



**ALAMOGORDO PUBLIC SCHOOLS
REQUEST FOR PROPOSAL
RFP #005-2023
RFP Title: Holloman Middle School Design
Commodity Codes: 90607, 90610, 90638**

RFP ISSUE DATE	03/15/2023
PRE-PROPOSAL MEETING IN PERSON OR VIRTUAL (NON-MANDATORY)	03/28/2023 @ 2:00 PM
DEADLINE FOR WRITTEN QUESTIONS	03/31/2023 @ 5:00 PM
APS RESPONSE TO WRITTEN QUESTIONS	04/05/2023 @ 5:00 PM
RFP DUE DATE AND TIME	04/19/2023 @ 3:00 PM
EVALUATION OF PROPOSALS	04/21/2023
INTERVIEW OF SHORTLIST	04/26/2023
DATE OF AWARD	05/03/2023
PROTEST DEADLINE	05/17/2023

PROPOSALS MUST BE RECEIVED BY THE DUE DATE AND TIME IN ORDER TO BE CONSIDERED RESPONSIVE TO THIS SOLICITATION. NO PROPOSALS WILL BE RECEIVED AND OR CONSIDERED AFTER THE DUE DATE AND TIME.

District Contact Information

Name/Title	Marie Bouma, Chief Procurement Officer
Phone Number	575-812-6044
E-Mail	procurement@alamogordoschools.org

*Any inquiries or requests regarding this procurement should be submitted, in writing, to the listed Chief Procurement Officer of Alamogordo Public Schools. Proposers may contact **ONLY** the listed Chief Procurement Officer regarding this RFP. Other APS employees or Evaluation Committee members do not have the authority to respond on behalf of APS. Communications directed to parties other than the Chief Procurement Officer will have no legal bearing on this RFP or the resulting contract(s). All responses from Alamogordo Public Schools will be provided in writing to all Proposers by addendum. Proposers are encouraged to submit proposals electronically via Alamogordo Public Schools vendor registry portal at the link below.*

[APS Vendor Registry Portal](#)

Table of Contents

<i>Title Page</i>		<i>Page 1</i>
<i>Table of Contents</i>		<i>Page 2</i>
<i>Section I</i>	<i>General Instructions and Definitions</i>	<i>Page 3-5</i>
<i>Section II</i>	<i>Scope of Work</i>	<i>Page 6-10</i>
<i>Section III</i>	<i>Specifications</i>	<i>Page 11</i>
<i>Section IV</i>	<i>Insurance Requirements</i>	<i>Page 12</i>
<i>Section V</i>	<i>Proposal Format</i>	<i>Page 13-15</i>
<i>Section VI</i>	<i>Evaluation Criteria</i>	<i>Page 16</i>
<i>Conclusion</i>		<i>Page 17</i>

I. GENERAL INSTRUCTIONS

1. **RFP Documentation:** Proposers are expected to be familiar with all documents contained in this RFP to ensure proposals are in compliance with all provisions contained in this Request for Proposals. Proposers must notify Alamogordo Public Schools of any inconsistency or error in review of the RFP Documents.
***NOTE:** Please read all of the RFP documents carefully for mandatory requirements.
2. **Scope of Work:** The District may add to or delete from the Scope of Work set forth in this RFP.
3. **Written Questions:** Proposers may submit written questions to offer clarity to the terms of the RFP. All questions must be submitted to the listed Chief Procurement Officer no later than the date listed in this RFP; **all times are subject to local time zone (MST)**. The District will respond by addendum to the submitted written questions.
4. **Submission:** The Submission of a proposal constitutes that the Proposer has made all appropriate examinations, investigations and analysis and has made provision as to the cost in the submitted proposal. By responding to this RFP, Proposer acknowledges and agrees to the terms and conditions set forth in this RFP and by addendum. The RFP Proposer will abide by the New Mexico Procurement Code, §13-1-28 through §13-1-199 NMSA, and acknowledges that the Code imposes civil and misdemeanor criminal penalties for its violation. In addition, the New Mexico criminal statutes impose felony penalties for bribes, gratuities, and kickbacks.
5. **Electronic RFP Documents:** This RFP is being made available by electronic means. In the event of conflict between a version of the RFP in the Proposer's possession and the version maintained by APS, the Proposer acknowledges that the version maintained by APS on the APS procurement website shall govern.
6. **Incurring Cost:** The Proposer shall bear the full burden of any cost associated with the preparation, transmittal, and/or presentation of any material, equipment, system submitted in response to this RFP.
7. **Public Records Act:** Alamogordo Public Schools is a governmental entity subject to the State of New Mexico Inspection of Public Records Act (IPRA). Proposals submitted to APS in response to a formal procurement solicitation are subject to release as a public information request. If a Proposer believes that its proposal or parts of its proposal may be exempted from disclosure under New Mexico law, the Proposer may mark the pages "confidential" for consideration to exemption. APS reserves the sole right to determine exemptions.
8. **Proposal Firm:** Proposals to this RFP including price proposals shall be considered firm for One Hundred Twenty (120) days after the response due date.
9. **Forms and Addendums:** The Proposer shall be responsible for ensuring that they are in possession of the most recent copy of this RFP including any/all addendums that have been issued. No addendum will be issued later than five (5) calendar days prior to the due date of receipt of proposals. The only addendum that may be issued within Five (5) calendar days of the receipt of Proposals is one which withdraws the RFP or one that extends the proposal receipt due date and time. It is the responsibility of the Proposer to acknowledge all addendums in their proposal. Proposers should revisit the website prior to the due date of receipt of proposals before submitting their proposal to Alamogordo Public Schools. All addendums must be acknowledged in the submitted proposal.

10. **Correction and Withdrawal of Proposal:** Corrections are to be initialed in ink by the individual authorized to sign the proposal on behalf of the Proposer. Proposers are permitted to withdraw their proposal any time prior to the deadline of receipt of proposals by submitting a written withdrawal request to the Chief Procurement Officer.
11. **District Discretion:** Alamogordo Public Schools reserves its right in its sole discretion to “waive technical irregularities in the form of the bid or proposal of the low bidder or Proposer which do not alter the price, quality or quantity of the services, construction or items of tangible personal property bid or offered” pursuant to NMSA 1978, §13-1-132
12. **Responsive Proposer:** The Chief Procurement Officer may make investigations to determine if the Proposer’s proposal meets the requirement of a responsive offer as set forth in [§13-1-85](#). The District may reject a proposal if it is does not meet the requirements set forth in [§13-1-85](#)
13. **Interviews:** Interviews may be conducted with Proposers who submit proposals determined to be potentially acceptable of being selected for award, however proposals may be accepted without such interviews.
14. **Award:** Alamogordo Public Schools reserves the right to award all, part, or none of the scope of work detailed in this RFP. This Request for Proposals in no way obligates Alamogordo Public Schools into entering business with any potential Proposer without a fully executed contract or purchase order. The award of this contract is not final until approved by APS Board of Education and/or contract is signed by both parties.

15. **Preferences**

Please Note: This Award will utilize federal funds; preferences will not be awarded pursuant to [NMSA 1978 §13-1-21J](#)

16. **Buy American:** As required by the Buy American provision, all products must be of domestic origin as required by [CFR 25.602.2](#)
17. **RFP Cancellation or rejection:** This Request for Proposals may be canceled and/or proposals may be rejected in whole or in part when deemed in the best interest of Alamogordo Public Schools pursuant to [NMSA 1978 § 13-1-131](#).
18. **Multi-Award:** Alamogordo Public Schools reserves the right to issue multi-award contracts when necessary for adequate delivery of services pursuant to [NMSA, § 13-1-153](#).
19. **Board of Education Approval:** Award of resulting contract from this RFP is not considered final until approved and signed by the Alamogordo Public Schools Board of Education and the Contractor.
20. **Federal Procurement** – In addition to the New Mexico Statutes Annotated (NMSA) and the State of New Mexico Procurement Code, this procurement will be governed by the Code of Federal Regulations (CFR) Any provisions in the Inflation Reduction Act would also govern the procurement.

DEFINITIONS OF TERMINOLOGY

Award of Contract: shall mean a formal written notice by Alamogordo Public Schools that a firm has been selected to enter into a contract for services. Any Notice of Award that has not resulted in a written signed bilateral agreement between the successful Proposer and the Alamogordo Public School District, within 1 month of written notice of award, shall result in the termination of negotiations and not be considered an award.

Contract: means a signed bilateral agreement between the APS District and a successful Proposer/contractor for the work covered by this RFP.

Contractor: means successful Proposer awarded the contract.

Determination: means the written documentation of a decision of the Selection Committee, including findings of fact required to support a decision. A determination becomes part of the procurement file to which it pertains.

District: for purposes of this RFP, means the Alamogordo Public Schools Governing Board and is synonymous with the terms and acronym "Owner" and "APS".

Entity: means the Owner, Alamogordo Public Schools (APS).

Proposer: is any person, corporation, or partnership who chooses to submit a proposal in response to this RFP.

Owner: is Alamogordo Public Schools.

Proposal: is the Proposer's response to this RFP.

Request for Proposals: or "RFP" means all documents, attached or incorporated by reference, used for soliciting proposals.

Responsible Proposer: means a Proposer who submits a responsive proposal and who has furnished, when required, information and data to prove that their financial resources, production or service facilities, personnel, service reputation and experience are adequate to make satisfactory delivery of the services described in the proposal.

Responsive Offer or Responsive Proposal: means an offer or proposal, which conforms to all material, respects to the requirements set forth in the RFP. Material respects of a RFP include, but are not limited to quality, quantity or delivery requirements.

Construction Management at Risk: means a construction manager (CM) hired to oversee the project from design to construction close-out and deliver it with a Guaranteed Maximum Price (GMP).

Selection Committee: means a body constituted in accordance with NMSA 1978 [§ 13-1-121](#) to perform the evaluation of Proposer proposal submittals.

The terms "must," "shall," "will," "is required," or "are required" identify a necessary item or factor. Failure to comply with such an item or factor may result in the rejection of the Proposer's proposal.

The terms "can," "may," "should," "preferably," or "prefers" identifies a desirable or discretionary item or factor. Failure to comply with such an item or factor may result in the rejection of the Proposer's proposal. Rejection of the proposal will be subject to review by the Selection Committee and the final decision on rejection will be made by the Selection Committee Chair.

II. SCOPE OF WORK

Alamogordo Public Schools is requesting Architectural Proposals for new middle school facilities located on Holloman AFB. The facilities will be adjacent to the newly constructed Holloman Elementary School and is intended to provide a collaborative environment for all military connected students attending the schools. The design will be a planned square footage of 52,178. Pre-K – eighth grade students will have access to and full use of the outdoor learning studio and its supporting spaces. The design will include a world class Science, Technology, Engineering, Arts, and Mathematics (STEAM) facility servicing approximately 300 students as well as Holloman AFB and the greater Alamogordo Public Schools. In addition to the new buildings, the area adjacent to the North & West of the Pre-K – fifth grade building (~4 acres) will be home to the Pre-K – eighth grade Outdoor Learning Studio which will include a learning pavilion, themed outdoor classrooms, artificial turf playfields, soft surface sports courts, discovery habitat and pollinator gardens and group gathering spaces. The Southwestern side of the site (~13 acres) will be the location of the new track and field.

The design is set to begin immediately upon award of Architectural Services.

Architectural Services will include but not be limited to:

1. Foundation System design ranging from simple foundation systems to complex foundation systems (e.g., Simple slab on grade to complex drilled piers and grade beams with a structural slab) shall be considered as basic services. The foundation design services and associated investigations are inclusive in this RFP. If requested, multiple options with associated budget estimates shall be provided to the owner pending the outcome of the geotechnical report or owner requirements. Heating, Cooling, and Ventilation System design ranging from simple systems to complex HVAC systems (e.g., Simple roof top units to complex geothermal systems) shall be considered as basic services. The HVAC system design services and associated investigations are inclusive in this RFP. If requested, multiple options with associated budget estimates shall be provided to the Owner pending the outcome of the Life Cycle Cost Analysis or owner requirements.
2. Engineering design to provide life, health, and safety requirements for the school facility, especially fire suppression system design (e.g. Design of fire tank and pump components) necessary to provide a code compliant environment shall be considered as basic services. The design services of these life, health, safety components are inclusive in this RFP.
3. Play area, playground equipment/outdoor learning and all associated landscape design is included as part of the basic services rendered for this RFP and Contract.
4. Kitchen equipment design is included as part of the basic services rendered for this RFP and Contract.
5. The Owner requires in-person formal review meetings prior to submission of each design phase in conjunction with updated cost estimates. The Owner is using CMAR (Construction Manager at Risk) and the successful proposer would need to address this approach. In addition to each design phase review meeting, the Owner will be implementing a 50% Design Development review meeting and 50% Construction Documents meeting. The purpose of these meetings is to review the design of the project and associated budgets at each phase:

- a. Programming phase – programming phase services**
 - i. Project administration
 - ii. Owner-supplied data coordination
 - iii. Establishment of program goals and needs
 - iv. Determination of space area requirements
 - v. Establishment of space relationships
 - vi. Site analysis for building location
 - vii. Obtaining licensing agencies’ or other regulatory entities’ consultation/review which must include a Educational Consultant who is well acquainted with Science, Technology, Engineering, Arts, and Mathematics (STEAM)
 - viii. Project budgeting
 - ix. Presentation to Owner
 - x. Obtaining approval of programming documents from Owner

- b. Schematic design phase – schematic design phase services**
 - i. Project administration
 - ii. Concept design for all applicable disciplines, including but not limited to:
 - 1. Architectural
 - 2. Civil
 - 3. Landscaping
 - 4. Structural
 - 5. Mechanical
 - 6. Electrical
 - 7. Other (*See Other/Associated Services and Conditions – Listed Below*)
 - iii. Interim design presentation(s) to Owner
 - iv. Preliminary alternative materials and systems recommendations, including:
 - 1. Life cycle maintenance briefing
 - 2. Feasibility of utilizing alternative energy sources
 - 3. Statement of probable construction cost
 - 4. Submittal and presentation of schematic design documents to Owner
 - 5. Obtaining approval of schematic design documents from Owner
 - 6. Other (list)

- c. Design development phase – design development phase services**
 - i. Project administration
 - ii. Finalization of design and selection of materials and systems for all applicable disciplines, including but not limited to:
 - 1. Architectural
 - 2. Civil
 - 3. Landscaping
 - 4. Structural
 - 5. Mechanical
 - 6. Electrical
 - 7. Other (*See Other/Associated Services and Conditions – Listed Below*)
 - iii. Project scheduling
 - iv. Statement of probable construction cost
 - v. Outline of specifications, including equipment and furnishings
 - vi. Obtaining licensing agencies’ or other regulatory entities’ review and approvals, as required
 - vii. Submittal and presentation(s) of design development documents to Owner
 - viii. Obtaining approval of design development documents from Owner
 - ix. Other (*See Other/Associated Services and Conditions – Listed Below*)

- d. Construction document phase – construction documents phases services**
 - i. Project administration

- ii. Preparation of final bidding and construction documents for all applicable disciplines, including but not limited to:
 - 1. Architectural
 - 2. Civil
 - 3. Landscaping
 - 4. Mechanical
 - 5. Electrical
 - 6. Other (*See Other/Associated Services and Conditions – Listed Below*)
 - iii. Detailed cost estimate – Uniform at Level III
 - iv. Obtaining licensing agencies’ and other regulatory entities’ reviews and approvals
 - v. Presentation(s) of bidding and construction documents to Owner
 - vi. Obtaining approval of bidding and construction documents from Owner
- e. Bidding phase – bidding phase services**
- i. Project administration
 - ii. Bidding documents distribution which have been reproduced by Owner
 - iii. Bidding inquiries review and disposition
 - iv. Proposed substitution, pre-approval, or prequalification review and disposition
 - v. Issuance of addenda
 - vi. Representation and assistance to Owner at bid opening
 - vii. Analysis of bids and recommendation on award of contract
 - viii. Assistance to Owner in preparation and execution of construction agreement
- f. Construction administration phase – construction administration phase services**
- i. Project administration
 - ii. Administration of preconstruction conference
 - iii. Periodic construction field observations
 - iv. Administration of profess meetings
 - v. Review and disposition of
 - 1. Submittals
 - 2. Change orders
 - 3. Contractor pay requests
 - 4. Other (*See Other/Associated Services and Conditions – Listed Below*)
 - vi. Interpretation of documents
 - vii. Monitoring of construction schedule
 - viii. Coordination of applicable regulatory agency review and approvals
 - ix. Determination of substantial and final completion
 - x. Project closeout, including:
 - 1. Maintenance, operation, and start-up assistance
 - 2. Recording of construction and warranty documents
- g. Post construction – post construction services**
- i. Maintenance and operation services
 - ii. Eleven-month warranty review
- h. Other/Associated Services and Conditions -** When specifically identified/selected by the Owners, the following services shall be deemed part of and incorporated into the Basic Services, Responsibilities, & Requirements of the Design Professional.

i. Certifications

This Project is required to qualify for the LEED green building rating system at a Silver level or better, in addition to WELL certification for building that impacts human health and wellbeing. The Design Professional shall provide the professional and engineering services necessary for its design and construction to meet the related basic criteria indicated in this Project's Agreement.

The Design Professional shall coordinate with the Owner in developing an integrated design approach to establish an energy performance target that exceeds the ENERGY STAR rating of 75, generated from the U.S. EPA's Energy Performance Rating tool Target Finder, on the <http://www.energystar.gov/newbuildingdesign> web page. This approach shall be described as part of the Project Program Statement.

ii. Roofing

Roofing design standards shall comply with the latest edition of standards as referenced below:

1. The NRCA Roofing and Waterproofing Manual – National Roofing Contractors Association.
2. Membrane Manufacturer's current published specifications, application instructions, and technical bulletins.
3. Annual Book of ASTM Standards, Latest Revision – ASTM International.

Design Professional shall ensure all required inspections by the Manufacturer of the approved materials occur to facilitate issuance of the specified roof warranty.

Design Professional shall specify rigid insulation, adhered roofing system, and component materials suitable for the structural deck that have been tested as a complete system for application and slopes indicated. Information regarding fastening for uplift resistance to meet the applicable Building Code shall also be provided.

Upon achievement of substantial completion, the Manufacturer shall inspect the work and inform (by written report) the Design Professional, Contractor, and the Installer of defective/incomplete work to be remedied. Those areas indicated shall be corrected to the full satisfaction of the Design Professional, Owner, and Manufacturer. The Manufacturer shall submit written acceptance of the project to the Design Professional prior to Final Completion for issuance of the weathertightness warranty. Roof design and material specifications shall include a primary manufacturer's warranty and no-dollar-limit for labor and materials for a period of not less than 30 years, and shall include the following:

- a. Roof membrane
- b. Roof membrane adhesion and attachment
- c. Roof membrane flashings
- d. Roof insulation
- e. Roof insulation attachment
- f. Roof system fasteners, termination bars, and other miscellaneous accessories supplied by the roofing Manufacturer
- g. Primary Roofing Manufacturer's Warranty shall cover building code required design wind speed.
- h. Primary Roofing Manufacturer's warranty shall cover defects in materials and workmanship and shall become effective at the completion of the work. This warranty shall not include any buy-out clauses and shall not be prorated.

i. All warranties shall contain written provision(s) stating that they will be fully transferable at any time during the specified warranty period.

i. Furnishings and Equipment

The Design Professional shall provide all required work for design, selection, preparation of Construction Documents and bidding for the procurement of project related furniture, fixtures, and equipment. Related services shall be performed in accordance with the same requirements contained in these General Conditions for review and approval by Owner as indicated for Basic Services unless modified in writing by Owner. Following installation of furniture, fixtures and equipment, the Design Professional shall inspect the installation and prepare a list for items requiring correction. Upon notification from the installer that all corrections have been made, the Design Professional shall again inspect the site to confirm that corrections were properly done and to authorize final payment for the furniture and fixtures.

III. SPECIFICATIONS

The 6-8 facility will house a STEAM program to enhance and reflect Holloman AFB mission with a projected enrollment of 225 students/capacity of 312 students and a planned square footage of 52,178. PK-8 students will have access to and full use of the outdoor learning studio and its supporting spaces.

The new facility will be constructed utilizing durable and energy efficient materials consistent with LEED or WELL Certifications. Technology for the new facility will include: charging space for chrome books, portable ViewSonic touch screens, projection and sound systems, electronic access control, VOIP intercom, Direct Digital Controls for HVAC and lighting systems, complete wireless access point coverage and an integrated CCTV system. Plumbing systems will include: low flow toilets and faucets throughout, drinking fountains with bottle fillers only and a Reverse Osmosis system. HVAC system capable of maintaining a temperature between sixty-eight- and seventy-five-degrees Fahrenheit with full occupancy that consists of a VRF system for main areas, packaged units for larger spaces and energy recovery ventilators. Lighting will include dimmable LED fixtures.

Exterior elements will include on-site pedestrian access with paved sidewalks that will connect all school activities and provide ADA compliant access to both buildings and site amenities (track and field, parking lots, etc.). Student drop off/pick-up areas will be separate from bus drop off and pedestrian paths. Parking for parent, staff and visitors will exceed minimum standards. Each building will have a single point of entry with a secured vestibule, also known as a 'man-trap'. Securable site fencing will also be included throughout the entire site, as well as site security lighting in all parking lots, walkways, entrances and exterior building areas. The building will have exterior cameras and a prominent monument or marquee sign.

In addition to the two new buildings, the are adjacent to the north & west of the PK-5 building (~4 acres) will be home to the PK-8 Outdoor Learning Studio. This area will have a joint use learning pavilion, themed outdoor classrooms, artificial turf playfields, soft surface sports courts, discovery habitat and pollinator gardens, and group gathering spaces. The southwester side of the site (~13 acres) will be location of the new track and artificial turf field. The site will also include service access, a playground and basketball courts for the middle school, a retention pond and additional parking.

IV. INSURANCE REQUIREMENTS

Liability insurance shall be on a comprehensive basis and shall include the following divisions of coverage:

Comprehensive General Liability Premises and Operations including Broad form property damage and Contractual liability	\$1,000,000 each occurrence
Professional Liability/Errors and Omission	\$1,000,000 Combined single limit each occurrence

Other required coverage's:

Workers Compensation	Statutory-New Mexico (All employees and subcontractors as applicable)
Automobile Liability Insurance for Contractors Providing Vehicles OR Automobile Liability Insurance for Sole Contractors/Subcontractors Using Personal Vehicles	\$500,000 Combined single limit each occurrence \$100,000 each person \$300,000 limit each occurrence

PROPOSER WILL BE RESPONSIBLE FOR ALL REQUIRED INSURANCE COVERAGE AS APPLICABLE TO LOCAL, STATE AND FEDERAL LAWS AND REGULATIONS.

Coverage shall be with an insurer authorized by the State of New Mexico and shall carry a Best's rating of not less than "A" in the A.M. Best's Key Rating Guide. Alamogordo Public Schools, its Board of Education, and employees must be named as Additional Insureds with respect to all of the coverages. Evidence of insurance policies and forms adequate to confirm the currency and adequacy of coverage shall be provided to the District prior to the onset of service and the contract shall be conditioned upon the approval of same by the District.

NOTE: Proposers must provide certificates of current insurance coverage.

V. PROPOSAL FORMAT

The Proposer's proposal should follow this format:

LETTER OF SUBMITTAL AND EXPRESSION OF INTEREST REQUIREMENT:

Each proposal must be accompanied by a submittal letter. The submittal letter shall include acknowledgements and where appropriate, certification of the following:

- a. Brief history of the Company
- b. Type of ownership
- c. Statements as to size of professional staff
- d. Name of partner in charge, project manager and other key collaborators
- e. Time/Date availability of firms to perform services.
- f. Acknowledge acceptance of all conditions that govern the procurement
- g. Acknowledge that the information provided in the proposal is truthful, accurate and complete, and that the firm is bound by all information, data, certifications, disclosures and attachments submitted.
- h. Acknowledge that if awarded the contract, the RFP documents, all terms and conditions stated herein, all information, data, certifications, disclosures and addendum shall be a part of the contract.
- i. Signature and contact information for the main point of contact the district should use for this RFP.

TECHNICAL PROPOSAL MUST INCLUDE THE FOLLOWING –label the tabs as follows:

- A. The technical proposal must be sealed and marked on the outside as follows: RFP 005-2023 – Holloman Middle School Design
- B. Table of Contents
- C. Credentials of Team and Firm:
 - a. Identify Principal member or officer of the firm who is responsible for the administration of the contract, including their email address and phone number.
 - b. Indicate the type of firm: corporation, partnership, sole proprietor, joint venture or other.
 - c. State the year the firm was established, and any former names by which the firm was known:
 - d. Provide the names and registration numbers of the registered Professional Architect(s)/Engineer(s) who will be in direct responsible charge of the work including their email address and phone number:
 - e. List all applicable business licenses your firm holds including a AIA license.
- D. Specialized Design and Technical Competence:
 - a. Describe your firm's specialized problem-solving techniques or approaches, innovative practices/ideas and advantages your team brings or offers to the project.
 - b. Work performed utilizing Construction Management at Risk (CMAR)

- E. Capacity and Capability of the Proposer to perform the Work:
 - a. Include an organizational chart indicating key project team members, including any sub consultants, and their specific roles on the project and/or area(s) of expertise.
 - b. Clearly identify the principal architect who will be directly responsible for the project.
 - c. Provide brief resumes for the principal architect and key project team member, describing why each team member was selected for this project, highlighting relevant project experience and knowledge.
 - d. Provide detail statement of firm capacity to complete the scope of this project.
 - e. Team Composition including consultants for innovative and excellent educational outcomes

- F. Past record of performance –
 - a. Proposer’s must demonstrate through historical documentation that the firm can meet schedules and budgets, as well as user program goals and final construction project costs.
 - b. Project schedules should provide information about the progress of work as related to owner schedules and goals, as well as the overall success of projects and client satisfaction.
 - c. Include client references, including contact names, addresses, email address and telephone numbers for each project.
 - d. Average percentage of change orders during construction and process for minimizing the need for change orders.

- G. Design Experience –
 - a. Describe projects of similar size and scope. Describe specialized design concepts and out-of-the-box thinking that has been implemented on previous architectural design projects.

- H. Technical approach to visioning programming and the presentation of each design phase:
 - a. Thoroughly discuss the process that will be implemented to capture and document the District’s vision and desires related to the overall design and features of the project.

- I. Evidence of understanding of the scope of work:

Describe in detail the anticipated scope of work for the project. Include information about the project site, project administration, scheduling, budget and programmatic user requirements. The proposal should demonstrate competent knowledge of project constraints, as well as any applicable discussion of possible options for design approaches or techniques.

- J. Insurance Claims/Judgements or Breach of Contracts errors or omissions

- K. Campaign Contribution Disclosure Form completed and signed (*Appendix A*)

- L. Prospective Contractor Conflict of Interest Certification Form completed and signed (*Appendix B*)

- M. Debarment/Suspension Certification Form completed and signed (*Appendix C*)

- N. An electronic copy of the proposal on a flash drive (Note: Item N only required if the Proposers proposal is being delivered in physical format. If Proposer uploads a proposal to Vendor Registry an electronic copy on a flash drive is not necessary.)

Price Proposal:

The Price Proposal must be submitted separate from the technical proposal. It must be marked the same as the technical proposal and include the wording “PRICE PROPOSAL.”

Cover page with the name, address, and phone number of the Proposer

A. For Architect’s Basic Services described in the RFP and sample contract attached, the Architect Proposes:

- a. Stipulated Sum
- b. Percentage Basis – Percentage of the Owner’s budget for the Cost of Work
- c. Other – Reimbursables
- d. Additional Services that may arise during the course of the project
- e. Compensation for Supplemental and Additional Services of the Architect’s consultants

B. Percentage of stipulated sum or percentage basis:

- a. Schematic Design Phase
- b. Design Development Phase
- c. Construction Documents Phase
- d. CMAR Procurement Phase
- e. Construction Phase

The Proposer can upload their submission to the APS Vendor Registry Portal via the link below

[APS Open Solicitations](#)

OR

The Proposer is required to submit **ONE (1)** original and **Five (5)** copies of their proposal and the required supporting documentation **if the Proposer's proposal is being mailed or delivered to APS District offices.**

The Proposer is required to submit an electronic copy of the proposal on a flash drive **if the Proposer's proposal is being mailed or delivered to APS District offices.**

If the Proposer considers any part of its proposal material to be proprietary technical or business information, such material shall be prominently and clearly marked as “PROPRIETARY” or “TRADE SECRET.”

PROPOSERS SUBMITTING ELECTRONICALLY THROUGH VENDOR REGISTRY ARE NOT REQUIRED TO SUBMIT PHYSICAL COPIES.

VI. EVALUATION CRITERIA (maximum points available – 200 pts)

Criteria	Points
Specialized Design and Technical Competence- problem-solving techniques, innovative practices/ideas, advantages of team and CMAR experience– Technical Proposal D	10
Capacity and Capability of the Proposing firm to perform the work – key team members, consultants, principal architect, resumes, team composition and capacity for SOW-Technical Proposal E	10
Past record of performance – documentation that schedules, budgets, program goals and final construction costs, references, change order percentages – Technical Proposal F	10
Design Experience-specialized design concepts and out-of-the-box architectural design projects. Technical Proposal G	15
Technical Approach – provide thorough documentation of understanding of the District’s vision – Technical Proposal H	15
Evidence of Understanding of SOW- Information of project site, project administration, scheduling, budge and programmatic user requirements – Technical Proposal I	20
Price Proposal – Separate from Technical Proposal	20
Total Point for Submitted Proposal	100
Interview (if needed)	100

TOTAL POSSIBLE POINTS: 200

NOTE: It is the Proposer’s responsibility to provide full information in order to evaluate the criteria above

Please Note: This Award will utilize federal funds; preferences will not be awarded pursuant to [NMSA 1978 §13-1-21J](#)

CONCLUSION

Only the District is authorized to release information about projects covered by this RFP. The Proposer must refer to the District any requests to release or inspect any information that pertains to the work or activities covered by any action or award related to this RFP.

Pre-bid meeting is non-mandatory and will be available in person at [Alamogordo Public Schools](#), 1211 Hawaii Ave, Alamogordo, NM or virtually. Link will be provided via addendum on March 27, 2023.

The District reserves the right to make multiple awards pursuant to [NMSA, §13-1-153](#)

For questions regarding this Request for Proposals:

Marie Bouma, Chief Procurement Officer
1211 Hawaii Ave
Alamogordo, NM 88310
(575) 812-6044

Any inquiries or requests regarding this procurement should be submitted, ***in writing***, to the APS Chief Procurement Officer. Proposers may contact **ONLY** the Chief Procurement Officer regarding this procurement. Other APS employees or Evaluation Committee members do not have the authority to respond on behalf of APS.

Appendix A

CAMPAIGN CONTRIBUTION DISCLOSURE FORM

Note: Submit with Transmittal Letter/Technical Proposal

Pursuant to NMSA 1978, § 13-1-191.1 (2006), any person seeking to enter into a contract with any state agency or local public body for professional services, a design and build project delivery system, or the design and installation of measures the primary purpose of which is to conserve natural resources must file this form with that state agency or local public body. This form must be filed even if the contract qualifies as a small purchase or a sole source contract. The prospective contractor must disclose whether they, a family member or a representative of the prospective contractor has made a campaign contribution to an applicable public official of the state or a local public body during the two years prior to the date on which the contractor submits a proposal or, in the case of a sole source or small purchase contract, the two years prior to the date the contractor signs the contract, if the aggregate total of contributions given by the prospective contractor, a family member or a representative of the prospective contractor to the public official exceeds two hundred and fifty dollars (\$250) over the two year period.

Furthermore, the state agency or local public body shall void an executed contract or cancel a solicitation or proposed award for a proposed contract if: 1) a prospective contractor, a family member of the prospective contractor, or a representative of the prospective contractor gives a campaign contribution or other thing of value to an applicable public official or the applicable public official's employees during the pendency of the procurement process or 2) a prospective contractor fails to submit a fully completed disclosure statement pursuant to the law.

THIS FORM MUST BE FILED BY ANY PROSPECTIVE CONTRACTOR WHETHER OR NOT THEY, THEIR FAMILY MEMBER, OR THEIR REPRESENTATIVE HAS MADE ANY CONTRIBUTIONS SUBJECT TO DISCLOSURE:

The following definitions apply:

“Applicable Public Official” means a person elected to an office or a person appointed to complete a term of an elected office, who has the authority to award or influence the award of the contract for which the prospective contractor is submitting a competitive sealed proposal or who has the authority to negotiate a sole source or small purchase contract that may be awarded without submission of a sealed competitive proposal.

“Campaign Contributions” means a gift, subscription, loan, advance or deposit of money or other thing of value, including the estimated value of an in-kind contribution, that is made to or received by an applicable public official or any person authorized to raise, collect or expend contributions on that on that official's behalf for the purpose of electing the official to either statewide or local office. “Campaign Contributions” includes the payment of a debt incurred in an election campaign, but does not include the value of services provided without compensation or unreimbursed travel or other personal expenses of individuals who volunteer a portion or all of their time on behalf of a candidate or political committee, nor does it include the administrative or solicitation expenses of a political committee that are paid by an organization that sponsors the committee.

“Family Member” means spouse, father, mother, child, father-in-law, mother-in-law, daughter-in-law or son-in-law.

“Pendency of the Procurement Process” means the time period commencing with the public notice of the request for proposals and ending with the award of the contract or the cancellation of the request for proposals.

“Person” means any corporation, partnership, individual, joint venture, association or any other private legal entity.

“Prospective contractor” means a person who is subject to the competitive sealed proposal process set forth in the Procurement Code or is not required to submit a competitive sealed proposal because that person qualifies for a sole source or a small purchase contract.

“Representative of a prospective contractor” means an officer or director of a corporation a member or manager of a limited liability corporation, a partner of a partnership or a trustee of a trust of the prospective contractor.

DISCLOSURE OF CONTRIBUTIONS:

(Note: If you have made more than one contribution, please attach a list of the public officials you have contributed to following the format and attach the list to this document. Please write “see attached” in the blank below.)

Contribution Made By:

Relation to Prospective Contractor:

Name of Applicable Public Official on the District Board of Education:

(Note: List Board of Education Member(s) here)

Date Contribution(s) Made:

Amount(s) of Contribution(s):

Nature of Contribution(s):

Purpose of Contribution(s)

(Attach extra pages if necessary)

Signature Date

Title (position) _____

--OR--

NO CONTRIBUTIONS IN THE AGGREGATE TOTAL OVER TWO HUNDRED FIFTY DOLLARS (\$250) WERE MADE to an applicable public official by me, a family member or representative.

Signature Date

Title (position) _____

APPENDIX B

PROSPECTIVE CONTRACTOR CONFLICT OF INTEREST CERTIFICATION

No employee or Board of Education member of the Alamogordo Public School District has a direct or indirect interest in the prospective Contractor or in the proposed transaction (unless prospective Contractor is publicly traded company and the employee or Board of Education member's interest is less than one percent of the prospective Contractor).

Prospective Contractor neither employs nor is negotiating to employ any employee or Board of Education member of the Alamogordo Public School District.

Prospective Contractor did not participate directly or indirectly in the preparation of specifications upon which the quote or offer is made.

If the prospective Contractor is a New Mexico State Legislator or if a New Mexico State Legislator holds a controlling interest in prospective Contractor, please identify legislator:

List below the name and social security number of any employee of the prospective Contractor or person assisting in the proposed transaction in any way who was an Alamogordo Public School District employee within the preceding 12- month period.

_____	_____
_____	_____
_____	_____

Certification

The undersigned hereby certifies that he/she has read the Conflict of Interest requirements as set forth in § 10-16-1 NMSA 1978 et seq. and that he/she understands and will comply with these requirements. The undersigned further certifies that they have the authority to certify compliance for the prospective Contractor named below.

Signature: _____ Title: _____

Name Printed: _____ Date: _____

Company: _____ City: _____

APPENDIX C

DEBARMENT/SUSPENSION CERTIFICATION FORM

The prospective Contractor certifies that it is not suspended, debarred or ineligible from entering into contracts with any Federal department or agency or with any department or agency of the State of New Mexico, or in receipt of a notice or proposed debarment from any Federal or Public State Agency. The prospective Contractor agrees to provide immediate notice to the Alamogordo Public Schools Purchasing Department in the event of being suspended, debarred or declared ineligible by any department or federal agency, or upon receipt of a notice of proposed debarment that is received after the submission of the quote or offer but prior to the award of the purchase order or contract. If prospective Contractor is awarded a contract, prospective Contractor agrees to provide immediate notice to the Alamogordo Public Schools Purchasing Department in the event of being suspended, debarred or declared ineligible by any Federal or State Department Agency, or upon receipt of a notice of proposed debarment/suspension that is received at any time during the term or any renewal term of the contract.

The undersigned hereby certifies that prospective Contractor understands and will comply with these requirements, including the requirements of 22 CRF Part 513 and § 13-1-177 NMSA 1978 et seq. and any amendments thereto. The undersigned further certifies that he/she has the authority to certify compliance for the prospective Contractor named and that the information contained in this document is true and accurate to the best of their knowledge.

The prospective Contractor certifies, by submission of this proposal, that neither it nor its principals are presently debarred, suspended, proposed for disbarment, declared ineligible, or voluntarily excluded from participation in this transaction by any State or Federal department or agency.

Where the prospective Contractor is unable to certify to any of the statements in this certification, the prospective Contractor shall attach an explanation to this proposal.

Signature: _____ Date: _____

Title: _____

Name Typed/Printed: _____

Company Name: _____

Address: _____

AIA[®] Document B101[®] – 2017

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the day of in the year
(In words, indicate day, month and year.)

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

Alamogordo Public Schools
1211 Hawaii Ave.
Alamogordo, NM

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

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

Holloman Middle School Design
381 1st St.
Holloman AFB, NM 88330

The Owner and Architect agree as follows.

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

ELECTRONIC COPYING of any portion of this AIA[®] Document to another electronic file is prohibited and constitutes a violation of copyright laws as set forth in the footer of this document.

TABLE OF ARTICLES

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

ARTICLE 1 INITIAL INFORMATION

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

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

§ 1.1.1 The Owner's program for the Project:

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

§ 1.1.2 The Project's physical characteristics:

(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.) The facility will be adjacent to the newly constructed Holloman Elementary School and is intended to provide a collaborative environment for all military connected students attending the schools. The design will be a planned square footage of 52,178. Pre-K-8th grade students will have access to full use of the outdoor learning studio and its supporting spaces. The design will include a world class (STEAM) Science, Technology, Engineering, Arts and Mathematics facility servicing approximately 300 students as well as Holloman AFB and the greater Alamogordo Public Schools. In addition to the new buildings, the area adjacent to the North & West of the Pre-K-5th grade building (~4 acres?) will be home to the Pre-K-8th grade outdoor learning studio which will include a learning pavilion, themed outdoor classrooms, artificial turf playfields, soft surface sports courts, discovery habitat and pollinator gardens and group gathering spaces. The Southwestern side of the site (~13 acres?) will be the location of the new track and field.

§ 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.) \$38,000,000D

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

.1 Design phase milestone dates, if any:

Design contract to initiate immediately upon award; other milestone dates TBD

.2 Construction commencement date:

Owner will utilize Construction Manager at Risk (CMAR) method of Construction Procurement

.3 Substantial Completion date or dates:

March 31, 2026

.4 Other milestone dates:

Demolition complete - of Existing Holloman Middle School

August 31, 2026

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

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

The owner intends to use the Construction Manager At Risk

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

(Identify and describe the Owner's Sustainable Objective for the Project, if any.) SusLEAD Silver or better & WELL Certification

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

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

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

Colleen Tagle - Deputy Superintendent of Operations - 1211 Hawaii Ave, Alamogordo, NM 88310 - colleen.tagle@alamogordoschools.org

J

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

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

Justin Burks - Maintenance and Construction Coordinator - 1211 Hawaii Ave, Alamogordo, NM 88310 - justin.burks@alamogordoschools.org

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

.1 Geotechnical Engineer:

TBD

.2 Civil Engineer:

TBD

.3 Other, if any:

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

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



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

§ 1.1.11.1 Consultants retained under Basic Services:

.1 Structural Engineer:

.2 Mechanical Engineer:

.3 Electrical Engineer:

§ 1.1.11.2 Consultants retained under Supplemental Services:

[REDACTED]

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

[REDACTED]

§ 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.

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

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

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

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

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

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

§ 2.5 The Architect shall maintain the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 11.9.

§ 2.5.1 Commercial General Liability with policy limits of not less than one million (\$ 1,000,000) for each occurrence and one million (\$ 1,000,000) in the aggregate for bodily injury and property damage.

§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than five hundred thousand (\$ 500,000) per accident for bodily injury, death of any person, and

property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

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

§ 2.5.4 Workers' Compensation at statutory limits.

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

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

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

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

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in this Article 3 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, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

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

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

§ 3.1.5 The Architect shall contact governmental authorities required to approve the Construction Documents and entities providing utility services to the Project. The Architect shall respond to applicable design requirements imposed by those authorities and entities.

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

§ 3.2 Schematic Design Phase Services

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

§ 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, the proposed procurement and delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

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

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

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

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

§ 3.2.6 The Architect shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

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

§ 3.3 Design Development Phase Services

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

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

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

§ 3.4 Construction Documents Phase Services

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels 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 the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents.

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

§ 3.4.4 The Architect shall update the estimate for the Cost of the Work prepared in accordance with Section 6.3.

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.5, and request the Owner's approval.

§ 3.5 Procurement Phase Services

§ 3.5.1 General

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

§ 3.5.2 Competitive Bidding

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

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

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

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

§ 3.5.3 Negotiated Proposals

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

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

- .1 facilitating the distribution of Proposal Documents for distribution to prospective contractors and requesting their return upon completion of the negotiation process;
- .2 organizing and participating in selection interviews with prospective contractors;
- .3 preparing responses to questions from prospective contractors and providing clarifications and interpretations of the Proposal Documents to the prospective contractors in the form of addenda; and,

- 4 participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.

§ 3.5.3.3 If the Proposal Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and 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 A201™–2017, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201–2017, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement.

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

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

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

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

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

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

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

§ 3.6.3 Certificates for Payment to Contractor

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

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

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

§ 3.6.4 Submittals

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

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

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

§ 3.6.4.4 Subject to Section 4.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

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

§ 3.6.5 Changes in the Work

§ 3.6.5.1 The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner’s approval and execution in accordance with the Contract Documents.

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

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall:

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

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

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

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

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

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

§ 4.1.1 The services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect’s responsibility, and the 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.

(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>
§ 4.1.1.1 Programming	
§ 4.1.1.2 Multiple preliminary designs	
§ 4.1.1.3 Measured drawings	
§ 4.1.1.4 Existing facilities surveys	

§ 4.1.1.5	Site evaluation and planning	
§ 4.1.1.6	Building Information Model management responsibilities	
§ 4.1.1.7	Development of Building Information Models for post construction use	
§ 4.1.1.8	Civil engineering	
§ 4.1.1.9	Landscape design	
§ 4.1.1.10	Architectural interior design	
§ 4.1.1.11	Value analysis	
§ 4.1.1.12	Detailed cost estimating beyond that required in Section 6.3	
§ 4.1.1.13	On-site project representation	
§ 4.1.1.14	Conformed documents for construction	
§ 4.1.1.15	As-designed record drawings	
§ 4.1.1.16	As-constructed record drawings	
§ 4.1.1.17	Post-occupancy evaluation	
§ 4.1.1.18	Facility support services	
§ 4.1.1.19	Tenant-related services	
§ 4.1.1.20	Architect's coordination of the Owner's consultants	
§ 4.1.1.21	Telecommunications/data design	
§ 4.1.1.22	Security evaluation and planning	
§ 4.1.1.23	Commissioning	
§ 4.1.1.24	Sustainable Project Services pursuant to Section 4.1.3	
§ 4.1.1.25	Fast-track design services	
§ 4.1.1.26	Multiple bid packages	
§ 4.1.1.27	Historic preservation	
§ 4.1.1.28	Furniture, furnishings, and equipment design	
§ 4.1.1.29	Other services provided by specialty Consultants	
§ 4.1.1.30	Other Supplemental Services	

§ 4.1.2 Description of Supplemental Services

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

(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.)

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

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

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

§ 4.2 Architect's Additional Services

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

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

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

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

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

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

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

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

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

ARTICLE 5 OWNER'S RESPONSIBILITIES

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

§ 5.2 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3 The Owner shall identify a representative authorized to 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.

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

§ 5.5 The Owner shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

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

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

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

§ 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.

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

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

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

§ 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 Contractor to provide the Architect access to the Work wherever it is in preparation or progress.

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

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include contractors' general conditions costs, overhead and profit. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

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

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

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

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

§ 6.6 If the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase

Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 authorize rebidding or renegotiating of the Project within a reasonable time;
- .3 terminate in accordance with Section 9.5;
- .4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or,
- .5 implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect shall modify the Construction Documents as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services, or the budget as adjusted under Section 6.6.1. If the Owner requires the Architect to modify the Construction Documents because the lowest bona fide bid or negotiated proposal exceeds the Owner's budget for the Cost of the Work due to market conditions the Architect could not reasonably anticipate, the Owner shall compensate the Architect for the modifications as an Additional Service pursuant to Section 11.3; otherwise the Architect's services for modifying the Construction Documents shall be without additional compensation. In any event, the Architect's modification of the Construction Documents shall be the limit of the Architect's responsibility under this Article 6.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

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

§ 7.3 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 under this Agreement, including prompt payment of all sums due pursuant to Article 9 and Article 11. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 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. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

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

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

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

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

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

§ 8.2 Mediation

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

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

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

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

(Check the appropriate box.)

Arbitration pursuant to Section 8.3 of this Agreement

Litigation in a court of competent jurisdiction

Other: *(Specify)*

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

§ 8.3 Arbitration

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

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

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

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

§ 8.3.4 Consolidation or Joinder

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

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

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

§ 8.4 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 suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 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. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 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 seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

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

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

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

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

.1 Termination Fee:

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

§ 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 9.7.

ARTICLE 10 MISCELLANEOUS PROVISIONS

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

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

§ 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.

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

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

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

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

ARTICLE 11 COMPENSATION

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

- .1 Stipulated Sum
(Insert amount)

- .2 Percentage Basis
(Insert percentage value)

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

- .3 Other
(Describe the method of compensation)

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

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the

Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation.)

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

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

Schematic Design Phase	█	percent (█%)
Design Development Phase	█	percent (█%)
Construction Documents Phase	█	percent (█%)
Procurement Phase	█	percent (█%)
Construction Phase	█	percent (█%)
Total Basic Compensation	one hundred	percent (100%)

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

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

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

Employee or Category	Rate (\$0.00)
----------------------	---------------

§ 11.8 Compensation for Reimbursable Expenses

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

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

additional insurance coverage or limits in excess of that normally maintained by the Architect's consultants;

- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses;
- .11 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and,
- .12 Other similar Project-related expenditures.

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

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

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

§ 11.10 Payments to the Architect

§ 11.10.1 Initial Payments

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

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

§ 11.10.2 Progress Payments

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

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

█ %

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

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

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

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

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

ARTICLE 13 SCOPE OF THE AGREEMENT

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

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

AIA Document B101 – 2017. Copyright © 1974, 1978, 1987, 1997, 2007 and 2017. All rights reserved. "The American Institute of Architects," "American Institute of Architects," "AIA," the AIA Logo, and "AIA Contract Documents" are trademarks of The American Institute of Architects. This draft was produced at 11:19:05 ET on 03/15/2023 under Order No.2114408170 which expires on 02/14/2024, is not for resale, is licensed for one-time use only, and may only be used in accordance with the AIA Contract Documents® Terms of Service. To report copyright violations, e-mail docinfo@aiacontracts.com.

User Notes:

(3B9ADA33)

- .1 AIA Document B101™–2017, Standard Form Agreement Between Owner and Architect
- .2 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203-2013 incorporated into this agreement.)

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

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

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

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

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

OWNER (Signature)

 (Printed name and title)

ARCHITECT (Signature)(Signatur

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

AIA[®] Document B111[™] – 2022 Exhibit A

Design Architect Services

This B111[™]-2022, Exhibit A, Design Architect Services is part of the Agreement, between the Owner and the Design Architect, dated the day of in the year
(In words, indicate day, month, and year.)

for the following **PROJECT**:
(Name and location or address)

Holloman Middle School Design
381 1st St.
Holloman AFB, NM 88330

THE OWNER: OWNER

Alamogordo Public Schools
1211 Hawaii Avenue
Alamogordo, NM 88310
(Name, legal status, and address)

THE DESIGN ARCHITECT:

(Name, legal status, and address)

ARTICLE A.1 SCOPE OF THE DESIGN ARCHITECT'S SERVICES

§ A.1.1 Schematic Design Phase Services

§ A.1.1.1 The Design Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, the proposed procurement and delivery method, and other Initial Information, each in terms of the other, to ascertain the requirements of the Project. The Design 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.

§ A.1.1.2 The Design Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project. The Design Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ A.1.1.3 Based on the Project requirements agreed upon with the Owner, the Design Architect shall prepare and present, for the Owner's approval, a preliminary design illustrating the scale and relationship of the Project components.

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

§ A.1.1.4 Based on the Owner's approval of the preliminary design, the Design Architect shall prepare Schematic Design Documents for the Owner's approval. The Schematic Design Documents shall consist of drawings and other documents including a site plan, if appropriate, and preliminary building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ A.1.1.4.1 The Design 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 the Agreement.

§ A.1.1.4.2 The Design Architect shall consider the value of alternative materials, building systems and equipment, together with other considerations based on program and aesthetics, in developing a design for the Project that is consistent with the Owner's program, schedule, and budget for the Cost of the Work.

§ A.1.1.5 The Design Architect shall submit the Schematic Design Documents to the Owner and the Cost Consultant. The Design Architect shall meet with the Cost Consultant to review the Schematic Design Documents.

§ A.1.1.6 Upon receipt of the Cost Consultant's estimate at the conclusion of the Schematic Design Phase, the Design Architect shall take action as required under Section 6.4 of the Agreement 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 Design Architect shall incorporate the required revisions in the Design Development Phase.

§ A.1.2 Design Development Phase Services

§ A.1.2.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Design Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical, and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels.

§ A.1.2.2 Prior to the conclusion of the Design Development Phase, the Design Architect shall submit the Design Development Documents to the Owner and the Cost Consultant. The Design Architect shall meet with the Cost Consultant to review the Design Development Documents.

§ A.1.2.3 Upon receipt of the Cost Consultant's estimate at the conclusion of the Design Development Phase, the Architect shall take action as required under Section 1.2.4 and 1.2.5 and request the Owner's approval of the Design Development Documents.

§ A.1.2.4 If the estimate of the Cost of the Work at the conclusion of the Design Development 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 terminate in accordance with the Agreement;
- .3 in consultation with the Design Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or,
- .4 implement any other mutually acceptable alternative.

§ A.1.2.5 If the Owner chooses to proceed under Section 1.2.4.3, the Design Architect, without additional compensation, shall incorporate the revisions in the Transfer Package 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 1.2.4.1. The Design Architect's revisions in the Transfer Package shall be the limit of the Architect's responsibility under this Section.

§ A.1.3 Transfer Package Services

Based on the Owner’s approval of the Design Development Documents, the Design Architect shall compile a Transfer Package for the Owner’s use consistent with Article 7 of the Agreement. The Transfer Package shall consist of the Design Development Documents, a detailed estimate of the Cost of the Work prepared by the Owner’s Cost Consultant, the Owner’s schedule for the Project, and other Owner-provided documentation as appropriate to communicate the scope, quality, budget, and intent of the Project.

§ A.1.3.1 Following the Owner’s receipt of the Transfer Package and upon the Owner’s request, the Design Architect shall participate in a meeting to review and discuss the Transfer Package with the Owner and the Owner’s consultants and contractors for the purpose of assisting the Owner in the transfer of information.

§ A.1.3.2 If, after the meeting held pursuant to Section 1.3.1, additional response to questions or coordination is necessary for the transfer of design responsibility from the Design Architect, the Design Architect shall provide such services as Additional Services in accordance with the Agreement.



Sustainable Projects Exhibit

This Exhibit dated the █ day of █ in the year █ is incorporated into the agreement (the “Agreement”) between the Parties for the following Project:
(Name and location or address of the Project)

TABLE OF ARTICLES

- 1 GENERAL PROVISIONS
- 2 ARCHITECT
- 3 CONTRACTOR
- 4 OWNER
- 5 CLAIMS AND DISPUTES
- 6 MISCELLANEOUS PROVISIONS
- 7 SPECIAL TERMS AND CONDITIONS

ARTICLE 1 GENERAL PROVISIONS

§ 1.1 This Exhibit provides for the establishment of the services of the Architect, the Work of the Contractor, and requirements and services of the Owner, where the Project includes achievement of a Sustainable Objective.

§ 1.2 Definitions

§ 1.2.1 Sustainable Objective

The Sustainable Objective is the Owner’s goal of incorporating Sustainable Measures into the design, construction, maintenance and operations of the Project to achieve a Sustainability Certification or other benefit to the environment, to enhance the health and well-being of building occupants, or to improve energy efficiency. The Sustainable Objective is identified in the Sustainability Plan.

§ 1.2.2 Sustainable Measure

A Sustainable Measure is a specific design or construction element, or post occupancy use, operation, maintenance or monitoring requirement that must be completed in order to achieve the Sustainable Objective. The Owner, Architect and Contractor shall each have responsibility for the Sustainable Measure(s) allocated to them in the Sustainability Plan.

§ 1.2.3 Sustainability Plan

The Sustainability Plan is a Contract Document that identifies and describes: the Sustainable Objective; the targeted Sustainable Measures; implementation strategies selected to achieve the Sustainable Measures; the Owner’s, Architect’s and Contractor’s roles and responsibilities associated with achieving the Sustainable Measures; the specific

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

ELECTRONIC COPYING of any portion of this AIA® Document to another electronic file is prohibited and constitutes a violation of copyright laws as set forth in the footer of this document.

details about design reviews, testing or metrics to verify achievement of each Sustainable Measure; and the Sustainability Documentation required for the Project.

§ 1.2.4 Sustainability Certification

The Sustainability Certification is the initial third-party certification of sustainable design, construction, or environmental or energy performance, such as LEED®, Green Globes™, Energy Star or another rating or certification system, that may be designated as the Sustainable Objective or part of the Sustainable Objective for the Project. The term Sustainability Certification shall not apply to any recertification or certification occurring subsequent to the initial certification.

§ 1.2.5 Sustainability Documentation

The Sustainability Documentation includes all documentation related to the Sustainable Objective or to a specific Sustainable Measure that the Owner, Architect or Contractor is required to prepare in accordance with the Contract Documents. Responsibility for preparation of specific portions of the Sustainability Documentation will be allocated among the Owner, Architect and Contractor in the Sustainability Plan and may include documentation required by the Certifying Authority.

§ 1.2.6 Certifying Authority

The Certifying Authority is the entity that establishes criteria for achievement of a Sustainability Certification and is authorized to grant or deny a Sustainability Certification.

§ 1.3 Set forth below any incentive programs related to the Sustainable Objective the Owner intends to pursue, any deadlines for receiving the incentives, and any requirements related to the incentive programs that are applicable to the Architect or the performance of the Architect's services:

(Identify incentive programs the Owner intends to pursue and deadlines for submitting or applying for the incentive program.)

§ 1.4 The Parties agree to incorporate this Exhibit into the agreements with the project participants performing services or Work in any way associated with the Sustainable Objective.

ARTICLE 2 ARCHITECT

§ 2.1 Scope of Architect's Sustainability Services

The Architect shall provide the Sustainability Services described in this Article 2. The Architect's performance of the services set forth in this document is based upon the Initial Information included in the Owner-Architect Agreement.

§ 2.2 Sustainability Certification Agreements

If the anticipated Sustainable Objective set forth in the Initial Information includes a Sustainability Certification, the Architect shall provide the Owner with copies of all agreements required by the Certifying Authority to register the Project and pursue the Sustainability Certification. The Owner and Architect will review and confirm that the terms of those agreements are acceptable to the Owner before moving forward with the Sustainability Services under this Article 2. The Owner agrees to execute all documents required by the Certifying Authority to be executed by the Owner, including any documentation required to establish the authority of the Architect as an agent of the Owner, for the limited purpose of pursuing the Sustainability Certification.

§ 2.3 Sustainability Workshop

As soon as practicable, but not later than the conclusion of the Schematic Design Phase Services, the Architect shall conduct a Sustainability Workshop with the Owner, the Owner's consultants, and the Architect's consultants, during which the participants will: review and discuss potential Sustainability Certifications; establish the Sustainable Objective; discuss potential Sustainable Measures; examine strategies for implementation of the Sustainable Measures; and discuss the potential impact of the Sustainable Measures on the Project schedule, the Owner's program, and the Owner's budget for the Cost of the Work.

§ 2.4 Sustainability Plan Services

§ 2.4.1 Following the Sustainability Workshop, the Architect shall prepare a Sustainability Plan based on the Sustainable Objective and targeted Sustainable Measures.

§ 2.4.2 As part of the Architect's submission of the Schematic Design Documents in accordance with the Owner-Architect Agreement, the Architect shall submit the Sustainability Plan prepared in accordance with Section 2.4.1, to the Owner, and request the Owner's approval.

§ 2.4.3 As part of the Architect's submission of the Design Development Documents and Construction Documents in accordance with the Owner-Architect Agreement, the Architect shall advise the Owner of any adjustments to the Sustainability Plan, and request the Owner's approval.

§ 2.4.4 The Architect shall perform those Sustainable Measures identified as the responsibility of the Architect in the approved Sustainability Plan and any approved changes to the Sustainability Plan.

§ 2.4.5 Subject to Section 2.9.2, the Architect shall make adjustments to the Sustainability Plan as the design and construction of the Project progresses.

§ 2.5 Design Phases

§ 2.5.1 The Architect shall prepare Schematic Design Documents, Design Development Documents and Construction Documents that incorporate the Sustainable Measures identified in the Sustainability Plan, as appropriate.

§ 2.5.2 As part of the Sustainable Measures, the Project may require the use of materials and equipment that have had limited testing or verification of performance. The Architect may be unable to determine whether the materials or equipment will perform as represented by the manufacturer or supplier. The Architect shall discuss with the Owner the proposed use of such materials or equipment and potential effects on the Sustainable Objective that may occur if the materials or equipment fail to perform in accordance with the manufacturer's or supplier's representations. The Owner will render a written decision regarding the use of such materials or equipment in a timely manner. In the event the Owner elects to proceed with the use of such materials or equipment, the Architect shall be permitted to rely on the manufacturer's or supplier's representations and shall not be responsible for any damages arising from failure of the material or equipment to perform in accordance with the manufacturer's or supplier's representations.

§ 2.6 Construction Phase

§ 2.6.1 The Architect shall advise and consult with the Owner regarding the progress of the Project toward achievement of the Sustainable Measures. Based on site visits performed in accordance with the Owner-Architect Agreement and other information received from the Contractor, the Architect shall promptly notify the Owner of known deviations from the Contract Documents and defects or deficiencies in the Work that will affect the achievement of Sustainable Measures. The Architect shall meet with the Owner and Contractor to discuss remedies or, where appropriate, alternatives to achieve the Sustainable Measures.

§ 2.6.2 If the Architect determines that a proposed change in the Work would materially impact a Sustainable Measure or the Sustainable Objective, the Architect shall notify the Owner and, upon the Owner's written authorization, further investigate such change.

§ 2.6.3 At Substantial Completion, the Architect shall forward to the Owner all Sustainability Documentation prepared by the Contractor in accordance with the Contract Documents, except for Sustainability Documentation which by its nature must be completed after Substantial Completion.

§ 2.6.4 The Owner's payment of the Architect's final invoice does not relieve the Architect's obligation to fulfill its responsibilities related to achieving the Sustainable Objective.

§ 2.7 Project Registration and Submissions of Sustainability Documentation to the Certifying Authority

§ 2.7.1 If the Sustainable Objective includes a Sustainability Certification, the Architect, as agent for the Owner, shall perform the services set forth in this Section 2.7.

§ 2.7.2 The Architect shall register the Project with the Certifying Authority. Registration fees and any other fees charged by the Certifying Authority, and paid by the Architect, shall be a reimbursable expense and shall be credited against any initial payment received pursuant to the Owner-Architect Agreement.

§ 2.7.3 The Architect shall collect the Sustainability Documentation from the Owner and Contractor; organize and manage the Sustainability Documentation; and, subject to Section 2.9.2, submit the Sustainability Documentation to the Certifying Authority as required for the Sustainability Certification process.

§ 2.7.4 Subject to Section 2.9.2, the Architect shall prepare and submit the application for certification of the Project to the Certifying Authority, including any required supporting documentation, in accordance with the Sustainability Plan.

§ 2.7.5 Subject to Section 2.9.2, and provided the Architect receives timely notice from the Owner or Certifying Authority, the Architect shall prepare and file necessary documentation with the Certifying Authority to appeal a ruling or other interpretation denying a requirement, prerequisite, credit or point necessary to achieve the Sustainability Certification.

§ 2.7.6 Subject to Section 2.9.2, the Architect shall prepare responses to comments or questions received from the Certifying Authority, and submit additional required documentation.

§ 2.7.7 Any certification, declaration or affirmation the Architect makes to the Certifying Authority shall not constitute a warranty or guarantee to the Owner or to the Owner's contractors or consultants.

§ 2.8 Copyrights and Licenses

§ 2.8.1 Solely for the purpose of obtaining or maintaining the Sustainability Certification, the Architect grants to the Owner a nonexclusive license to submit the Architect's Instruments of Service, directly or through third parties, to the Certifying Authority to comply with the requirements imposed by the Certifying Authority, and further grants the Owner a nonexclusive license to allow the Certifying Authority to publish the Instruments of Service in accordance with the policies and agreements required by the Certifying Authority. The licenses granted in this Section are valid only if the Owner substantially performs its obligations under the Owner-Architect Agreement, including prompt payment of all sums when due.

§ 2.8.2 Submission or distribution of Instruments of Service to meet requirements of a Certifying Authority 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 under the Owner-Architect Agreement.

§ 2.9 Additional Services

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

- .1 Changing or editing previously prepared Instruments of Service, including the Sustainability Plan, necessitated by the Certifying Authority's changes in the requirements necessary to achieve the Sustainability Certification; or
- .2 Assistance to the Owner or Contractor with preparation of Sustainability Documentation, for which the Owner or Contractor is responsible pursuant to the Sustainability Plan.

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

- .1 adjustments to the Sustainability Plan
- .2 meetings during the Design and Construction Phases required to define, develop and incorporate the Sustainable Measures into the Contract Documents
- .3 submittals to the Certifying Authority
- .4 responses to the Certifying Authority's comments and questions
- .5 appeals to the Certifying Authority pursuant to Section 2.7.5
- .6 meetings with the Owner and Contractor, pursuant to Section 2.6.1, to discuss remedies or, where appropriate, alternatives to achieve the Sustainable Measures due to deviations from the Contract Documents or defects or deficiencies in the Contractor's Work.

ARTICLE 3 CONTRACTOR

§ 3.1 The Contractor shall perform those Sustainable Measures identified as the responsibility of the Contractor in the Sustainability Plan.

§ 3.2 The Contractor shall meet with the Owner and Architect to discuss alternatives in the event the Owner or Architect recognizes a condition that will affect achievement of a Sustainable Measure or achievement of the Sustainable Objective. If any condition is discovered by, or made known to, the Contractor that will adversely affect the Contractor's achievement of a Sustainable Measure for which the Contractor is responsible pursuant to the Sustainability Plan, the Contractor will promptly provide notice to the Architect and meet with the Owner and Architect to discuss alternatives to remedy the condition.

§ 3.3 The Contractor shall include, with any request for substitution, a written representation identifying any potential effect the substitution may have on the Project's achievement of a Sustainable Measure or the Sustainable Objective. The Owner and Architect shall be entitled to rely on any such representation. In preparing this representation, the Contractor may request additional information from the Architect describing how the product, material or equipment, for which a substitution is proposed, was intended to satisfy the requirements of a Sustainable Measure or contribute toward achievement of the Sustainable Objective.

§ 3.4 The Contractor shall be responsible for preparing and completing the Sustainability Documentation required from the Contractor by the Contract Documents, including any Sustainability Documentation required to be submitted after Substantial Completion. The Contractor shall submit the Sustainability Documentation to the Architect in accordance with any schedules or deadlines set forth in, or as otherwise required by, the Contract Documents. In the absence of schedules or deadlines for submission of Sustainability Documentation in the Contract Documents, the Contractor will submit the Sustainability Documentation with reasonable promptness, but in no event more than 60 days after Substantial Completion, so that the Architect may submit the Sustainability Documentation to the Certifying Authority.

§ 3.5 If professional design services or certifications by a design professional related to systems, materials or equipment are specifically required of the Contractor by the Contract Documents and the Contractor's design professional proposes the use of materials or equipment that have had limited testing or verification of performance, the Contractor shall discuss with the Architect and Owner the proposed use of such materials or equipment and potential effects on the Sustainable Objective that may occur if the materials or equipment fail to perform in accordance with the manufacturer's or supplier's representations. The Owner will render a written decision regarding the use of such materials or equipment in a timely manner. In the event the Owner elects to proceed with the use of such materials or equipment, the Contractor and Architect shall be permitted to rely on the manufacturer's or supplier's representations and shall not be responsible for any damages arising from the failure of the material or equipment to perform in accordance with the manufacturer's or supplier's representations.

§ 3.6 The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Sustainability Plan and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Sustainability Plan.

§ 3.7 Construction Waste Management

The Contractor, in accordance with the Contract Documents, shall prepare and submit to the Architect and Owner a construction waste management and disposal plan setting forth the procedures and processes for salvaging, recycling or disposing of construction waste generated from the Project. The Contractor shall recycle, reuse, remove or dispose of materials as required by the Contract Documents.

§ 3.8 Substantial Completion

Verification that the Project has achieved the Sustainable Objective, or the actual achievement of the Sustainable Objective, shall not be a condition precedent to issuance of a Certificate of Substantial Completion. Except for that portion of the Sustainability Documentation that by its nature must be provided after Substantial Completion, the Contractor shall submit all other Sustainability Documentation required from the Contractor by the Contract Documents no later than the date of Substantial Completion.

§ 3.9 Final Completion

§ 3.9.1 All Sustainability Documentation required from the Contractor by the Contract Documents shall be submitted to the Architect before final payment or any remaining retained percentage shall become due.

§ 3.9.2 Verification that the Project has achieved the Sustainable Objective, or the actual achievement of the Sustainable Objective, shall not be a condition precedent to issuance of the final Certificate for Payment. Final payment does not relieve the Contractor's obligation to fulfill its responsibilities related to achieving the Sustainable Objective.

ARTICLE 4 OWNER

§ 4.1 Based on the Owner's approval of the Sustainability Plan and any approved changes to the Sustainability Plan, the Owner shall perform those Sustainable Measures identified as the responsibility of the Owner in the Sustainability Plan, or as otherwise required by the Contract Documents. The Owner shall require that each of its contractors and consultants performs the contractor's or consultant's services in accordance with the Sustainability Plan.

§ 4.2 The Owner shall provide to the Contractor and Architect any information requested by the Contractor or Architect that is relevant and necessary for achievement of the Sustainable Objective, including: design drawings; construction documents; record drawings; shop drawings and other submittals; operation and maintenance manuals; master plans; building operation costs; building operation budgets; pertinent records relative to historical building data, building equipment and furnishings; and repair records.

§ 4.3 The Owner shall comply with the requirements of the Certifying Authority as they relate to the ownership, operation and maintenance of the Project both during construction and after completion of the Project.

§ 4.4 The Owner shall be responsible for preparing, filing, and prosecuting appeals to the Certifying Authority, or taking any other actions determined by the Owner to be necessary or desirable, arising from the revocation or reduction of an awarded Sustainability Certification.

§ 4.5 The Owner shall provide the services of a commissioning agent who shall be responsible for commissioning of the Project, or the Owner may engage the Architect to provide commissioning services as an Additional Service.

ARTICLE 5 CLAIMS AND DISPUTES

The Owner, Contractor and Architect waive claims against each other for consequential damages resulting from failure of the Project to achieve the Sustainable Objective or one or more of the Sustainable Measures.

ARTICLE 6 MISCELLANEOUS PROVISIONS

§ 6.1 The Owner, Contractor and Architect acknowledge that achieving the Sustainable Objective is dependent on many factors beyond the Contractor's and Architect's control, such as the Owner's use and operation of the Project; the work or services provided by the Owner's other contractors or consultants; or interpretation of credit requirements by a Certifying Authority. Accordingly, neither the Architect nor the Contractor warrant or guarantee that the Project will achieve the Sustainable Objective.

§ 6.2. This Sustainable Projects Exhibit shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor or (3) between the Owner and the Architect's consultants.

ARTICLE 7 SPECIAL TERMS AND CONDITIONS

Special terms and conditions that modify this Sustainable Project Exhibit, if any, are as follows: