.)*

**§ 4.1.2.1.1** The Design Professional shall compile and deliver to the Owner Record Documents which reflect the marked-up drawings and other data furnished to the Design Professional by the Contractor. The Documents shall be in the form of a set of prints and electronic CAD and pdf files on a USB flash drive. All RFI’s and documented changes in Work will be represented on the Record Documents when appropriate.

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

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

[Not Used.]

**§ 4.1.3** If the Owner identified a Sustainable Objective in Article 1, the Architect shall provide, as a Supplemental Service, the Sustainability Services required in AIA Document E204™–2017, Sustainable Projects Exhibit, attached to this Agreement. The Owner shall compensate the Architect as provided in Section 11.2. [Not Used.]

**§ 4.2 Architect’s Design Professional’s Additional Services**

The Architect-Design Professional may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, Design Professional, any Additional Services provided in accordance with this Section 4.2 shall may entitle the Architect-Design Professional to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect’s schedule. Design Professional’s schedule. However, nothing in this Agreement shall relieve the Design Professional of its professional duties related to this Project. If the Design Professional fails to timely provide notice under this Section 4.2 and its subsections, the Design Professional shall be deemed to have waived the right for compensation for performing the Additional Services.

**§ 4.2.1** Upon recognizing the need to perform the following Additional Services, the Architect-Design Professional shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect-Design Professional shall not proceed to provide the following Additional Services until the Architect-Design Professional receives the Owner’s written authorization:

- .1 ~~Services necessitated by a Subject to the limitations of Section 6.5 and 6.6, services necessitated by a material change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including including, but not limited to, size, quality, complexity, the Owner’s schedule or budget for Cost of the Work, or procurement or delivery method; method, which materially impact Design Professional’s performance and services;~~
- .2 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;
- .3 ~~Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b)~~

- ~~contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care; Services necessitated by the Owner's request for extensive sustainable design alternatives, such as unique system designs, in-depth material research, energy modeling, or LEED® certification;~~
- ~~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; [Not Used.]~~
  - ~~5 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner authorized recipients; [Not Used.]~~
  - ~~6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner; [Not Used.]~~
  - ~~7 Preparation for, and attendance at, a public presentation, meeting or hearing; [Not Used.]~~
  - ~~8 Preparation for, and attendance at, at a dispute resolution proceeding or legal proceeding, except where the Architect-Design Professional is party thereto;~~
  - ~~9 Evaluation of the qualifications of entities providing bids or proposals; [Not Used.]~~
  - ~~10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or, other cause, other than when caused by the act or omission of the Design Professional or a party for which it is responsible, during construction;~~
  - ~~11 Assistance to the Initial Decision Maker, if other than the Architect-the Design Professional; or~~
  - ~~12 Services necessitated by replacement of the Contractor.~~

§ 4.2.2 To avoid delay in the Construction Phase, the ~~Architect-Design Professional~~ shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of the ~~Architect's-Design Professional's~~ notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the ~~Architect-of the Owner's determination. The Owner shall compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice.~~ Design Professional and the Owner shall have no further obligation to compensate the Design Professional for those services. Should the Design Professional believe that the proposed Additional Services are essential for the performance of its professional responsibilities, the Design Professional shall clearly notify the Owner of that fact in writing, stating the objective basis for that belief. If the Owner determines that the proposed Additional Services (which the Design Professional has suggested are essential) are included in the Design Professional's Basic Services, the Design Professional shall perform them, submitting written notice to the Owner before performing those services, stating that the Design Professional disputes the Owner's determination that those services are Basic Services and that the Design Professional does not waive its right to seek compensation for those services by performing them.

- ~~1 Reviewing a Contractor's submittal out of sequence from the submittal schedule approved by the Architect; Design Professional that is not the result of the Design Professional's negligent acts or omissions or failure to perform;~~
- ~~2 Responding to the Contractor's more than three (3) Contractor 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; documentation (the Design Professional shall identify to Owner and Contractor the location of the information in the foregoing documentation);~~
- ~~3 Preparing more than ten (10) 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; of Service that are not the result of the Design Professional's negligent acts or omissions or failure to perform;~~
- ~~4 Evaluating an extensive number of Claims as the Initial Decision Maker; more than three (3) Claims as the Initial Decision Maker that are not the result of the Design Professional's negligent acts or omissions or failure to perform; or,~~
- ~~5 Evaluating more than three (3) substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom.~~

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

- .1 ~~Two ( 2 )~~ reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
- .2 ~~(—) visits to the site by the Architect during construction~~ Visits to the site by the Design Professional over the duration of the Project during construction, as often as is appropriate for the Work that is under way, but not less than one time every week.
- .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.

~~§ 4.2.4 Except for services required under Section 3-6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and Contractor, whichever is earlier, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.~~ [Not Used.]

~~§ 4.2.5 If~~ Except for the eleven (11) month walkthrough, 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: ~~twelve ( 12 ) months of the Date of Substantial Completion that is included in the Owner's agreement with the contractor (subject to change as agreed-upon by the Owner in writing), through no fault of the Design Professional, the Design Professional may request additional compensation for the actual cost of performance to the extent the Design Professional demonstrates that such costs exceed the costs the Design Professional would have incurred in the absence of delay.~~

## ARTICLE 5 OWNER'S RESPONSIBILITIES

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

**§ 5.2** ~~The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion.~~ Owner's budget for the scope of Work for the Project is defined in Section 1.1.3 and its subparagraphs. The Owner's budget may be adjusted in the Owner's sole discretion. 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~~ Design Professional. The Owner and the Design Professional shall thereafter agree to a corresponding change in the Project's scope and quality.

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

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

**§ 5.5** ~~The Owner~~ If necessary to provide complete Construction Documents in accordance with this Agreement, as part of its Basic Services the Design Professional shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil

conditions, with written reports and appropriate recommendations. The Design Professional shall collaborate with the geotechnical engineer on the number and locations of such tests and borings.

§ 5.6 The Owner shall provide the Supplemental Services designated as the Owner's responsibility in Section 4.1.1. [Not Used.]

§ 5.7 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E204™ 2017, Sustainable Projects Exhibit, attached to this Agreement. [Not Used.]

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

§ 5.9 The Owner shall furnish reasonably requested 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.

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

§ 5.11 The Owner shall provide prompt written notice to the ~~Architect~~ Design Professional 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~~ Design Professional's Instruments of Service. Notwithstanding the foregoing, the parties understand that the Owner has no duty to search for faults or defects and further agree that the Owner is not a professional skilled in finding such faults or defects.

§ 5.12 ~~The Owner shall include the Architect~~ Except as otherwise provided in this Agreement, or when direct communications have been specially authorized, the Owner shall endeavor to include the Design Professional in all communications with the Contractor that relate to or affect the ~~Architect's~~ Design Professional's services or professional responsibilities. The Owner shall promptly notify the ~~Architect~~ Design Professional of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. ~~Communications by and with the Architect's consultants shall be through the Architect.~~ Project that may affect the Design Professional's services.

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

§ 5.14 The Owner shall provide the ~~Architect~~ Design Professional access to the Project site prior to commencement of the Work and shall obligate the Contractor to provide the ~~Architect~~ Design Professional reasonable access to the Work wherever it is in preparation or ~~progress~~ progress, unless there is a risk of delay to the Project or safety of individuals.

§ 5.15 ~~Within 15 days after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of, or enforce lien rights.~~ [Not Used.]

## 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~~ Design Professional and shall include contractors' general conditions costs, overhead and profit. ~~The Cost of the Work also includes the reasonable value of labor,~~

Init.

AIA Document B101 – 2017. Copyright © 1974, 1978, 1987, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This document was produced at 15:46:54 ET on 10/25/2024 under Order No.3104241454 which expires on 10/28/2024, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail docinfo@aiacontracts.com.

User Notes:

(1633300558)

materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; Design Professional; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and shall be adjusted throughout the Project as required under Sections 5.2, 6.4 and 6.5. Evaluations of the Owner's budget for the Cost of the Work, and the preliminary estimate of the Cost of the Work and updated estimates of the Cost of the Work, prepared by the Architect, represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials, or equipment; the Contractor's methods of determining bid prices; or competitive bidding, market, or negotiating conditions. Accordingly, the Architect cannot and does not warrant or represent that bids or negotiated prices will not vary from the Owner's budget for the Cost of the Work, or from any estimate of the Cost of the Work, or evaluation, prepared or agreed to by the Architect. budget, which includes the Cost of the Work and other costs as defined in Paragraph 1.1.3, will be the limit of funds available for the Project.

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

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

§ 6.5 If at any time the Architect's Design Professional's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect Design Professional 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. Work. The Design Professional shall provide these services at no additional cost to the Owner.

§ 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 When the Owner's most recently approved Cost of the Work budget is exceeded by the Cost of the Work as determined by bidding or negotiation, the Owner may, at its option:

- .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 this Agreement in accordance with Section 9.5;
- .4 in consultation with the Architect, Design Professional, 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 6.6.1, 6.6.2, 6.6.4, or 6.6.5 without additional compensation, the Design Professional shall modify the Construction Documents as necessary to comply with the Owner's revised budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise the Architect's services for modifying the Construction Documents shall be without additional compensation. In any event, the Architect's or other adjustments



authorized by the Owner. The Design Professional's modification of the Construction Documents shall be the limit of the Architect's-Design Professional's responsibility under this Article 6.

## **ARTICLE 7 COPYRIGHTS AND LICENSES**

**§ 7.1** The Architect-Design Professional 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 Design Professional 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-Design Professional and the Architect's-Design Professional's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications. As payments are made by the Owner and accepted by the Design Professional, the Owner is hereby deemed the owner of the Design Professional's and the Design Professional's consultants' Instruments of Service, including the Drawings and Specifications, Specifications and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants-Owner.

**§ 7.3** The Architect grants to the Owner a nonexclusive license to use the Architect's- Upon execution of this Agreement, the Design Professional grants to the Owner full ownership of the Design Professional'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 under this Agreement, including prompt payment of all sums due pursuant to Article 9 and Article 11. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license under this Agreement. The Design Professional shall obtain the necessary rights from the Design Professional's consultants consistent with this Agreement and the Owner's ownership of the Instruments of Service. The rights 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, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate. Project for the Owner. These full ownership rights shall survive any termination of this Agreement.

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

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

**§ 7.6** The Owner authorizes the Design Professional to furnish contractors and subcontractors, directly engaged in the Project, portions of the Construction Documents in digital data format for their convenience and use solely for their construction of the Project. The Design Professional cannot warrant the compatibility of digital data files with the hardware or software utilized by the contractors and subcontractors. The Design Professional does not warrant the accuracy of changes made by contractors and subcontractors to the digital files provided by the Design Professional.

§ 7.7 Upon completion of the services, the Design Professional shall furnish to the Owner digital data files of the latest Construction Documents prepared by the Design Professional. The Design Professional shall correct any errors or discrepancies found in the digital data files and reported within 60 days of their receipt by the Owner.

## **ARTICLE 8 CLAIMS AND DISPUTES**

### **§ 8.1 General**

§ 8.1.1 The Owner and Architect-Design Professional shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect-law. The Owner and Design Professional 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 and paid by property insurance, the Owner and Architect-Design Professional 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 the modified (as prepared for the Project) AIA Document A201–2017, General Conditions of the Contract for Construction. Construction, if applicable. The Owner or the Architect-Design Professional, 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.

#### **Indemnification**

Notwithstanding any other provision in this Agreement to the contrary, the Design Professional shall indemnify, defend, and hold the Owner and the Owner's officers and employees harmless from and against liabilities arising from claims by third parties for death or injury, including reasonable attorneys' fees and expenses recoverable under applicable law, but only to the extent they are caused by the negligent acts or omissions of the Design Professional, its employees and its consultants in the performance of professional services under this Agreement. Such indemnification shall be in accordance with Ohio Revised Code Section 153.81 and shall only be for the liabilities incurred from the proportionate share of the tortious conduct, as determined pursuant to section 2307.23 of the Revised Code, of the professional design firm or any consultant, subcontractor, or other entity used by the professional design firm, in performing services under this Agreement. Nothing in this provision prohibits the Owner from commencing a civil action for damages against the Design Professional for the breach of this Agreement or for the breach of the Standard of Care.

§ 8.1.4 The Design Professional waives consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. This waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement.

§ 8.1.5 Unless otherwise agreed in writing, the Design Professional shall continue to provide services and shall maintain progress during any mediation, arbitration, or litigation proceedings, and the Owner shall continue to make payments to the Design Professional in accordance with this Agreement, however, the Owner shall be under no obligation to make payments on or against any claim or amount in dispute during the pendency of any mediation, arbitration, or litigation proceeding to resolve those claims or amount in dispute.

### **§ 8.2 Mediation**

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. may be subject to mediation if agreed upon in writing by both parties. If such matter relates to or is the subject of a lien arising out of the Architect's-Design Professional's services, the Architect-Design Professional 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.

§ 8.2.1.1 Unless otherwise agreed in writing, the Owner shall maintain any rights it may have to the Design Professional's Instruments of Service, and the Design Professional shall continue to provide services and shall maintain progress during any mediation, arbitration, or litigation proceedings, and the Owner shall continue to make

payments to the Design Professional in accordance with this Agreement, however the Owner shall be under no obligation to make payments on or against any claim or amounts in dispute during the pendency of any mediation, arbitration, or litigation proceeding to resolve those claims or amount in dispute.

~~§ 8.2.2 The Owner and Architect shall If the Owner and Design Professional endeavor to resolve claims, disputes and disputes, or other matters in question between them by mediation, which, unless the parties mutually agree otherwise, shall be administered by the the parties shall mutually agree to a mediator, and the mediation shall be administered by a mediator and in a forum that are mutually agreeable to the parties; however, if the parties are unable to agree upon a forum or mediator, the parties will use the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of this Agreement. A request for mediation shall be made in writing, writing and delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. Agreement. 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 by court order. The parties agree that a request for mediation will not be submitted to the American Arbitration Association until the parties are unable to agree on a different forum for mediation of the claim, dispute, or other matter in question between them.~~

~~§ 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, negotiation or mediation, if the parties chose to negotiate and/or mediate, the method of binding dispute resolution shall be the following: (Check the appropriate box.)~~

- Arbitration pursuant to Section 8.3 of this Agreement
- Litigation in a court of competent jurisdictionjurisdiction, subject to Section 10.1.
- Other: (Specify)

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

~~§ 8.3 Arbitration – This Section 8.3 and related Sections 8.3.1 through 8.3.3 are deleted.~~

~~§ 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. [Not Used.]~~

~~§ 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. [Not Used.]~~

~~§ 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. [Not Used.]~~

Init.

§ 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.~~[Not Used.]~~

§ 8.3.4 Consolidation or Joinder – ~~This Section 8.3.4 and related Sections 8.3.4.1 through 8.3.4.3 are deleted.~~

§ 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).~~[Not Used.]~~

§ 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.~~[Not Used.]~~

§ 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.~~[Not Used.]~~

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

## ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the ~~Architect-Design Professional~~ in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the ~~Architect's-Design Professional's~~ option, cause for suspension of performance of services under this Agreement. If the ~~Architect-Design Professional~~ elects to suspend services, the ~~Architect-Design Professional~~ shall give ~~seven-21~~ days' written notice to the Owner before suspending services. ~~Such notice must specify the Design Professional's reasons for the intended termination or suspension of services and will state with specificity the means by which the Owner may cure the asserted reasons.~~ In the event of a suspension of services, the ~~Architect-Design Professional~~ shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the ~~Architect all sums-Design Professional all sums that are agreed to be due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services.~~ ~~The Architect's-Design Professional's services.~~ The Design Professional's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the ~~Project, the Architect Project~~ for more than 120 days, the Design Professional shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the ~~Architect-Design Professional~~ shall be compensated for expenses incurred in the interruption and resumption of the ~~Architect's-Design Professional's~~ services. The ~~Architect's-Design Professional's~~ fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than ~~90-120~~ cumulative days for reasons other than the fault of the ~~Architect, the Architect~~ the Design Professional and within the control of the Owner, the Design Professional 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-21~~ 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-21~~ days' written notice to the ~~Architect-Design Professional~~ for the Owner's convenience and without cause.

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the ~~Architect-Design Professional~~ terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the ~~Architect for services performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the~~

~~costs attributable to the Architect's termination of consultant agreements. Design Professional for services actually performed prior to termination and Reimbursable Expenses then due.~~

§ 9.7 In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Architect the following fees:

*(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)*

~~.1 — Termination Fee:~~

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

[Not Used.]

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

§ 9.9 The Owner's rights to use the Architect's Design Professional's Instruments of Service in the event of a termination of this Agreement are set forth in ~~Article 7 and Section 9.7.7.~~

#### ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, ~~excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3 which is the State of Ohio.~~ Any suit, which may be brought to enforce any provision of this Agreement or any remedy with respect hereto, shall be brought in Common Pleas Court in the county in which the Project is located, and each party hereby expressly consents to the jurisdiction of such court. The parties expressly waive the right to remove any litigation arising out of this Agreement to federal court.

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

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

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

§ 10.5 Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, a third party against either the Owner or ~~Architect Design Professional~~. The Design Professional shall identify Owner as an express third party beneficiary in each agreement with Design Professional's consultants and subcontractors and shall incorporate by reference all of Design Professional's duties and obligations with respect to Owner in such agreements such that each consultant and subcontractor shall owe to Design Professional all obligations that Design Professional owes to Owner, as adjusted for the particular services provided to Design Professional.

§ 10.6 Unless otherwise required in this Agreement, the Architect-Design Professional 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, unless the toxic materials or substances were brought to the Project pursuant to the terms of the Contract Documents. Should the Design Professional become aware of the presence of hazardous materials or toxic substances on the Project site, the Design Professional will immediately report that presence to the Owner in writing.

§ 10.7 The Architect-Design Professional shall have the right to include photographic or artistic representations of the design of the Project among the Architect's-Design Professional's promotional and professional materials. The Architect-Design Professional shall be given reasonable access to the completed Project to make such representations. However, the Architect's-Design Professional's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect-Design Professional in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4. Design Professional will not publish other information regarding the Project without the Owner's prior written consent and the Owner agrees not to unreasonably withhold such consent. The Design Professional agrees to keep confidential and not to disclose to any third party (without the advance written consent of the Owner) any confidential, proprietary or privileged information or documentation of the Owner.

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

§ 10.8.1 The receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, when required by law, arbitrator's order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8. [Not Used.]

§ 10.9 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement. **Betterment.** If a required item or component of the Project is omitted from the Design Professional's Construction Documents, the Design Professional shall not be responsible for paying the cost required to construct such item or component to the extent that such costs would have been incurred had Design Professional included such item or component in the Design Professional's original Construction Documents (i.e., betterment), but Design Professional shall be responsible for paying any additional costs arising from the omission.

§ 10.10 The services provided under this Agreement include those commenced and previously authorized by the Owner within the scope of this Project. Fees paid prior to the execution of the Agreement shall be credited against the fees set forth in this Agreement.

## **ARTICLE 11 COMPENSATION**

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

- .1 Stipulated Sum  
(Insert amount)

**.2** — Percentage Basis  
— (Insert percentage value)

— ( ) % of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6.

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

The compensation for Design Professional's Basic Services shall be a fixed fee of \$ [redacted], as set forth in **Exhibit A**. The compensation for Reimbursable Expenses as defined in Section 11.8, is in addition to such Basic Services fee and shall not exceed \$ [redacted].

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

[Not Used.]

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

No Additional Services shall be performed without a prior written, signed agreement between the Owner and Design Professional. The Design Professional shall be compensated for Additional Services on the basis of hourly billing rates set forth in **Exhibit B**, unless a lump sum amount is mutually agreed upon between the Owner and Design Professional.

**§ 11.4** Compensation for Supplemental and Additional Services of the Architect's Design Professional's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus percent ( %), Design Professional plus zero percent ( 0%), or as follows:  
(Insert amount of, or basis for computing, Architect's Design Professional's consultants' compensation for Supplemental or Additional Services.)

Additional Services shall be compensated upon written, signed agreement between the Owner and Design Professional, as set forth in this Agreement. No Additional Services shall be performed without prior written, signed agreement between the Owner and Design Professional

**§ 11.5** When compensation for Basic Services is based on a stipulated sum or a percentage basis, the proportion of The Design Professional shall invoice the Owner monthly in proportion to services performed in each phase of services. The compensation for each phase of services shall be as follows:

Schematic Design Phase	percent (	)	%
Design Development Phase	percent (	)	%
Construction Documents Phase	percent (	)	%
Procurement Phase	percent (	)	%
Construction Phase	percent (	)	%
Administration			
<b>Total Basic Compensation</b>	<b>one hundred</b>	<b>percent (</b>	<b>100</b> <b>%)</b>

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

Init.

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

~~§ 11.7 The For purposes of pricing Additional Services, the hourly billing rates for services of the Architect Design Professional and the Architect's Design Professional's consultants are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's Design Professional's and Design Professional's consultants' normal review practices.~~

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

~~As set forth in **Exhibit B**~~

~~Employee or Category~~

~~Rate (\$0.00)~~

### ~~§ 11.8 Compensation for Reimbursable Expenses~~

~~§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic, Supplemental, and Additional Services and include expenses incurred by the Architect and the Architect's Basic and Additional Services, subject to 11.1, and include the normal and reasonable expenses incurred by the Design Professional and the Design Professional's consultants directly related to the Project, as follows:follows~~

- ~~.1 Transportation and authorized out-of-town travel and subsistence;~~
- ~~.2 Long distance services, dedicated data and communication services, teleconferences, Project web-Web sites, and extranets;~~
- ~~.3 Permitting and other fees required by authorities having jurisdiction over the Project; Fees paid for securing approval of authorities having jurisdiction over the Project, provided that the Owner may pay these amounts directly if requested in sufficient time to process and issue the payment;~~
- ~~.4 Printing, reproductions, plots, and standard form documents; standard form documents, except that reproduction for internal coordination between the Design Professional and the Design Professional's consultants shall not be reimbursable;~~
- ~~.5 Postage, ~~handling, handling~~ and delivery;~~
- ~~.6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner; Employment of special consultants other than those listed in this Agreement if authorized in advance, in writing by the Owner; and~~
- ~~.7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project; Owner.~~
- ~~.8 If required by the Owner, and with the Owner's prior written approval, the Architect's consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect's consultants; [Not Used.]~~
- ~~.9 All taxes levied on professional services and on reimbursable expenses; [Not Used.]~~
- ~~.10 Site office expenses; [Not Used.]~~
- ~~.11 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and; [Not Used.]~~
- ~~.12 Other similar Project-related expenditures. [Not Used.]~~

~~§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect Design Professional and the Architect's Design Professional's consultants plus zero percent ( 0 %) of the expenses incurred.~~

~~§ 11.8.3 Reimbursable Expenses must be itemized and submitted with supporting documentation to the Owner no later than 60 days after such expense is incurred by the Design Professional. Design Professional's failure to submit Reimbursable Expense timely to the Owner as required herein will be an irrevocable waiver of Design Professional's right to reimbursement for such Reimbursable Expense.~~

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

Init.



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

**[Not Used.]**

**§ 11.10 Payments to the Architect**~~Design Professional~~

**§ 11.10.1 Initial Payments**

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

**§ 11.10.1.2** ~~If a Sustainability Certification is part of the Sustainable Objective, an initial payment to the Architect of (\$ ) shall be made upon execution of this Agreement for registration fees and other fees payable to the Certifying Authority and necessary to achieve the Sustainability Certification. The Architect's payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.~~ **[Not Used.]**

**§ 11.10.2 Progress Payments**

**§ 11.10.2.1** Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. ~~Amounts unpaid ( ) days after the invoice date shall~~ Design Professional's invoice. Amounts unpaid sixty ( 60 ) days after the date the invoice is approved by the Owner 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. ~~Design Professional.~~  
*(Insert rate of monthly or annual interest agreed upon.)*

% Simple interest at the Ohio statutory rate. Design Professional shall give the Owner seven days written notice of late payment before interest shall begin to accrue.

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

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

**§ 11.10.2.4** ~~The Design Professional shall keep full and detailed accounts and exercise such controls as may be necessary for proper financial management under this Contract; the accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's accountants shall be afforded access to the Design Professional's records, books, correspondence, instructions, drawings, receipts, subcontracts, purchase orders, vouchers, memoranda and other data relating to this Project, and the Design Professional shall preserve these for at least 4 years, or for such longer period as may be required by law. In the event that the Design Professional's records are not available at the agreed upon time or place, or in the event that Owner finds incomplete records or inaccurate accounting of paid expenses, the Design Professional must reimburse Owner for its time, travel, related expenses and Design Professional shall reimburse Owner the full amount of any discrepancies or overages.~~

**ARTICLE 12 SPECIAL TERMS AND CONDITIONS**

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

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

**§ 12.1 Design Professional's Duties in General.** The Design Professional acknowledges that the Owner is entering this Agreement in reliance on the Design Professional's abilities to perform the Basic Services and any Additional Services requested under this Agreement on a timely basis. To the extent that any service hereunder shall be performed by consultants retained by the Design Professional, the term "Design Professional" as used in this Agreement shall be deemed to include any such consultant.

**§ 12.2** The Design Professional acknowledges it will use its best professional skill and judgment to coordinate the design of the Project in order to (i) minimize disruption of the Owner's operations, and (ii) to ensure that the Project is coordinated as to phasing, timing, staging, design, and execution. However, it is understood that the Design

Professional will neither have control over or charge of, nor be responsible for the construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with the Work, since these are solely the responsibility of the Contractor.

**§ 12.3** The Design Professional's duties and obligations, as set forth herein, and any liabilities arising hereunder shall at no time be diminished or released by reason of any approval by the Owner of the Drawings and Specifications or any other documents prepared by the Design Professional.

**§ 12.4** In providing services under this Agreement, the Design Professional shall exercise usual and customary reasonable professional care to comply with all reasonably known applicable federal, state, and local laws, regulations, and orders in effect at the time of submission of the Contract Documents to the governing building authority. The Design Professional agrees that it will use reasonable care so that the Plans and Specifications and the improvements, if built in accordance with them, shall conform to all reasonably known currently applicable statutes, regulations, ordinances, and orders, except to the extent that the Design Professional has advised the Owner in writing that there is an ambiguity or an interpretation by a code official contrary to that by the Design Professional or that a variance shall be necessary. The Design Professional shall not be responsible for compliance by any contractor with currently applicable statutes, regulations, ordinances, and orders but shall report any known deviation therefrom to Owner in writing.

**§ 12.5** The Design Professional, consistent with its Standard of Care and professional skills, agrees, based upon the manufacturers' specifications or observations, that materials and equipment specified shall be adequate for the purposes for which they are specified.

**§ 12.6** Consistent with its Standard of Care, the Design Professional shall endeavor to anticipate problems related to zoning, building permits, building envelope including roofs and walls, availability of utilities, equipment and material shortages, proper balancing of the heating, ventilating, and air conditioning systems, security systems, and supplier delays.

**§ 12.7** The Design Professional shall endeavor to maintain good working relations with the Owner, Contractor, contractors and subcontractors, shall further endeavor to solve problems and resolve disputes, if reasonably possible, promptly as they occur on the Project, and shall promptly advise the Owner of any action recommended with respect to the problems or disputes.

**§ 12.8** Consistent with the Standard of Care, the Design Professional will endeavor to anticipate problems related to zoning, building permits, availability of utilities, equipment and material shortages, and supplier delays.

**§ 12.9** Design Professional will report to the Owner problems and disputes on the Project and will assist the Owner in addressing the problem or dispute. The information provided should include a description of any problem or dispute relating to the Project; the status of any identified problem or dispute; the date first noted; action taken; responsible persons in the opinion of the Design Professional (if such persons have been identified); and recommended and final resolution. Upon the Owner's request, the Design Professional will provide the Owner's legal counsel with a copy of such reports marked "confidential" so that the Owner's counsel may provide legal advice to the Owner concerning the problem or dispute.

**§ 12.10 Privileged Communications.** All communications between the Owner's legal counsel and the Design Professional, while the Design Professional is acting as the agent for the Owner under the terms of this Agreement and which relate in any way to the administration of the construction of the Project or to the work of the Contractor, any Subcontractor, materialman, or any other person rendering services in connection with the Project, shall be subject to the attorney-client privilege that can be waived only by the Owner. Any such communications and copies thereof that are written including without limitation, correspondence, notes, memoranda, notes of meetings and conversations that are reduced to writing and the like, upon notice from the Owner's legal counsel, shall be placed by the Design Professional in a separate file folder marked "Privileged and Confidential" and shall not be disclosed to any person other than the Design Professional's own legal counsel without the express written permission of the Owner. This provision is intended to protect the confidentiality of the Owner's communications with its counsel when the Design Professional comes into possession of such information in its capacity as agent of the Owner in the performance of its duties under this Agreement in the event of a dispute between the Owner and a third party. This paragraph is not intended to impede communications between the Design Professional and the Design Professional's counsel or

between the Design Professional and any contractor seeking a decision from the Design Professional on a claim or dispute related to the Project.

**§ 12.11 Non-Discrimination.** Design Professional agrees:

- .1 That in the hiring of employees for the performance of Work under this Agreement or in any subcontract, neither the Design Professional, subcontractor, nor any person acting on behalf of either of them, shall by reason of race, creed, sex, handicap, or color, discriminate against any citizen of the state in the employment of labor or workers who are qualified and available to perform the Work to which the employment relates.
- .2 That neither the Design Professional, subcontractor, nor any person acting on behalf of either of them, shall, in any manner, discriminate against or intimidate any employee hired for the performance of Work under this Agreement on account of race, creed, sex, handicap, or color.
- .3 That there shall be deducted from the amount payable to the Design Professional by the Owner under this Agreement a forfeiture of twenty-five dollars (\$25.00) as required by Ohio Revised Code Section 153.60 for each person who is discriminated against or intimidated in violation of this Agreement.
- .4 That this Agreement may be canceled or terminated by the Owner and all money to become due hereunder may be forfeited for a second or subsequent violation of the terms of this section of this Agreement.

**§ 12.12 Notices.** A Notice is any written notice to the Owner or the Design Professional. Written Notice to the Design Professional shall be deemed to have been duly served if delivered in person to an officer or any other official of the Design Professional or if delivered to or sent by registered or certified mail, return receipt requested, to the last known business address of the Design Professional. Written Notice to the Owner shall be deemed to have been duly served if delivered in person or sent by registered or certified mail, return receipt requested to the Owner's representative identified in the Agreement. When sent by certified mail to either party, any written notice shall be considered properly delivered to the other party three (3) days after the date sent.

**§ 12.1 Modification.** No modification or waiver of any of the terms of this Agreement or of any other Contract Documents will be effective against a party unless set forth in writing and signed by or on behalf of a party. Under no circumstances will forbearance, including the failure or repeated failure to insist upon compliance with the terms of the Contract Documents, constitute the waiver or modification of any such terms. The parties acknowledge that no person has authority to modify this Agreement or the other Contract Documents or to waive any of its or their terms, except as expressly provided in this Agreement.

**§ 12.14 Alternates.** The Design Professional will prepare Alternates for changes in material, equipment, and products requiring minimum documentation at no increase in fee. When Alternates require major changes in documentation or additional documentation, the Design Professional's compensation fee for each alternate will be established at the time the alternate is proposed.

**§ 12.15 Ethics.** The Design Professional is aware of the ethics responsibilities in Ohio Revised Code Section 3517.13 and is in compliance with this section of the Ohio Revised Code.

**§ 12.16 Findings for Recovery.** The Design Professional is not subject to an unresolved finding for recovery under ORC Section 9.24. If this representation and warranty is found to be false, this Agreement is void, and the Design Professional will immediately repay to the Owner any funds paid under this Agreement.

**§ 12.17 Partial Invalidity.** If any term or provision of this Agreement is found to be illegal, unenforceable, or in violation of any laws, statutes, ordinances, or regulations of any public authority having jurisdiction, then, notwithstanding such term or provision, this Agreement will remain in full force and effect and such term will be deemed stricken; provided this Agreement will be interpreted, when possible, so as to reflect the intentions of the parties as indicated by any such stricken term or provision.

**§ 12.18 Counterparts.** This Agreement may be executed in any number of counterparts each of which when so executed and delivered will be an original hereof, and it will not be necessary in making proof of this Agreement to produce or account for more than one counterpart hereof. This Agreement may be executed and delivered by facsimile or via electronic mail. Facsimile or electronic signatures shall be effective as originals.

**ARTICLE 13 SCOPE OF THE AGREEMENT**

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

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

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

.2 ~~Building Information Modeling Exhibit, if completed:~~  
Owner’s RFQ issued October 25, 2024, and any addenda thereto, to the extent not inconsistent with this Agreement

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

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

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

Exhibit A – Design Professional’s Fee proposal, dated [redacted], 2024, as modified, and to the extent not inconsistent with this Agreement; separate terms and conditions are expressly rejected  
Exhibit B – Design Professional’s Hourly Rates

.4 Other documents:  
*(List other documents, if any, forming part of the Agreement.)*

This Agreement entered into as of the day and year ~~first written above~~ of execution by the Owner below.

OWNER – GAHANNA-JEFFERSON PUBLIC SCHOOL  
DISTRICT BOARD OF EDUCATION

DESIGN PROFESSIONAL - [redacted]

\_\_\_\_\_  
**OWNER** *(Signature)*

\_\_\_\_\_  
**ARCHITECT** *(Signature)*

\_\_\_\_\_  
*(Printed name and title)*

\_\_\_\_\_  
*(Printed name, title, and license number, if required)*

\_\_\_\_\_  
*(Date)*

\_\_\_\_\_  
*(Date)*

---

**CERTIFICATE**  
**(Section 5705.41, R.C.)**

---

The undersigned, fiscal officer of the Owner, certifies that the moneys required to pay that part of the Contract Sum coming due during the current fiscal year, under the Agreement to which this Certificate is attached have been lawfully appropriated for such purpose and are in the appropriate account of the Owner, or in the process of collection to the credit of the appropriate account or fund, free from any previous encumbrances. Moneys due in excess of the Contract Sum shall require an additional and separate Fiscal Officer's Certificate.

DATED: \_\_\_\_\_

\_\_\_\_\_  
Fiscal Officer