

SCOTIA-GLENVILLE CENTRAL SCHOOL DISTRICT

TO: Susan Swartz, Superintendent
FROM: Andrew Giaquinto, School Business Manager
DATE: November 1, 2024
RE: Owner/Architect Agreement for 2024-25 Capital Improvement Project – SEI Design Group Architects, D.P.C.

Attached please find the Agreement for Architect Services between Scotia-Glenville CSD (“District”) and SEI Design Group (“SEI”) for the 24-25 Capital Improvement Project. SEI has been the District’s architect for the last two capital projects (2018 and 2021). In addition, SEI has done work on our annual \$100K projects, our Building Condition Survey, and other miscellaneous projects. SEI brings a level of expertise, history of past projects and familiarity with the District’s buildings and grounds.

The fee is \$780,000, which is 7% of the estimated construction budget. The 7% is reasonable and represents a .2% increase over the 2021 fee of 6.8% of the estimated construction budget.

I recommend that this agreement be submitted for Board approval at the November 4, 2024 meeting. Thank you.

Attachment

AG/cc

Exhibit B is hourly rates
for additional services
and will be provided Monday.

 **AIA**® Document B132™ – 2019

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

AGREEMENT made as of the Twenty-Second day of May in the year Two Thousand Twenty-Four
(In words, indicate day, month and year.)

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

Scotia-Glenville Central School District
900 Preddice Parkway
Scotia, NY 12302
(518) 347-3600

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

SEI Design Group Architects, D.P.C.
2 Winners Circle, Suite 101
Albany, NY 12205
(518) 435-2467

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

Scotia-Glenville Central School District
900 Preddice Parkway
Scotia, NY 12302

SEI Project# 23-4370

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

Tateo CM Consulting, LLC
21 Old Ox Road
Delmar, NY 12054
(518) 322-2545

The Owner and Architect agree as follows.

ADDITIONS AND DELETIONS:

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

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

This document is intended to be used in conjunction with AIA Documents A132™–2019, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition; A232™–2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition; and C132™–2019, Standard Form of Agreement Between Owner and Construction Manager as Adviser. AIA Document A232™–2019 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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ARTICLE 1 INITIAL INFORMATION

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

(Note the disposition for the following items by inserting the requested information or a statement such as "not applicable," "unknown at time of execution" or "to be determined later by mutual agreement.")

§ 1.1.1 The Owner's program for the Project:

(Identify documentation or state the manner in which the program will be developed.)

Preliminary Scope & Budget to be, attached as Reference Exhibit "A"

(Paragraphs deleted)

§ 1.1.2 The Project's physical characteristics:

(Identify or describe, if appropriate, size, location, dimensions, or other pertinent information, such as geotechnical reports; site, boundary and topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site; etc.)

Site Work and Renovations and Alterations to the Elementary, Middle and High Schools. Referendum Date, May 21, 2024

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

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

Preliminary Scope & Budget to be, attached as Reference Exhibit "A"

§ 1.1.4 The Owner's tentative design and construction schedule:

.1 Design phase milestone dates, if any:

Phase I SED Submission: August, 2024

Phase II SED Submission November, 2024

Init.

.2 Commencement of construction:

Phase I - June, 2025

Phase II - July, 2025

.3 Substantial Completion date or milestone dates:

Phase I – September 2025

Phase II – September 2026

.4 Other milestone dates:

N/A

§ 1.1.5 The Owner intends to retain a Construction Manager adviser and:

(Note that, if Multiple Prime Contractors are used, the term "Contractor" as referred to throughout this Agreement will be as if plural in number.)

One Contractor

Multiple Prime Contractors

Unknown at time of execution

§ 1.1.6 The Owner's requirements for accelerated or fast-track scheduling, multiple bid packages, or phased construction are set forth below:

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

Bid packages shall be in accordance with Section 135 of the New York State Finance Law (Wick's Law).

§ 1.1.7 Other Project information:

(Identify special characteristics or needs of the Project not provided elsewhere, such as environmentally responsible design or historic preservation requirements.)

None.

(Paragraph deleted)

§ 1.1.8 The Owner identifies the following representative in accordance with Section 5.5:

(List name, address and other information.)

Andrew Giaquinto
Business Manager
Scotia-Glenville Central School District
900 Preddice Parkway
Scotia, NY 12302

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

(List name, address and other information.)

None.

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§ 1.1.10 The Owner will retain the following consultants:

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

- .1 Construction Manager: The Construction Manager is identified on the cover page. If a Construction Manager has not been retained as of the date of this Agreement, state the anticipated date of retention:

Tateo CM Consulting, LLC

21 Old Ox Road
Delmar, NY 12054

- .2 Cost Consultant (if in addition to the Construction Manager):
(If a Cost Consultant is retained, appropriate references to the Cost Consultant should be inserted in Sections 3.2.6, 3.2.7, 3.3.2, 3.3.3, 3.4.5, 3.4.6, 5.4, 6.3, 6.3.1, 6.4 and 11.6.)

N/A

- .3 Land Surveyor:

To Be Determined

Land surveying services will be provided by the Owner with the Architect assisting in soliciting proposals as a base service.

- .4 Geotechnical Engineer:

To Be Determined

Geotechnical engineering services will be provided by the Owner with the Architect assisting in soliciting proposals as a base service.

(Paragraph deleted)

- .6 Other consultants:

(List any other consultants retained by the Owner, such as a Project or Program Manager, or scheduling consultant.)

To Be Determined

§ 1.1.11 The Architect identifies the following representative in accordance with Section 2.4:

(List name, address and other information.)

Alastair R. Aitchison, AIA
2 Winners Circle, Suite 101
Albany, NY 12205
(518) 435-2467
ara@seidesigngroup.com

(Paragraphs deleted)

§ 1.1.12 The Architect will retain the consultants identified in Sections 1.1.12.1 and 1.1.12.2:

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

§ 1.1.12.1 Consultants retained under Basic Services:

.1 Structural Engineer:

SRA Engineers

453 Dixon Road, #7
Queensbury, NY 12804
518-761-0417

.2 Mechanical, Electrical, Plumbing Engineer:

Engineered Solutions

646 Plank Rd, #104
Clifton Park, NY 12065
518-280-2410

.3 Civil Engineer:

The LA Group

40 Long Alley
Saratoga Springs, NY 12866
518-587-8100

.4 Asbestos Engineer:

Intertek-PSI

17 British American Blvd.
Latham, NY 12110
518-377-9841

§ 1.1.12.2 Consultants retained under Supplemental Services:

.1 Cost Estimating:

TBD

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

N/A

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

§ 1.3 The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data. Documents furnished in electronic format are only for convenience of Owner. Any conclusion or information obtained or derived from such electronic files will be at the user's sole risk. The Architect makes no representations as to the compatibility or usability of documents supplied in electronic format.

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set

forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

(Paragraph deleted)

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

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

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project. The Architect's obligation shall be to design the project in accordance with standards of care generally applicable to the provision of professional architectural services in the Upstate New York area.

§ 2.3 The Architect shall provide its services in conjunction with the services of a Construction Manager as described in AIA Document C132™–2009, Standard Form of Agreement Between Owner and Construction Manager as modified. The Architect shall not be responsible for actions taken by the Construction Manager.

§ 2.4 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the project as set forth in Section 12.1 of this Agreement.

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

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

§ 2.6.1 Comprehensive 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.

§ 2.6.2 Automobile Liability covering owned and rented vehicles operated by the Architect with policy limits of not less than One Million dollars (\$ 1,000,000) combined single limit and aggregate for bodily injury and property damage.

§ 2.6.3 The Architect may use umbrella or excess liability insurance to achieve the required coverage for Comprehensive General Liability and Automobile Liability, provided that such umbrella or excess insurance results in the same type of coverage as required for the individual policies.

§ 2.6.4 Workers' Compensation at statutory limits and Employers Liability with a policy limit of not less than Five Hundred Thousand dollars (\$ 500,000) each accident, Five Hundred Thousand dollars (\$ 500,000) each employee, and Five Hundred Thousand dollars (\$ 500,000) policy limit.

§ 2.6.5 Professional Liability covering the Architect's negligent acts, errors and omissions in its performance of professional services with policy limits of not less than Two Million dollars (\$ 2,000,000) per claim and Three Million dollars (\$ 3,000,000) in the aggregate.

§ 2.6.6 The Architect shall provide to the Owner certificates of insurance evidencing compliance with the requirements in this Section 2.6. Each policy must provide the Owner with Thirty (30) days' advance written notice of amendment or termination. The certificates will show the Owner as an additional insured on the Comprehensive General Liability, Automobile Liability, umbrella or excess policies. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies with waivers of subrogation and shall apply to both ongoing and completed operations.

(Paragraphs deleted)

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§ 2.7 The Architect affirms adoption of a corporate sexual harassment policy and training, in accordance with New York State Labor Law, Section 201-G, Prevention of Sexual Harassment.

§ 2.8 The Architect acknowledges that the Owner is a central school district which is subject to various laws and regulations of the State of New York. The Architect will, in accordance with the professional standards prescribed by Section 2.2, comply with all laws and regulations as they pertain to the design, bidding and construction of the Project. The Architect will consult with the Owner or the Owner's legal counsel with respect to any questions concerning the applicability or interpretation of such laws and regulations.

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in Article 3 and as set forth in Exhibit "C", and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 are Supplemental or Additional Services.

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

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

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit to the Owner and the Construction Manager a schedule of the Architect's services for inclusion in the Project schedule prepared by the Construction Manager. The schedule of the Architect's services shall include design milestone dates, anticipated dates when cost estimates or design reviews may occur, and allowances for periods of time required (1) for the Owner's review, (2) for the Construction Manager's review, (3) for the performance of the Owner's consultants, and (4) for approval of submissions by authorities having jurisdiction over the Project.

§ 3.1.4 The Architect shall submit information to the Construction Manager and participate in developing and revising the Project schedule as it relates to the Architect's services.

(Paragraph deleted)

§ 3.1.5 Once the Owner and the Architect agree to the time limits established by the Project schedule, the Owner and the Architect shall not exceed them, except for reasonable cause.

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

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

§ 3.1.8 The Architect shall assist the Owner and Construction Manager in connection with the Owner's responsibility for filing documents customarily required for the approval of governmental authorities having jurisdiction over the Project.

§ 3.2 Schematic Design Phase Services

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

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

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of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

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

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

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

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

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

§ 3.2.6 The Architect shall submit the Schematic Design Documents to the Owner and the Construction Manager. The Architect shall meet with the Construction Manager to review the Schematic Design Documents.

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

§ 3.2.8 In the further development of the Drawings and Specifications during this and subsequent phases of design, the Architect shall be entitled to rely on the accuracy of the estimates of the Cost of the Work, which are to be provided by the Construction Manager under the Construction Manager's agreement with the Owner.

§ 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 pursuant to Section 5.4, the Architect shall prepare Design Development Documents for the Owner's approval and the Construction Manager's review. The Design Development Documents shall be based upon information provided, and estimates prepared by, the Construction Manager and shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and such other elements as may be appropriate. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels.

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

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

§ 3.4 Construction Documents Phase Services

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

§ 3.4.2 The Architect shall incorporate into the Construction Documents the design requirements of governmental authorities having jurisdiction over the Project. The Construction Documents shall comply with all applicable laws, regulations, ordinances, codes and rules in effect relevant to the Project.

§ 3.4.3 During the development of the Construction Documents, if requested by the Owner, the Architect shall assist the Owner and the Construction Manager in the development and preparation of (1) bidding and procurement information that describes the time, place and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions); (4) Phasing and Logistics information establishing phasing options and sequence of construction, construction constraints, Multiple Contract scoping summary, schedule, temporary facilities during construction, and cleaning; and (5) compile a project manual that includes the Conditions of the Contract for Construction and may include bidding requirements and sample forms. The Architect shall be entitled to rely upon the accuracy of the documents prepared by the Construction Manager, including their respective coordination with the Architect's Instruments of Service. The Architect shall provide the Owner's legal counsel with the proposed bidding and contract documents for review and comment prior to the issuance of the bid documents.

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

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

§ 3.5 Bidding or Negotiation Phase Services

§ 3.5.1 General

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

§ 3.5.2 Competitive Bidding

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

§ 3.5.2.2 The Architect shall assist the Owner and Construction Manager in bidding the Project by

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

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- to the Owner.
- .5 distributing the Bidding Documents to the prospective bidders and maintaining a log of bid activities.

§ 3.5.2.3 If the lowest responsible bid, or the aggregate of the lowest responsible bids in the case of multiple prime contracts, submitted by qualified contractor(s), exceeds the limits of the Owner's budget for Cost of the Work, the Owner at its option shall:

- .1 give written approval of an increase in the Owner's budget for the Cost of the Work (and any corresponding reduction of other elements of Project cost) to the Architect and Construction Manager;
- .2 authorize rebidding of the Project within a reasonable time;
- .3 cooperate in revising the Project scope and quality as required to reduce the Cost of the Work;
- .4 abandon the Project and terminate in accordance with Sections 9.5 and 9.6.

If the Owner chooses to proceed under Section 3.5.2.3, the Architect shall make such modifications to the Construction Documents as may be necessary to bring the Cost of the Work within the fixed limit, and shall perform such services with respect to approval of the State Education Department and to any rebidding processes as are required, at no additional cost to the Owner.

§ 3.5.3 Negotiated Proposals

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

§ 3.5.3.2 The Architect shall assist the Owner and Construction Manager in obtaining proposals by

- .1 facilitating the reproduction of Proposal Documents for distribution to prospective contractors, and requesting their return upon completion of the negotiation process;
- .2 participating in selection interviews with prospective contractors; and
- .3 participating in negotiations with prospective contractors.

§ 3.5.3.3 The Architect shall consider requests for substitutions, if the Proposal Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective contractors.

§ 3.6 Construction Phase Services

§ 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A232™-2019, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition as to be modified by the Owner upon notice to the Architect.

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

§ 3.6.1.3 Subject to Section 4.3, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment and all documentation necessary for the Owner to submit its final cost report to the New York State Education Department.

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.3.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make

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exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and report to the Owner and the Construction Manager (1) known deviations from the Contract Documents and from the most recent construction schedule, and (2) defects and deficiencies observed in the Work.

§ 3.6.2.2 The Architect has the authority to reject Work which, in the opinion of the Architect, does not conform to the Contract Documents and shall notify the Construction Manager about the rejection. Whenever the Architect considers it necessary or advisable, the Architect, upon written authorization from the Owner and notification to the Construction Manager, shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees or other persons or entities performing portions of the Work.

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

§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings.

§ 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 A232–2019, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

§ 3.6.2.6 As used in this Agreement and on "inspection" reports and any certifications, the term "inspection" shall mean the visual, non-intrusive, observation of the Contractor's construction and materials used, performed for the purpose of enabling the Design Professional to give a professional opinion as to the general conformance of the Contractor's work, equipment and materials with the Contract Documents. Such "inspections" shall not be relied upon by any party (including persons not a party to this Agreement) as constituting an approval and acceptance by the Design Professional and shall not be deemed a release of any party from fulfilling the terms and conditions of their contract with the Owner.

§ 3.6.3 Certificates for Payment to Contractor

§ 3.6.3.1 The Architect shall review and certify an application for payment not more frequently than monthly. Within seven days after the Architect receives an application for payment forwarded from the Construction Manager, the Architect shall review and certify the application as follows:

- .1 Where there is only one Contractor responsible for performing the Work, the Architect shall review the Contractor's Application and Certificate for Payment that the Construction Manager has previously reviewed and certified. The Architect shall certify the amount due the Contractor and shall issue a Certificate for Payment in such amount.
- .2 Where there are Multiple Prime Contractors responsible for performing different portions of the Project, the Architect shall review a Project Application and Project Certificate for Payment, with a Summary of Contractors' Applications for Payment, that the Construction Manager has previously prepared, reviewed and certified. The Architect shall certify the amounts due the Contractors and shall issue a Project Certificate for Payment in the total of such amounts.

§ 3.6.3.2 The Architect's certification for payment shall constitute a representation to the Owner, based on (1) the Architect's evaluation of the Work as provided in Section 3.6.2, (2) the data comprising the Contractor's Application for Payment or the data comprising the Project Application for Payment, and (3) the recommendation of the Construction Manager, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the Architect.

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

§ 3.6.3.4 The Architect shall maintain a record of the applications and certificates for payment.

§ 3.6.4 Submittals

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

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

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on shop drawings and other submittals related to the Work designed or certified by the design professional retained by the Contractor that bear such professional's seal and signature when submitted to the Architect. The Architect'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 the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals.

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

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

§ 3.6.5 Changes in the Work

§ 3.6.5.1 The Architect shall review and sign, or take other appropriate action, on Change Order/Proposal Requests, Change Orders and Construction Change Directives prepared, reviewed and transmitted by the Construction Manager for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.6.5.2 The Architect 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. Such changes shall be effected by written order issued by the Architect through the Construction Manager.

Init.

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

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect, assisted by the Construction Manager, shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion prepared by the Architect; receive from the Construction Manager and review written warranties and related documents required by the Contract Documents and assembled by the Contractor; and, after receipt of a final Contractor’s Application and Certificate for Payment or a final Project Application and Project Certificate for Payment from the Construction Manager, issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents.

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

§ 3.6.6.3 When the Work is found to be substantially complete by the Construction Manager and Architect, and after certification by the Construction Manager and the Architect, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

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

(Paragraph deleted)

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

§ 4.1.1 The services listed below as "Not Provided" are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Supplemental Services identified as "Not Provided" only if specifically designated in the table below as the Architect’s responsibility, and approved in advance in writing by the Owner, 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. Supplemental Services indicated as Not Provided can be added after execution of this Agreement subject to the provisions of Section 4.3.

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

Supplemental Services	Responsibility <i>(Architect, Owner, or not provided)</i>
<i>(Row deleted)</i>	
§ 4.1.1.1 Programming	Not Provided
§ 4.1.1.2 Multiple preliminary designs	Per the Agreement
§ 4.1.1.3 Measured drawings	Not Provided
§ 4.1.1.4 Existing facilities surveys	Not Provided
§ 4.1.1.5 Site evaluation and planning	Not Provided
§ 4.1.1.6 Building Information Model management responsibilities	Not Provided
§ 4.1.1.7 Development of Building Information Models for post construction use	Not Provided
§ 4.1.1.8 Civil engineering	Architect

§ 4.1.1.9	Landscape design	Architect
§ 4.1.1.10	Architectural interior design	Architect
§ 4.1.1.11	Value analysis	Not Provided
§ 4.1.1.12	Detailed cost estimating	Architect - included in overall fee.
<i>(Row deleted)</i>		
§ 4.1.1.13	On-site project representation	Not Provided
§ 4.1.1.14	Conformed documents for construction	Not Provided
§ 4.1.1.15	As-designed record drawings	Architect
§ 4.1.1.16	As-constructed record drawings	Not Provided
§ 4.1.1.17	Post-occupancy evaluation	Not Provided
§ 4.1.1.18	Facility support services	Not Provided
§ 4.1.1.19	Tenant-related services	Not Provided
§ 4.1.1.20	Architect's coordination of the Owner's consultants	Architect
§ 4.1.1.21	Telecommunications/data design	Architect
§ 4.1.1.22	Security evaluation and planning	Not Provided
§ 4.1.1.23	Commissioning	Not Provided
§ 4.1.1.24	Sustainable Project Services	Not Provided
§ 4.1.1.25	Fast-track design services	Not Provided
§ 4.1.1.26	Multiple bid packages	Architect
§ 4.1.1.27	Historic preservation	Not Provided
§ 4.1.1.28	Furniture, furnishings, and equipment design	Not Provided, except as set forth in Exhibit "A"
<i>(Row deleted)</i>		
§ 4.1.1.29	Other services provided by specialty Consultants	Architect
§ 4.1.1.30	Other Supplemental Services	Not Provided

Change being made by SEI.

§ 4.1.2 Description of Supplemental Services

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

- .1 Civil Engineering & Landscape Design: Architect shall provide professional services associated with the final approved site design (applicable utilities, parking, grading, athletic fields, playgrounds, and landscaping).
- .2 Architectural Interior Design: Architect shall provide design services in connection with procurement and selection of interior building materials and finishes (not including furniture and equipment) associated with the final approved design.
- .3 Telecommunications/Data Design: Architect shall provide design services associated with the final approved renovated and new spaces. Telecommunications/Data Design shall be a modification/expansion of existing infrastructure and coordinated with systems requirements established by the Owner.
- .4 Multiple Bid Packages: Architect shall provide bid packages in accordance with Section 135 of the New York State Finance Law (Wick's Law).
- .5 Other Services Provided by Specialty Consultants: Architect shall provide professional services associated with the removal of Asbestos-Containing Building Materials (ACBM). Field identification surveys, based upon Owner-furnished AHERA report(s), and laboratory testing services required for same shall be retained by the Architect and compensated as a Reimbursable Expense as provided in Section 11.8.2.

Init.

- .6 Cost Estimating: Architect shall retain the services of a professional estimating firm to provide a detailed estimate of the SED Submission construction documents in which to best determine the final bid packages, in consultation with the Owner and Construction Manager.

§ 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.)

None

(Paragraph deleted)

§ 4.2 Intentionally Omitted

(Paragraphs deleted)

§ 4.3 Architect's Additional Services

Additional Services may be provided after execution of this Agreement, without invalidating the Agreement only upon the prior written approval of the Owner. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.3 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

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

- .1 Services necessitated by a material change in the Initial Information, previous instructions or recommendations given by the Construction Manager or the Owner, or approvals given by the Owner, or a material change in the Project including, but not limited to, size, quality, complexity, building systems, the Owner's schedule or budget for Cost of the Work, constructability considerations, procurement or delivery method, or bid packages in addition to those listed in Section 1.1.6;
- .2 Services necessitated by the Owner's request for extensive environmentally responsible design alternatives, such as unique system designs, in-depth material research, energy modeling, or LEED® certification;
- .3 Changing or editing previously prepared Instruments of Service necessitated by the subsequent enactment or revision of codes, laws or regulations or official interpretations;
- .4 Services necessitated by decisions of the Owner or Construction Manager not rendered in a timely manner or any other failure of performance on the part of the Owner, Construction Manager or the Owner's other consultants or contractors;
- .5 Preparing digital data for transmission to the Owner's consultants and contractors, or to other Owner authorized recipients;
- .6 Preparation of design and documentation for excessive (construction value greater than 5% of anticipated cost of Base Bid Work) alternate bid or proposal requests proposed by the Owner or Construction Manager; and not contemplated for the scope of the Project set forth on Exhibit "A".
- .7 Preparation for, and attendance at a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .8 Consultation concerning replacement of Work resulting from fire or other cause during construction;
- .9 Assistance to the Initial Decision Maker, if other than the Architect.
- .10 Providing planning surveys, site evaluations or comparative studies of prospective sites;
- .11 Providing special surveys, studies or submissions for governmental authorities or others having jurisdiction over the Project;
- .12 Providing services made necessary by the material default of the Contractor, by major defects or deficiencies in the Work of the Contractor, or by failure of performance of either the Owner or Contractor under the Contract for Construction;
- .13 Providing services to verify the accuracy of drawings or other information furnished by the Owner;
- .14 Providing analyses of owning and operating costs;
- .15 Providing interior design and other similar services required for or in connection with the selection, procurement or installation of furniture, furnishings and related equipment; except as contemplated for the scope of the Project set forth on Exhibit "A".

- .16 Making investigations, inventories of materials or equipment, or valuations and detailed appraisals of existing facilities;
- .17 Preparing a set of reproducible (including electronic) record drawings showing significant changes in the Work made during construction based on marked-up prints, drawings and other data furnished by the Contractor to the Architect;
- .18 Providing assistance in the utilization of equipment or systems such as testing, adjusting and balancing, preparation of operation and maintenance manuals, training personnel for operation and maintenance, and consultation during operation;
- .19 Providing services of consultants for other than architectural, site, civil, structural, mechanical and electrical engineering portions of the Project unless provided as a Supplemental Service in Section 4.1.2;
or
- .20 Providing any other services not otherwise included in this Agreement or not customarily furnished in accordance with generally accepted architectural practice.

§ 4.3.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of the Architect's notice, the Owner subsequently determines that all or parts of those services are not required, the Owner shall give prompt written notice to the Architect of the Owner's determination. The Owner shall compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice.

- .1 Reviewing a Contractor's submittal out of sequence from the initial Project submittal schedule agreed to by the Architect; provided the Owner receives a corresponding credit from the contract for the fee charged by the Architect for these services;
- .2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation; provided the Owner receives a corresponding credit from the contract for the fee charged by the Architect for these services;
- .3 Evaluating an extensive number of Claims as the Initial Decision Maker; or
- .4 Evaluating substitutions proposed by the Owner, Construction Manager or Contractor and making subsequent revisions to Instruments of Service resulting therefrom; provided the Owner receives a corresponding credit from the contract for the fee charged by the Architect for these services;

§ 4.3.3 The Architect shall, upon written authorization from the Owner, provide Construction Phase Services exceeding the limits set forth below as Additional Services. When the limits below are reached, the Architect shall notify the Owner and receive the Owner's written permission before proceeding:

- .1 Three (3) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
- .2 Bi-Weekly visits to the site by the Architect over the duration of the Project during construction through the date of Substantial Completion identified in Section 1.1.4. Bi-Weekly may revert to weekly upon mutual agreement between the Owner and Architect.
- .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) inspection for any portion of the Work to determine final completion

§ 4.3.4 Except for services required under Section 3.6.6.4 and those services that do not exceed the limits set forth in Section 4.3.3, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

§ 4.3.5 If the services covered by this Agreement have not been completed within Thirty-Six (36) months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

ARTICLE 5 OWNER'S RESPONSIBILITIES

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

§ 5.2 The Owner shall retain a Construction Manager to provide services, duties and responsibilities as described in AIA Document C132–2009, Standard Form of Agreement Between Owner and Construction Manager as may be modified by the Owner. The Owner shall provide the Architect a copy of the executed agreement between the Owner and the Construction Manager, and any further modifications to the agreement.

§ 5.3 The Owner shall furnish the services of a Construction Manager. The Architect shall work with the Owner and Construction Manager to create overall Project schedule. The Owner shall adjust the Project schedule, if necessary, as the Project proceeds.

(Paragraph deleted)

§ 5.4 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect and the Construction Manager. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the budget for the Cost of the Work or in the Project's scope and quality.

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

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

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

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

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

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

Init.

§ 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 and Construction Manager if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service. The Architect also provide prompt notice in writing to the Owner of any fault or defect in the Project, including errors, omissions or inconsistencies in any information provided to the Owner.

§ 5.12 Except as otherwise provided in the Contract Documents or when direct communications have been specially authorized, the Owner shall endeavor to communicate with the Contractor through the Construction Manager and shall contemporaneously provide the same communications to the Architect about matters arising out of or relating to the Contract Documents. Communications by and with the Architect's consultants shall be through the Architect.

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

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

§ 5.15 The Owner shall furnish the required information and services and shall render approvals and decisions as expeditiously as necessary for the orderly progress of the Architect's services and Work of the Contractors.

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

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include the contractors' general conditions costs, overhead and profit. The Cost of the Work does not include the compensation of the Architect, the Construction Manager or their consultants, the costs of the land, rights-of-way, financing, contingencies for changes in the Work or other costs that are the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and may be adjusted throughout the Project as required under Sections 5.4 and 6.4. Evaluations of the Owner's budget for the Cost of the Work represent the Architect's judgment as a design professional.

§ 6.3 The Owner shall require the Architect and Construction Manager to include appropriate contingencies for design, bidding or negotiating, price escalation, and market conditions in estimates of the Cost of the Work.

§ 6.3.1 If the Architect is providing detailed cost estimating services as an Additional Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Architect and the Construction Manager shall work cooperatively to conform the cost estimates to one another.

§ 6.4 If, prior to the conclusion of the Design Development Phase, the Construction Manager's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect, in consultation with the Construction Manager, shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget, and the Owner shall cooperate with the Architect in making such adjustments.

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

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

Init.

§ 6.6 If the Owner chooses to proceed under Section 6.5.2, the Architect, without additional compensation, shall incorporate the required modifications in the Construction Documents Phase as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Design Development Phase Services, or the budget as adjusted under Section 6.5.1. The Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility as a Basic Service under this Article 6.

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

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project. If the Owner and Architect intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions. The Owner shall be entitled to receive and retain a copy of all instruments of service and other documents and materials generated by the Architect with the Project as part of the Basic Services. Instruments of Service Exclude the Architects digital Intellectual property such as Building Information Modeling and Electronic/Digital detail drawings.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings, Specifications, models and renderings, including those in electronic form, 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. All parties agree that instruments of service constitute PDF (Electronic) and printed representations of documents. Any digital media that contains the intellectual property of the Architect including those means by which drawings and details were created in CAD or BIM software are solely the property of the Architect and shall not be considered part of the architects deliverable instruments of service as referenced by this contract.

§ 7.3 Upon execution of this Agreement, the Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under this Agreement. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Construction Manager, 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 for this Article 9 the license granted in this section 7.3 shall terminate.

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

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. 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. However, the Owner shall be permitted to authorize the Contractor, Subcontractors, Sub-subcontractors and material or equipment suppliers to reproduce applicable portions of the Instruments of Service appropriate to and for use in their execution of the Work

by license granted in Section 7.3. 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. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

§ 7.5 The Owner agrees that the technical methods, design details, techniques and pricing data contained in any material submitted by the Architect pertaining to this Project or this Agreement shall be considered confidential and proprietary and shall not be released or otherwise made available to any third party except as permitted by Section 10.8.1 without the express written consent of the Architect. The Owner further agrees to waive all claims against the Architect resulting in any way from any unauthorized changes to or reuse of the electronic files for any other project by anyone other than the Architect

§ 7.6 Under no circumstances shall delivery of electronic files for use by the Owner be deemed a sale by the Architect, and the Architect makes no warranties, either expressed or implied, of the merchantability and fitness for any particular purpose. In no event shall the Architect be liable for indirect or consequential damages as a result of the Owner's use or reuse of the electronic files.

§ 7.7 Prior to the Architect providing to the Owner any Instruments of Service in electronic form or the Owner providing to the Architect any electronic data for incorporation into the Instruments of Service, the Owner and the Architect shall by separate written agreement set forth the specific conditions governing the format of such Instruments of Service or electronic data, including any special limitations or licenses not otherwise provided in this Agreement.

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

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

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

§ 8.1.2 To the extent damages are covered by property insurance and to the extent not prohibited by the parties respective insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A232-2009, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the Construction Manager, contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 To the fullest extent permitted by law, the Architect shall defend, indemnify and hold the Owner, its officers, board members, agents, and employees harmless from and against any claims, losses, injuries, damages, suits, proceedings, and actions, of whatever nature, and all expenses whatsoever, including reasonable attorney' fees, arising out of (1) negligent acts or omissions, misrepresentation, or intentional misconduct of the Architect, its agents, consultants, subcontractors or employees, or (2) any breach of the Agreement by the Architect. The Owner shall promptly notify the Architect in writing of each claim or action or notice of any claim or action it may receive which may trigger the indemnification obligations of this Section. To the fullest extent permitted by law, the Owner shall defend, indemnify and hold the Architect, its officers, board members, agents, and employees harmless from and against any claims, losses, injuries, damages, suits, proceedings, and actions, of whatever nature, and all expenses whatsoever, including reasonable attorney' fees, incurred by the Architect and arising out of (1) negligent acts or omissions, misrepresentation, or intentional misconduct of the Owner, it's agents, consultants, subcontractors, or employees, or (2) any breach of the Agreement by the Owner. The Architect shall promptly notify the Owner in writing of each claim or action or notice of any claim or action it may receive which may trigger the indemnification obligations of this Section. This Section shall survive termination of this Agreement.

§ 8.1.4 The Architect and Owner waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. 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.

§ 8.1.5 In the event of any dispute between the Parties related to the Project, the Parties agree to first negotiate in good faith toward a resolution, with participation by representatives of each Party holding sufficient authority to resolve the dispute. If such dispute cannot be resolved within fifteen (15) business days, the dispute shall be submitted to mediation in accordance with Section 8.2.

§ 8.2 Mediation

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

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

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

§ 8.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:
(Check the appropriate box. If the Owner and Architect do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.)

Arbitration pursuant to Section 8.3 of this Agreement

Litigation in a court of competent jurisdiction

Other: *(Specify)*

N/A

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

§ 8.3.1 Intentionally Omitted.

(Paragraphs deleted)

§ 8.3.4 Consolidation or Joinder

§ 8.3.4.1 Intentionally Omitted.

(Paragraphs deleted)

§ 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 in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to terminate or suspend services, the Architect shall give thirty days' written notice to the Owner before terminating or suspending services. In the event of a proper termination or suspension of services, the Architect shall have no liability to the Owner for delay or damage caused because the Owner of such termination or suspension of services. Before resuming services, the Architect shall be paid all sums due prior to suspension and termination and the Architect's fees for the remaining services and the time schedules shall be equitably adjusted upon the written agreement of the Owner and the Architect.

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

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

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

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

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination, and Reimbursable Expenses incurred prior to termination.

§ 9.7
(Paragraphs deleted)
Intentionally Omitted.

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

§ 9.9 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 11.9.

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.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A232-2009, General Conditions of the Contract for Construction.

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

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

that would require knowledge, services or responsibilities beyond the scope of this Agreement or that would result in the Architect having to certify beyond the Architect's professional opinion or on information or conditions unknown to the Architect. The Owner also agrees not to make resolution of any dispute with the Architect or payment of any amount due to the Architect in any way contingent upon the Architect's signing any such certification.

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

§ 10.6 Except as otherwise related to the Architects services under this agreement, the Architect and Architect's consultants, 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, including but not limited to asbestos, asbestos products, polychlorinated biphenyl (PCB), mold, fungus, lead or other hazardous or toxic substances.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

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

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

§ 10.9 The invalidity of any provision of the Agreement shall not invalidate the Agreement or its remaining provisions. If it is determined that any provision of the Agreement violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Agreement shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Agreement.

§ 10.10 Intentionally Omitted.

§ 10.11 As used in this Agreement, the word "certify" shall mean an expression of the Architect's professional opinion to the best of its information, knowledge and belief, and does not constitute a warranty or guarantee by the Architect.

§ 10.12 Intentionally Omitted.

§ 10.13 If the Architect becomes aware of delays due to time allowances for review and approval being exceeded, delay by the Contractor, the Owner, the Owner's consultants or any other cause beyond the control of the Architect, which will result in the schedule for performance of the Architect's services not being met, the Architect shall promptly notify the Owner in writing. If the Owner becomes aware of any delays or other causes that will affect the Architect's schedule, the Owner shall promptly notify the Architect. In either event, the Architect's schedule for performance of its services shall be equitably adjusted.

§ 10.14 The Owner and Architect agree that any and all limitations of the Owner's or Architect's respective liability and indemnifications by the Owner or Architect to the other shall include and extend to those individuals and entities the Owner or Architect respectively retains for performance of the services under this Agreement, including but not limited to the Owner's or Architect's officers, partners and employees and their heirs and assigns, as well as the Owner's or Architects subconsultants and their officers, employees, heirs and assigns.

ARTICLE 11 COMPENSATION

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

(Paragraph deleted)
(Insert amount of, or basis for, compensation.)

(Paragraphs deleted)
 SEI Design Group will be compensated a fixed fee of Seven Hundred and Eighty Thousand Dollars (\$780,000.00 / 7% of the estimated construction budget). Fee is inclusive of pre-referendum services and third-party estimating fee.

§ 11.2 For Supplemental Services designated in Section 4.1, 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.)

Compensation for the Architect's Supplemental Services described in Section 4.1.2.1 are included within the Compensation in Section 11.1.

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.3, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation.)

As may mutually be agreed to, in writing, between Owner and Architect. Except as provided in Section 4.3.2, Additional Services shall not be provided without prior written agreement with Owner as to scope and terms for payment.

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

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

Schematic Design Phase	Fifteen	percent (15	%)
Design Development Phase	Twenty	percent (20	%)
Construction Documents Phase	Thirty-Five	percent (35	%)
Bidding or Negotiation Phase	Five	percent (5	%)
Construction Phase	Twenty-Five	percent (25	%)
<hr/>				
Total Basic Compensation	one hundred	percent (100	%)

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

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

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

Reference Exhibit "B".

(Table deleted)

§ 11.8 Compensation for Reimbursable Expenses

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

- .1 Transportation and authorized out-of-town travel and subsistence other than to the project.
- .2 Fees paid for securing approval of authorities having jurisdiction over the Project;
- .3 Printing, reproductions, plots, standard form documents;
- .4 Postage, handling and delivery;

(Paragraph deleted)

- .5 Renderings, models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project; and

(Paragraphs deleted)

- .6 Site office expenses;

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus Ten percent (10 %) of the expenses incurred.

§ 11.9 Architect's Insurance. If the types and limits of coverage required in Section 2.6 are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below:

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

As may mutually be agreed to, in writing, between Owner and Architect.

§ 11.10 Payments to the Architect

(Paragraphs deleted)

§ 11.10.1 An initial payment of zero (\$ 0.00) shall be made upon execution of this Agreement and is the minimum payment under this Agreement. It shall be credited to the Owner's account in the final invoice.

§ 11.10.2 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid Thirty (30) days after the invoice date shall bear interest at the annual rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

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

Prime rate as published in the Wall Street Journal at that time.

(Paragraphs deleted)

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

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

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

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

(Paragraph deleted)

Init.