

**LAKEWOOD PUBLIC SCHOOLS
ARCHITECTURAL SERVICES**

REQUEST FOR PROPOSALS (“RFP”)

January 8, 2024

LAKEWOOD PUBLIC SCHOOLS
REQUEST FOR PROPOSAL FOR
ARCHITECTURAL SERVICES
PART 1 - GENERAL INSTRUCTIONS

A. Instructions

Qualified firms are invited to submit proposals to Lakewood Public Schools (the “District”) for Architectural Services for a proposed project which may include: (1) Pre-Design Phase Services, (2) Design Phase Services, (3) Construction Phase Services, (4) Post-Construction Phase Services, and (5) other potential components to be determined (collectively the “Project”). The successful firm is also expected to provide the District assistance in developing the full scope of the District’s construction program and Project.

The scope of the Project is not yet fully determined. Proposing firms are expected to evaluate the District’s facilities immediately and assist in developing the Project program and pre-bond planning. However, Attachment “D” provides a brief description of what the District envisions for the Project at this time. The District expects to pay for the Project through voted bonds that will be placed on the ballot at a future election.

The District expects that it will use a ***Construction Manager-Constructor*** for this Project. The District reserves the right, however, to modify the form of delivery method prior to the execution of an agreement between the selected architect and District based on the proposals submitted. Unless the District modifies the project delivery method, the form of agreement between the selected bidder and the District will be as set forth in Attachment “A,” hereto, which is premised on AIA Document B133 – 2019 Edition. For the purpose of this RFP, the terms “proposal” and “bid” shall be treated as one and the same.

The District reserves the right to reject any or all proposals and to make any award that it considers to be in the best interest of the District.

B. Proposal Submission

To be considered by the District, ten (10) copies of the complete proposal must be received no later than January 31, 2024 at 4:00 p.m. Proposals should be addressed to:

Jammie Sprank
Director of Finance
Lakewood Public Schools
223 W. Broadway Street
Woodland, MI 48897

The lower left corner of the submittal envelope should be marked: PROPOSAL FOR ARCHITECTURAL SERVICES.

Submitted proposals become the property of the District and will not be returned.

C. Late Proposals

Any proposal received by the District after the time specified above may not be considered, in the District's discretion. The party submitting a proposal shall bear full and total responsibility for ensuring timely receipt of that proposal.

D. Withdrawal of Proposals

Proposals may be withdrawn by written notice received at any time prior to the submission deadline. Proposals may be withdrawn in person, provided that the firm's representative signs a receipt for the proposal prior to the submission deadline.

E. Questions Concerning this RFP

Inquiries may be made to Nick Chase at the address above, via telephone at (269) 838-2302, or via email at nickchase@lakewoodps.org. Information about the District is available during business hours (7:30 a.m. – 4:00 p.m.).

F. Economy of Preparation

Proposals should be prepared simply, providing a concise description of the submitting party's ability to meet the requirements of this RFP. Please limit your proposal to the information requested in Part 3 - Proposal Details and Part 4 – Proposal Summary.

G. Proposal Signature

The section entitled, Part 4 - Proposal Summary, should be signed by the person responsible for the decision as to services and costs being offered. In the case of a joint proposal, each party should certify as to services and costs being offered by its own firm in connection with this proposal.

H. Prime Responsibilities

The firm selected will be required to assume responsibility for all services offered in the proposal, regardless of who actually provides such services and whether the selected firm utilizes separate consultants. The selected firm shall be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the contract. ***The firm shall provide all necessary services that may be provided for the Project by an architect or engineer as described in 1937 PA 306, as amended, the School Building Construction Act, and 1980 PA 299, as amended, and other applicable laws.*** In the event of a joint proposal, such firm shall be jointly and severally responsible for all services offered in the proposal, regardless of who produces them.

I. Proposal Preparation Costs

All costs incurred for proposal preparation presentation, or contract negotiation, are the responsibility of the firm. The District shall not be responsible for, and will not pay, the cost for any information solicited or received.

J. Acceptance of Proposal Contents

The contents of the proposal of the selected firm will become contractual obligations when a contract is issued, except with regard to particular contents which are rejected by the District. Failure of the successful firm to abide by such obligations without the express consent of the District's Board of Education will result in cancellation of the award.

K. Proposed Project Schedule

The District expects work on the Project to commence as soon as practical after the Agreement is finalized. The District and all bidders recognize that this schedule may be modified once the Architect and Construction Manager are selected and the Architect and the Construction Manager firms have reviewed the Project requirements. Notwithstanding the foregoing, a review of the District's facilities is time critical and may be expedited.

L. Collusive Bidding and Relationship Disclosure

The Proposer certifies that its Proposal is made without any previous understanding, agreement or connection with any person, firm, or company making a Proposal for the same project and is in all respects fair and without outside control, collusion, fraud, or other illegal action.

The Proposer shall submit a Familial Relationship Disclosure in substantially the form attached hereto as Attachment "B."

The Proposer shall submit an Iran Economic Sanctions Act Certification in substantially the form attached hereto as Attachment "C."

M. Scope of Services

It is assumed that any proposal submitted will include, but shall not necessarily be limited to, the performance of all of the activities and services identified in this section and as set forth in the form of Agreement attached as Attachment "A." The District will consider alternate proposals; however, the proposals must clearly indicate any activities that have been deleted and/or added from the requested scope of services. References to the "Architect," "Engineer," "Architect/Engineer," "Designer," "Proposer," "Bidder," or "firm," or other similar term shall all be intended to refer to the entity submitting a response to this RFP.

1. Pre-Design Phase Services

- a. Conducting a full facilities review with the District and potentially the Construction Manager.
- b. Assist in developing a construction program and project scopes and establishing an estimated cost of each desired improvement in accordance with MCL 339.2011 (which cost estimating obligation shall continue after programming).
- c. Assist in determining the estimated cost of the desired improvements and in sizing the Project.
- d. Attend meetings and make presentations concerning the proposed Project.

- e. Assist the District in the development of the District's construction program and Project scope.

2. Design Phase Services

- a. Develop Preliminary Design including, but not limited to, Space Planning, Schematic Design and Design Development specific to the Project.
- b. Complete Final Design including, but not limited to, working drawings, specifications, cost estimates, prospective bidders list, approvals (State and local authorities), technical addenda and clarifications for all of the following, as applicable for each particular project:
 - i. Landscape/Site Design
 - ii. Structural Design
 - iii. Architectural Design
 - iv. Mechanical Design
 - v. Electrical Design
 - vi. Civil Design
 - vii. Theater/Stage/Lighting Design
 - viii. Acoustical Design
 - ix. Technology Design and Procurement
 - x. Energy Efficiency Design
 - xi. Playground Design
 - xii. Traffic Engineering
- c. Attend meetings with each committee to develop goals, explain options, and reach consensus on final plans.
- d. Provide copies of meeting minutes for distribution to appropriate staff and Board members.
- e. Review the construction schedule and recommendations for appropriate bidding categories and phases.
- f. Review an occupancy schedule to be implemented upon completion of construction.
- g. Produce and review projected cash flow schedules for all aspects of the Project.
- h. Review commissioning options with District and incorporate appropriate commissioning duties into the plans and specifications.
- i. Provide necessary cost estimates to satisfy statutory requirements and to permit the Architect to perform basic services.

3. Bidding Phase Services

- a. Complete bid package of all required construction documents and specifications, including reproduction of same.
- b. Develop the necessary advertising for bid document distribution.
- c. Assist District with creating all possible contractor interest in bidding and performing this work.
- d. Prepare and distribute construction documents to bidders.
- e. Participate in pre-bid conferences with all bidders for each division of work.
- f. Assist in evaluating bids in each work category.
- g. Participate in post-bid interviews with apparent low bidders.
- h. Develop award recommendations to District.

- i. Review all trade contracts and associated documents.
 - j. Advise District as to necessary building permits and other governmental agency approval applications.
- 4. Construction Phase Services
 - a. ***Provide on-site observation and supervision of construction in satisfaction of the requirements of 1937 PA 306 and 1980 PA 299, including supervision and site visits as necessary during the entire construction period.***
 - b. Continually monitor and update construction, construction draw, and occupancy schedules.
 - c. Prepare change order requests, and receive District approvals.
 - d. Review shop drawings and expedite the review process.
 - e. Review payment and cost control procedures, including the following:
 - i. Contractors' Schedule of Values
 - ii. Contractors' Payment Application and Certification
 - iii. Contractors' Sworn Statements and Waivers of Lien, if applicable
 - iv. Purchase Order and disbursement Summaries
 - v. Change Order Listings
 - vi. Budget Cost Summary Reports
 - f. Participate in progress meetings and provide progress reports of same.
 - i. As needed, meet with the building principal to discuss any activities which may affect operations.
 - ii. Weekly meeting with District representative and trade contractors.
 - iii. Monthly meetings for planning, coordination, and payments with District administrators which will include status reports on the Project, budget, change orders, and allowances for reimbursable expenses.
 - g. Prepare as-built drawings and record and review operating and maintenance manuals, warranties, guarantees, and Project directories.
 - h. Ensure that all construction is completed as specified by the construction documents and meets all codes and regulations of agencies having jurisdiction.
 - i. Provide review and coordinate Project commissioning, including but not limited to mechanical and electrical systems.
 - j. Prepare punch lists, coordinate final inspections, and recommend District acceptance and occupancy.
- 5. Post-Construction Phase Services
 - a. Assist in facilitating/requiring training sessions for appropriate employees regarding the operation and maintenance of technical equipment.
 - b. Provide follow-up and call-back services for the duration of the longest warranty period covered by a contractor on the Project.
 - c. Conduct a post-occupancy walk-through appropriately timed to address Project issues prior to expiration of applicable warranties.

N. Insurance Coverage

Prior to beginning work, the selected firm will be required to provide a copy of insurance certificates for general and professional liability coverages. Any consultants of the Architect shall provide

insurance coverages at least equal to that provided by the Architect, and those consultants shall provide insurance certificates for general and professional liability coverages.

O. Payment of Fees

Professional fees and reimbursable expenses shall be itemized on the same invoice so that the District issues no more than one monthly check to the architectural firm. The specific days of the month on which invoices are to be received and checks released, as well as the payment schedule, will be determined when the contract is finalized with the selected firm. The District will make payments to the Architect as determined during negotiations for a final Agreement with the selected firm. No payment for any professional services and/or expenses will be made before the District receives bond proceeds from a future bond issue. If the bonds are not issued, the District shall not be responsible for payment of fees and reimbursable expenses, and the District may terminate the Agreement. When the District receives bond proceeds from a future bond issue, the District shall be responsible for payment of the agreed upon fees and/or reimbursable expenses incurred by the Architect, which shall be described in the Agreement.

LAKEWOOD PUBLIC SCHOOLS
REQUEST FOR PROPOSAL FOR
ARCHITECTURAL SERVICES
PART 2 - PROPOSAL REVIEW AND SELECTION PROCESS

A. Time Frame for Architect Selection

It is the intent of the District to select an Architect according to the following schedule:

January 8, 2024	RFP is released.
January 22, 2024	Optional Pre-proposal review meeting with Owner at 11:30 a.m.
January 31, 2024	Proposals are due.
February 1 through February 9, 2024	Optional Bidder interviews with Selection Committee.
February 12, 2024	Board of Education selects an Architect and authorizes the Superintendent to finalize Agreement.
February 13, 2024	Architect begins work.

The District reserves the right to adjust the above schedule and/or to add/remove steps as it deems necessary or desirable in its sole discretion, with or without notice to bidders or potential bidders.

B. Review and Selection Process

The District reserves the right to reject any or all proposals that are determined not to be in the best interest of the District. The District will not necessarily select the lowest cost proposal.

C. Architect Interviews

It is expected that the District may invite firms to participate in interviews with the Board of Education (and/or, if applicable, any Selection Committee) and to answer any questions that may exist about their proposal.

D. Evaluation Criteria

The District will evaluate proposals considering all of the information provided in response to this Request for Proposal, including but not necessarily limited to the following:

Adherence to RFP: To merit evaluation, submittals must conform, in both content and presentation, to the parameters established in this request.

Relevant Experience: Relevant experience of the firm with construction and renovation of K-12 public school facilities, particularly those of comparable size and complexity.

Qualifications: Qualifications and experience of the key staff to be assigned to these projects.

Timeliness: Ability of the firm to complete work tasks specified in this RFP in a timely fashion.

Responsiveness: The ability to meet quickly with District officials, contractors, etc. when necessary.

Team Compatibility: The ability of the firm to work with students, District employees, parents, community members, architectural firms, contractors, and governmental officials based on references and interviews.

Fee Proposal: The total fees for Architectural services, including professional fees and allowances for reimbursable expenses.

E. Awarding of the Contract

All proposals received shall be subject to evaluation by District Administration and the Board of Education for the purpose of recommending a firm or firms with whom a contract will be executed. It is anticipated that the Board of Education will authorize a District administrator to finalize contract terms with the selected firm, which terms will be subject to the final approval of the Board of Education.

The form of Contract shall be based on the modified version of AIA Document B133 – 2019 Edition, attached hereto as Attachment “A.” The bidder shall be deemed to agree with the attached document in its entirety, ***except and to the extent the bidder specifically objects in writing to any provision therein and attaches the objection(s) as a separate document to its response to this RFP, along with a proposed alternative.***

Notwithstanding anything herein to the contrary, the District shall have the ability, in its sole discretion, to negotiate any term of the Contract. The award of a Contract shall be contingent upon the successful negotiation of same. Without limiting the breadth of the foregoing, it is expressly acknowledged and agreed that the District has the right to require negotiation of an Owner/Architect Agreement utilizing an “agency” construction manager or using no construction manager.

LAKESWOOD PUBLIC SCHOOLS

REQUEST FOR PROPOSAL FOR ARCHITECTURAL SERVICES PART 3 – PROPOSAL DETAILS

NAME OF FIRM: _____ YEAR ESTABLISHED: _____

ADDRESS: _____
(Street) (City/State) (Zip Code)

TELEPHONE NUMBER: _____ FAX NUMBER: _____
(Area Code) (Area Code)

A. BUSINESS ORGANIZATION

1. Individual _____ Partnership _____ Corporation _____ Other _____

2. Years firm has provided K-12 Architectural Services:

3. List Principals and officers of the firm:

4. List the various professional and support staff positions and number of personnel in each position in your firm. Provide the hourly rates of all listed staff categories in this paragraph. Bidders should list all employees/staff categories and their hourly rates if the bidder proposes to utilize such staff for the Project.

<u>Professional Staff</u>	<u>Number</u>	<u>Hourly Rate</u>	<u>Support Staff</u>	<u>Number</u>	<u>Hourly Rate</u>
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5. Provide a brief history of your firm's experience with public school construction.

6. Recognizing the timing of the Owner's bond planning process, describe your firm's planned support of and commitment to the Owner's informational and interested voter campaigns related to a bond issue.

a. Describe the processes and strategies you would use in assisting the district in developing the informational campaign strategies for a successful bond issue proposal. What specific impact can your firm bring to this effort?

b. Describe the materials that your firm would provide such as graphic presentation of planned projects, brochures, postcards, displays, etc.

- c. Identify in detail any other commitments the firm would make in assisting the district in the bond election process.
7. Describe your firm's instructional technology expertise. If this expertise is not in-house, which firms have you worked with successfully and why? Describe trends in technology integration in classrooms which you think have been successful and those which you believe were less valuable. How do you see technology being utilized in K-12 education in projects you may complete 5 years from now?
8. Describe the services your firm will provide during and after Project Closeout, Commissioning, Punch List process, and following up on claims, guarantees and warranties.
9. **PERSONNEL:**
Provide an organization chart, including resumes of all key personnel your firm will commit for the duration of this Project if awarded the contract and the hourly rate for such personnel in the event they provide Additional Services, and provide documentation regarding their respective qualifications. For the project manager and project architects you identify to be assigned for the duration of our Project, provide the name and phone number of two superintendents, two business managers, and two building principals with whom the architect has worked on a school building project. Architect shall not change staff assigned to the Owner's Project without Owner's approval or Owner's request except in the event such individual dies, is disabled or leaves the employment of the Architect.
10. List professional consultants outside your firm you propose using to provide services not available in your firm.

<u>Firm Name</u>	<u>Location City/State</u>	<u>Specialty</u>	<u>Number of Times Affiliated With You</u>
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11. What is your firm's present workload?

	<u>Number of Projects</u>	<u>\$ Value</u>
Bond elections in the next 12 months		
Projects in pre-construction phase		
Projects in construction phase		

Provide a list of all scheduled construction projects and unscheduled construction projects currently being handled by your firm, including an indication of percentage of completion for each project.
 12. What is your General Liability Insurance coverage:
 - a. Total amount of protection provided.

- b. Amount of deductible, if any.
 - c. Name, address, phone #, and contact person of Insurance Company.
 - d. Are the costs of this coverage included in your Fee Proposal? If not, what is that additional cost?
- 13. What is your Professional Liability coverage:
 - a. Total amount of protection provided.
 - b. Amount of deductible, if any.
 - c. Name, address, phone #, and contact person of Insurance Company.
 - d. Are the costs of this coverage included in your Fee Proposal? If not, what is that additional cost?
- 14. Has your firm had litigation, arbitration or a claim filed against or settled with your firm by an educational client or have you filed or settled the same against an educational client? If yes, explain each in detail.
- 15. Has your firm had litigation, arbitration or a claim filed against or settled with your company by any client outside of the educational market or have you filed the same against any other client? If yes, explain each in detail.
- 16. Has your firm ever been terminated, for cause or for convenience, prior to completion of a project or has your firm ever terminated an architectural or design contract, for cause or for convenience, prior to completion of a project? If yes, explain each in detail.

B. Approach to Architectural Services

- 1. Describe in detail, the process you will follow from approval of the bond election to approval of the final design, to develop the drawings and specifications for our Project.
- 2. List what you consider to be the best new construction/school building renovation project you have designed:

Project Name:	
School District:	
Contact:	
Phone Number	
Total Cost	
Square Footage	Cost per Square Foot
# of Change Orders	Cost of Change Orders
Date Completed	
Project Architect	
Why do you consider this school to be your firm's best work?	
- 3. List the top five exceptional educational features of new school construction/school building renovations designed by your firm.

4. Describe the method(s) of budget/cost control, quality control, and time schedule adherence you will use for the Project.
5. List the steps in your standard change order procedure, your criteria used to determine whether Additional Service fees will be charged and for change orders, and your fee schedule for change orders.
6. Explain your philosophy regarding change orders and identify on both a dollar and percentage basis the volume of change orders on each of your last five (5) K-12 new school construction/building renovation construction projects. For these projects, indicate the proportion of those changes that were owner-initiated and the identity of the owner.
7. Describe how your firm stays up-to-date on construction code and regulatory requirements applicable to school construction.
8. Some of the construction work may occur while school is in session. Describe how your firm will minimize any interruptions to our day-to-day operations.
9. Discuss the method of on-site observation you will use for our Project, and how you will ensure a same-day response should we need on-site advice.
10. Describe your philosophy regarding the establishment, use and purpose of contingency funds.
11. Identify all categories of anticipated reimbursable expenses the Architect would expect to charge to the District.
12. Describe in detail the typical school bond election informational campaign run by your firm, including the identification of the individual(s) you would assign to such a campaign to work with the District. Please also identify the number of school bond campaigns your firm has handled in the last 24 months in Michigan and identify all such successful campaigns. Include references from at least one unsuccessful and two successful campaigns.

13. Add any additional information about your design approach as envisioned for this Project.
14. List the three (3) most recent new school construction/building renovation projects for which your firm has acted as Architect.
- a. Project Name:
School District:
Contact:
Phone Number
Total Cost
Square Footage
of Change Orders
Date Completed
Project Architect
- Cost per Square Foot
Cost of Change Orders
- b. Project Name:
School District:
Contact:
Phone Number
Total Cost
Square Footage
of Change Orders
Date Completed
Project Architect
- Cost per Square Foot
Cost of Change Orders
- c. Project Name:
School District:
Contact:
Phone Number
Total Cost
Square Footage
of Change Orders
Date Completed
Project Architect
- Cost per Square Foot
Cost of Change Orders

C. Anticipated Project Schedule

The District desires the selected firm to review the District's existing facilities and assist the District in preparing a Project scope immediately after selection. If the bonds financing the project are qualified through the Michigan School Bond Qualification and Loan Program, the Architect must prepare an Application for Preliminary Qualification of Bonds and file it with the Michigan Department of Treasury. Thereafter, the District, the Construction Manager, and the Architect will collaborate on creating a detailed Project schedule upon a successful bond vote. Please identify any concerns or reservations your firm may have with these general parameters and describe any negative impacts on the Project foreseen as a result of such parameters. The District anticipates working with the selected Architect after bidding to consider Project Schedule adjustments necessary to maximize bidding opportunities.

LAKESWOOD PUBLIC SCHOOLS

**REQUEST FOR PROPOSAL FOR
ARCHITECTURAL SERVICES
PART 4 – PROPOSAL SUMMARY**

Because this RFP relates to the provision of services on a yet-to-be-determined project scope, the cost proposal shall be stated as a percentage of construction cost as set forth below. The total cost is to *include* professional fee and allowances for reimbursable expenses. A general description of the Project is identified in Attachment “D.” The District understands the difficulty in submitting a cost proposal for an undefined Project scope, so if you believe any other information or clarification may be helpful to the District in determining your cost for services (such as, but not limited to, a further breakdown of costs per cost or work category), please include that information in your proposal.

Bond size: \$25-50 Million

		New Construction	Renovations	Technology
1.	Pre-Design Phase			
2.	Design Phase			
3.	Bidding Phase			
4.	Construction Phase			
5.	Post-Construction Phase			
6.	Any Other Costs			

This proposal has been prepared to provide the District with all the information requested in Part 3 - Proposal Details, of the RFP regarding Architectural Services. The undersigned certifies that the proposal contained herein meets or exceeds the scope of services as outlined in this RFP, and that any items that have been deleted from and/or added to the requested scope of services (including, but not limited to, the proposed contract language) are clearly noted as follows:

Signed this ____ day of _____, 2024.

Firm Name: _____

Address: _____

Phone Number: _____ Fax Number: _____

If a corporation, indicated State of incorporation and affix seal.

Attest: _____

By: _____
Signature/Title

DRAFT AIA® Document B133™ – 2019

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

AGREEMENT made as of the « » day of « » in the year «2024»
(In words, indicate day, month and year.)

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

« Lakewood Public Schools » « »
« 223 West Broadway Street »
« Woodland, Michigan 48897 »
« »

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

« » « »
« »
« »
« »

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

« Lakewood Public Schools Bond Program, in accordance with the relevant application
for preliminary qualification of bonds, the approved plans and specifications, the Owner's
fixed budget, and as otherwise approved by the Owner. »
« »
« »

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

« » « »
« »
« »
« »

The Owner and Architect agree as follows.

ADDITIONS AND DELETIONS:

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

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

This document is intended to be used in conjunction with AIA Documents A201-2017™, General Conditions of the Contract for Construction; A133-2019™ Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price; and A134-2019™ Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee without a Guaranteed Maximum Price. AIA Document A201™-2017 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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ARTICLE 1 INITIAL INFORMATION

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

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

§ 1.1.1 The Owner's program for the Project:

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

« The Architect shall assist the Owner in developing the program in accordance with Section 3.3. »

§ 1.1.2 The Project's physical characteristics:

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

« To be determined »

§ 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.)

« A fixed sum established by the Owner »

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

.1 Design phase milestone dates, if any:

« To be determined »

.2 Construction commencement date:

« To be determined »

.3 Substantial Completion date or dates:

« To be determined »

.4 Other milestone dates:

« »

§ 1.1.5 The Owner intends to retain a Construction Manager pursuant to the following agreement:
(Indicate agreement type.)

[☐] AIA Document A133–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price.

[☒] AIA Document A134–2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee without a Guaranteed Maximum Price.

§ 1.1.6 The Owner's requirements for accelerated or fast-track design and construction, or phased construction are set forth below:
(List number and type of bid/procurement packages.)

« »

§ 1.1.7 The Owner's anticipated Sustainable Objective for the Project:
(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

« »

§ 1.1.7.1 If the Owner identifies a Sustainable Objective, the Owner and Architect shall complete and incorporate AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E234–2019 is incorporated into this Agreement, the Owner and Architect shall incorporate the completed E234–2019 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.8 The Owner identifies the following representative in accordance with Section 5.4:
(List name, address, and other contact information.)

« Steven Skalka »
« Superintendent »
« Lakewood Public Schools »
« 223 West Broadway Street »
« Woodland, Michigan 48897 »
« »

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

« Board of Education; State of Michigan; and others required by law. »

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

.1 Construction Manager:

~~*The Construction Manager is identified on the cover page. If a Construction Manager has not been retained as of the date of this Agreement, state the anticipated date of retention. If the Architect is to assist the Owner in selecting the Construction Manager, complete Section 4.1.1.1.)*~~

« »

.2 Land Surveyor:

« To be determined, if any »« »

« »

« »

« »

« »

.3 Geotechnical Engineer:

« To be determined, if any »« »

« »

« »

« »

« »

.4 Civil Engineer:

« To be determined, if any »« »

« »

« »

« »

« »

.5 Other consultants and contractors:

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

« N/A »

§ 1.1.11 The Architect identifies the following representative in accordance with Section 2.4:
(List name, address, and other contact information.)

« »

« »

« »

« »

« »

« »

§ 1.1.12 The Architect shall retain the consultants identified in Sections 1.1.12.1 and 1.1.12.2:
(List name, legal status, address, and other contact information.)

§ 1.1.12.1 Consultants retained under Basic Services:

.1 Structural Engineer:

« To be determined »« »

« »

« »

« »

« »

.2 Mechanical Engineer:

« To be determined »« »

« »

« »

« »

« »

.3 Electrical Engineer:

« To be determined »« »

« »

« »

« »

« »

§ 1.1.12.2 Consultants retained under Supplemental Services:

« To be determined »

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

« To be determined »

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall appropriately 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 and familiar with the school construction industry. 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 provide its services in conjunction with the services of a Construction Manager as described in the agreement identified in Section 1.1.5. The Architect shall not be responsible for actions taken by the Construction Manager.

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

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

§ 2.6 **Insurance.** The Architect shall maintain the following insurance until termination of this Agreement in the amounts identified below, in an Architect-provided certificate of insurance, or as required by law, whichever is greater. 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.

§ 2.6.1 Commercial General Liability with policy limits of not less than « Two Million Dollars » (\$ « 2,000,000 ») for each occurrence and « Four Million Dollars » (\$ « 4,000,000 ») in the aggregate for bodily injury and property damage.

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

§ 2.6.3 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 2.6.1 and 2.6.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers. The Architect shall provide umbrella coverage with a policy limit of not less than Four Million Dollars (\$ 4,000,000).

§ 2.6.4 Workers' Compensation at statutory limits.

§ 2.6.5 Employers' Liability with policy limits not less than « Five Hundred Thousand Dollars » (\$ « 500,000 ») each accident, « Five Hundred Thousand Dollars » (\$ « 500,000 ») each employee, and « Five Hundred Thousand Dollars » (\$ « 500,000 ») policy limit.

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

§ 2.6.7 **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.

§ 2.6.8 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.6 at the time of execution of this Agreement.

§ 2.6.9 Prior to the commencement of any Project, the Architect shall notify the Owner in writing of its proposed insurance coverages and amounts, even if they are the same as identified in this Section 2.6, which coverages and amounts shall be subject to the Owner's reasonable approval, and such coverages will not be terminated, non-renewed, or reduced without at least 30 days' prior written notice to the Owner.

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, civil, interior design, landscape design, food service, theater, acoustical, and electrical engineering services and other architectural and engineering services required to complete the Project, all provided by those qualified and experienced in their respective fields, as needed, to address the requirements of the Project. Services

~~not set forth in this Article 3 are identified in this Agreement, the General Conditions, and any other Contract Document shall be Basic Services unless expressly identified therein as~~ Supplemental or Additional Services.

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

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

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit, for the Owner's and Construction Manager's review and the Owner's approval, a written schedule for the performance of the Architect's services for inclusion in the Project schedule prepared by the Construction Manager. The schedule of the Architect's services shall include design phase milestone dates, as well as the anticipated dates when cost estimates or design reviews may occur, 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 (1) for the Owner's review and provision of information, (2) for the Construction Manager's review, (3) for the performance of the Construction Manager's Preconstruction Phase services, (4) for the performance of the Owner's consultants, (5) for a master design schedule for planning, schematics, design development, and construction documents phases, and (6) 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 and with mutual written agreement of the parties, 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 submit information to the Construction Manager and participate in developing and revising the Project schedule ~~as it relates to the Architect's services~~. The Architect shall review and approve, or take other appropriate action upon, ~~the portion of the Project schedule relating to the performance of the Architect's services~~ Project as a whole.

§ 3.1.5 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. The Architect shall advise the Owner before the Owner orders a directive or substitution or accepts non-conforming work.

§ 3.1.6 The Architect shall, in coordination with the Construction Manager, 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. The Architect shall have the primary responsibility to complete any required documents requiring governmental approval and ensure that they are properly filed on behalf of the Owner. This responsibility includes the preparation of the preliminary qualification application for the bond issue financing the project, if the project is financed with a bond issue qualified by the School Bond Qualification and Loan Program.

§ 3.1.7 The Architect shall assist and advise the Owner and Construction Manager in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project and relating to construction design and performance when not covered by Section 3.1.6. The Architect shall assist the Owner in applying for those permits and approvals normally required by law for projects similar to the one for which the Architect's services are being engaged. The assistance shall consist of completing and submitting forms to the appropriate regulatory agencies having jurisdiction over the construction documents, and other services normally provided by the Architect in conjunction therewith.

~~§ 3.1.8 Prior to the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal, or the Owner's approval of the Construction Manager's Control Estimate, as applicable, the Architect shall consider the Construction Manager's requests for substitutions and, upon written request of the Construction Manager, provide clarification or interpretations pertaining to the Drawings, Specifications, and other documents submitted by the~~

Architect. The Architect and Construction Manager shall include the Owner in communications related to substitution requests, clarifications, and interpretations.

§ 3.1.8 The Architect acknowledges that the services to be provided by the Architect under this Agreement shall include providing all services that may or must be performed by an architect in Public Act No. 306 of 1937, MCL 388.851, *et seq.* (the “School Building Construction Act”) and Public Act 299 of 1980, MCL 339.2011 (the “Occupational Code”). The Construction Manager Constructor is to construct the Project pursuant to Contract Documents, is responsible for the construction means, methods, techniques employed in the performance of the Work, and further that code compliance inspections will be performed by the appropriate State entities.

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

§ 3.1.10 The Architect shall submit design documents to the Owner at intervals appropriate of the design process for purposes of evaluation and approval by the Owner.

§ 3.2 Review of the Construction Manager’s ~~Guaranteed Maximum Price Proposal or~~ Control Estimate

§ 3.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager, the Construction Manager shall prepare, for review by the Owner and Architect, and for the Owner’s acceptance or ~~approval/rejection~~, a ~~Guaranteed Maximum Price proposal or~~ Control Estimate. The Architect shall ~~assist the Owner in reviewing~~ the Construction Manager’s ~~proposal or~~ estimate. The Architect’s review ~~is not for the purpose of~~ shall be for all purposes, including discovering errors, omissions, or inconsistencies; ~~for the assumption of~~ but the Architect shall not assume any responsibility for the Construction Manager’s proposed means, methods, sequences, techniques, or procedures; or for the verification of any estimates of cost or estimated cost proposals. In the event that the Architect discovers any inconsistencies or inaccuracies in the information presented, the Architect shall promptly notify the Owner and Construction Manager.

§ 3.2.2 Upon authorization by the Owner, and subject to Section 4.2.1.14, the Architect shall update the Drawings, Specifications, and other documents to incorporate the agreed upon assumptions and clarifications contained in the ~~Guaranteed Maximum Price Amendment or~~ Control Estimate.

§ 3.3 Schematic Design Phase Services

§ 3.3.1 ~~The Architect shall review the program, and other information furnished by the Owner and Construction Manager, and shall review laws, codes, and regulations applicable to the Architect’s services. The Architect shall assist the Owner and the Construction Manager in development of the program, schedule and construction budget for final approval by the Owner, consult with the Owner regarding the same, and shall review and comply with, all laws, codes, and regulations applicable to the Architect’s services and the Project.~~

§ 3.3.2 The Architect shall prepare a preliminary evaluation of the Owner’s program, schedule, budget for the Cost of the Work, Project site, 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.

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

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

§ 3.3.5 Based on the Owner’s approval of the preliminary design, the Architect shall prepare Schematic Design Documents for Construction Manager’s review and 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.

§ 3.3.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program, budget 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.

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

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

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

§ 3.3.8 In the further development of the Drawings and Specifications during this and subsequent phases of design, the Architect shall be entitled to rely on receive and review the accuracy of the estimates of the Cost of the Work, which are to be provided by the Construction Manager under the Construction Manager's agreement with the Owner and shall prepare such estimates of Construction Cost as the Architect deems necessary to perform Basic Services and to satisfy MCL 339.2011.

§ 3.4 Design Development Phase Services

§ 3.4.1 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 Construction Manager's review and the Owner's approval. The Owner's approval shall be for general design concept purposes only and shall not be an approval of technical or design details. The Design Development Documents shall be based upon take into consideration information provided, and estimates prepared by, the Construction Manager and shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and 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.

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

§ 3.4.3 Upon receipt of the Construction Manager's information and estimate at the conclusion of the Design Development Phase, the Architect shall take action as required under Sections 6.5 and 6.6 and request the Owner's approval of the Design Development Documents. Approval by the Owner will not constitute approval of the means, techniques, or particular material recommended by the Architect for the Project. Selection by the Owner of a "particular material" recommended by the Architect for the Project shall constitute approval of that "particular material" by the Owner for aesthetic purposes only.

§ 3.5 Construction Documents Phase Services

§ 3.5.1 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 Construction Manager's review and 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, their quality levels, and other requirements for the construction of the Work. The Owner and

Architect acknowledge that, in order to perform the Work, the Construction Manager 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.

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

§ 3.5.3 During the development of the Construction Documents, ~~if requested by the Owner,~~ the Architect shall assist the Owner and Construction Manager in the development and preparation of (1) the Conditions of the Contract for Construction (General, Supplementary and other Conditions), as modified by the Owner, and (2) a project manual that includes the Conditions of the Contract for Construction, as modified by the Owner, and Specifications, and may include sample forms. All such documents shall have been provided in a format that conforms with the terms of this Agreement and the drawings/specifications, including but not limited to dispute resolution provisions, and shall comply with all public bidding, and contracting laws applicable to Michigan public school districts and this Project.

§ 3.5.3.1 Documents referenced in Section 3.5.3 shall consist of the unabridged AIA contract forms modified as necessary to be consistent with this Agreement. The Architect shall include in bid specifications and in any of the relevant document provisions indicating that modified version(s) of the standard AIA General Conditions A201 -2017 will be utilized. The Architect shall include a form of the General Conditions of the Contract for Construction provided by the Owner's legal counsel and include that document in bid specifications and the project manual. The Architect is responsible for verifying that such document is included in the bid specifications and the project manual and shall contact the Owner and the Owner's legal counsel to verify that that the documents, as they appear in the bid specifications and project manual, are correct.

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

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

§ 3.6 Construction Phase Services

§ 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Construction Manager as set forth below and in AIA Document A201™-2017, General Conditions of the Contract for Construction. ~~If the Owner and Construction Manager 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.~~ The term "Contractor" as used in A201-2017 shall mean the Construction Manager. If there is a conflict or inconsistency between the terms of that Agreement and the General Conditions for the Contract for Construction, the terms of this Agreement shall govern.

§ 3.6.1.2 Subject to Section 4.2, the Architect's responsibility to provide Construction Phase Services commences upon ~~the Owner's acceptance of the Construction Manager's Guaranteed Maximum Price proposal,~~ the Owner's approval of the Construction Manager's Control Estimate, or ~~by a written agreement between the Owner and Construction Manager which sets forth a description of the Work to be performed by the Construction Manager prior to such acceptance or approval the Owner's first award of a competitively bid subcontract, whichever occurs earlier.~~ Subject to Section 4.2, and except as provided in Section 3.6.6.5 Unless otherwise provided in this Agreement, the Architect's responsibility to provide Construction Phase Services terminates on the date the Architect issues the final Certificate for Payment.

§ 3.6.1.3 The Architect shall advise and consult with the Owner and Construction Manager during the ~~services described in this Agreement~~ 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 except as provided in this Agreement,~~ the Architect ~~shall not~~ be responsible for the Construction Manager's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Construction Manager or of any

other persons or entities performing portions of the Work. Nothing in this Section 3.6.1.3 shall be construed to limit the Architect's responsibilities under MCL 339.2011 or Public Act 306 of 1937, both as may be amended from time to time.

§ 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, to guard the Owner against defects and deficiencies, 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, subject to Sections 3.1.8, 3.6.1.3, and 3.6.2.6, 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 Construction Manager, 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 Construction Manager, 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 Construction Manager.~~ The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

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

§ 3.6.2.5 Unless the Owner and Construction Manager 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~~ interpretations in writing on Claims between the Owner and Construction Manager as provided in the Contract Documents.

§ 3.6.2.6 Notwithstanding anything contained in this Agreement, particularly Sections 3.6.1.3 and 3.6.2.1, nothing contained in this Agreement shall be construed to limit in any way the Architect's duties and responsibilities under law, including those duties and responsibilities under 1937 PA 306 and 1980 PA 299. It is understood that the Owner has retained a Construction Manager on this Project. The Agreement between Construction Manager and the Owner shall impose upon the Construction Manager the responsibility for the workmanlike performance of all construction performed on the project and completion of all work required under the subcontract.

The Construction Manager Agreement shall require that the Construction Manager inspect the work of the subcontractors as it is being performed to assure that the work performed and the materials furnished are in accordance with the Construction Documents and provide all supervision, services, utilities, etc., which are necessary for the completion of the Project which are not provided through the subcontracts, or by the Owner, or as a reimbursable item.

The Architect shall visit the site as necessary to observe Project quality.

§ 3.6.3 Certificates for Payment to Construction Manager

§ 3.6.3.1 The Architect shall review and certify the amounts due the Construction Manager 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 Construction Manager'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 Construction Manager 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 in writing and accompanying the relevant certification. It is acknowledged that the Architect's certifications shall take into consideration information provided by the Construction Manager, but the Architect shall remain responsible for any certification issued.

§ 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 Construction Manager's right to payment, or (4) ascertained how or for what purpose the Construction Manager 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, certified copies of which shall be sent to the Owner.

§ 3.6.4 Submittals

§ 3.6.4.1 The Architect shall review the Construction Manager'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 Construction Manager'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 Construction Manager's responsibility. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's review and approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.6.4.3 If the Contract Documents specifically require the Construction Manager 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 Construction Manager'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. Subject to its professional experience and expertise, ~~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 timely review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information. The Architect shall maintain a log of requests for information and the responses thereto.

§ 3.6.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Construction Manager 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 and Construction Manager 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 Construction Manager; 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 and Construction Manager's inspections under Section 3.6.6.1.1 shall be conducted with the Owner to (1) check conformance of the Work with the requirements of the Contract Documents and (2) verify the accuracy and completeness of the list submitted by the Construction Manager of Work to be completed or corrected. The Architect and Construction Manager shall be solely responsible for the inspections, and the Owner shall be solely an observer.

§ 3.6.6.3 When Substantial Completion has been achieved as determined by the Architect, then the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Construction Manager, 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 Construction Manager: (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 Construction Manager 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 for the purpose of identifying potential warranty issues and to verify adequacy of 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. The Services listed below, other than those identified as Basic Services, may be provided by the Architect as an Additional Service if: (a) required for the Project, (b) the Owner authorizes the performance of same in writing prior to the Architect's provision of any such service, and (c) the Architect provides a good faith estimate of the cost of the same prior to the Owner's authorization. The Owner shall not be obligated to pay for any Additional Service in the absence of the foregoing. For proper Additional Services, the Owner shall compensate the Architect as provided in Section 11.2.~~

(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 (Architect, Owner, or not provided)
§ 4.1.1.1 Assistance with Selection of Construction Manager	<u>Architect Basic Service</u>
§ 4.1.1.2 Programming	<u>Architect Basic Service</u>
§ 4.1.1.3 Multiple Preliminary Designs	<u>Architect Basic Service</u>
§ 4.1.1.4 Measured drawings	<u>Architect Basic Service, except as identified in Section 4.2 below</u>
§ 4.1.1.5 Existing facilities surveys	<u>Architect Basic Service</u>
§ 4.1.1.6 Site evaluation and planning	<u>Not Provided</u>
§ 4.1.1.7 Building Information Model management responsibilities	<u>Not Provided</u>
§ 4.1.1.8 Development of Building Information Models for post construction use	<u>Not Provided</u>
§ 4.1.1.9 Civil engineering	<u>Architect Basic Service</u>
§ 4.1.1.10 Landscape design	<u>Architect Basic Service</u>
§ 4.1.1.11 Architectural interior design	<u>Architect Basic Service</u>
§ 4.1.1.12 Value analysis	<u>Architect Basic Service</u>
§ 4.1.1.13 Cost estimating	<u>Architect Basic Service to the extent required by MCL 339.2011</u>
§ 4.1.1.14 On-site project representation	<u>Architect Basic Service</u>
§ 4.1.1.15 Conformed documents for construction	<u>Architect Basic Service</u>
§ 4.1.1.16 As-designed record drawings	<u>Architect Basic Service</u>
§ 4.1.1.17 As-constructed record drawings	<u>Architect Basic Service</u>
§ 4.1.1.18 Post-occupancy evaluation	<u>Architect Basic Service</u>
§ 4.1.1.19 Facility support services	<u>N/A</u>
§ 4.1.1.20 Tenant-related services	<u>N/A</u>
§ 4.1.1.21 Architect's coordination of the Owner's consultants	<u>N/A</u>
§ 4.1.1.22 Telecommunications/data design	<u>Owner</u>
§ 4.1.1.23 Security evaluation and planning	<u>Owner</u>
§ 4.1.1.24 Commissioning	<u>N/A</u>
§ 4.1.1.25 Sustainable Project Services pursuant to Section 4.1.3	<u>N/A</u>
§ 4.1.1.26 Historic preservation	<u>N/A</u>
§ 4.1.1.27 Furniture, furnishings, and equipment design	<u>Architect Basic Service</u>
§ 4.1.1.28 Other services provided by specialty Consultants	<u>N/A</u>
§ 4.1.1.29 Other Supplemental Services	<u>N/A</u>
<u>§ 4.1.1.30 Statutory Cost Estimates</u>	<u>Architect Basic Service</u>
<u>§ 4.1.1.31 Bond Campaign Support</u>	<u>Architect Basic Service</u>

§ 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 E234™ 2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, 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 in accordance with Section 4.1 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, if necessary, an appropriate adjustment in the Architect's schedule.

~~§ 4.2.1 The following Additional Services shall be provided if there has been compliance with Section 4.1. 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 Subject to Section 6.6, S~~services necessitated by a change in the Initial Information, previous instructions ~~or recommendations given by the Construction Manager or the Owner, or~~ approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner's schedule or budget for Cost of the Work, procurement or delivery method, or bid packages in addition to those listed in Section 1.1.6;
- ~~.2 Making revisions in Drawings, Specifications, or other documents (as require~~d pursuant to Section 6.7), when such revisions are required because the Construction Manager's estimate of the Cost of the Work, Guaranteed Maximum Price proposal, or Control Estimate exceeds the Owner's budget, except where such excess is due to changes initiated by the Architect in scope, capacities of basic systems, or the kinds and quality of materials, finishes, or equipment;
- .3 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;
- .4 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that occur after the preparation of such Instruments of Service (The Architect is expected to and shall provide its services in compliance with the most-recent codes, laws, regulations and interpretations) and 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;
- .5 Services necessitated by decisions of the Owner ~~or Construction Manager~~ not rendered in a timely manner, acknowledging the Owner's obligations under the Open Meetings Act, or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .6 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner- authorized recipients;
- .7 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner or Construction Manager;
- ~~.8 Preparation for, and attendance at, a public presentation, meeting or hearing;~~
- .9 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto or at which the services of the Architect are challenged;
- .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; ~~;~~
- ~~.12 Services necessitated by replacement of the Construction Manager or conversion of the Construction Manager as constructor project delivery method to an alternative project delivery method;~~
- ~~.13 Services necessitated by the Owner's delay in engaging the Construction Manager;~~
- ~~.14 Making revisions to the Drawings, Specifications, and other documents resulting from agreed-upon assumptions and clarifications included in the Guaranteed Maximum Price Amendment or Control Estimate; and~~
- ~~.15 Making revisions to the Drawings, Specifications, and other documents resulting from substitutions included in the Guaranteed Maximum Price Amendment or Control Estimate.~~

§ 4.2.2 To avoid delay in the Construction Phase, the Architect shall ~~provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need promptly comply with Section 4.1 for the following Additional Services.~~ If, upon receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Architect of the Owner's determination. The Owner shall have no further obligation to compensate the Architect for the services ~~provided prior to the Architect's receipt of the Owner's notice not accepted in writing by the Owner:~~

- ~~.1 — Reviewing a Construction Manager's submittal out of sequence from the submittal schedule approved by the Architect;~~
- ~~.2 — Responding to the Construction Manager's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Construction Manager from a careful study and comparison of the Contract Documents, field conditions, other Owner provided information, Construction Manager prepared coordination drawings, or prior Project correspondence or documentation;~~
- ~~.3 — Preparing Change Orders, and Construction Change Directives approved by the Owner that exceed the scope of the Work and Project cost and that require substantial that require evaluation of the Construction Manager'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 Construction Manager 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 Construction Manager~~
- ~~.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. The Architect will assist the Owner to provide such information.

§ 5.2 The Owner shall retain a Construction Manager to provide services, duties, and responsibilities as described in the agreement selected in Section 1.1.5.

§ 5.3 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 and Construction Manager. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 5.3.1 The Owner acknowledges that accelerated, phased or fast-track scheduling provides a benefit, but also carries with it associated risks. Such risks include the Owner incurring costs for the Architect to coordinate and redesign portions of the Project affected by procuring or installing elements of the Project prior to the completion of all relevant

Construction Documents, and costs for the Construction Manager to remove and replace previously installed Work. If the Owner selects accelerated, phased or fast-track scheduling, the Owner agrees to include in the budget for the Project sufficient contingencies to cover such costs.

§ 5.4 The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project, subject to the parameters of authority set by the Owner's Board of Education. 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, subject to the Owner's status as a public body, including being subject to the Open Meetings Act.

§ 5.5 Where required by the circumstances of the Project and requested by the Architect in writing, ~~the~~ The Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions, and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark. The Architect shall assist the Owner in obtaining such services as part of the Architect's Basic Services. The Owner will pay for such services as applicable.

§ 5.6 Where required by the circumstances of the Project and requested by the Architect in writing, ~~the~~ 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. The Architect shall assist the Owner in obtaining such services as part of the Architect's Basic Services. The Owner will pay for such services as applicable.

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

§ 5.8 ~~If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E234™ - 2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.~~

§ 5.9 The ~~Owner-Architect~~ shall coordinate the services of its own consultants with those services provided by the ~~Architect~~ Owner's consultants. Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated as the responsibility of the Architect in this Agreement, or authorize the Architect to furnish them as an Additional Service in accordance with Article 4, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project. The Owner and Architect shall require that its consultants and contractors maintain insurance, including professional liability insurance, as appropriate to the services or work provided.

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

§ 5.11 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.

§ 5.12 The Owner shall provide prompt written notice to the Architect and Construction Manager if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service, but the Owner's failure to do so does not relieve the Architect of its responsibilities, and the Owner assumes no duty of observation, inspection, or investigation pursuant to this Section or otherwise. The Architect shall give the Owner prompt written notice if it becomes aware of any fault or defect in the Project or the Instruments of Service.

§ 5.13 The Owner shall include the Architect in all communications with the Construction Manager about the Contract Documents 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-material~~ communications between the Owner and the Construction Manager otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

§ 5.14 The ~~Owner-Architect~~ shall ~~coordinate-assist~~ the ~~Owner with coordination of the~~ Architect's duties and responsibilities set forth in the Agreement between the Owner and the Construction Manager 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 Construction Manager, including the General Conditions of the Contract for Construction.

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

§ 5.16 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 ~~cost estimating or tracking under~~ this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include the Construction Manager's ~~compensation, including~~ general conditions costs, overhead, and profit. ~~For purposes of calculating fees or other costs determined on a percentage of the Cost of the Work, 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 compensation of the Construction Manager for Preconstruction Phase services; the costs of the land, rights-of-way, financing, or ~~unused~~ 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 the Initial Information, ~~which the Architect acknowledges is fixed. A fixed limit of construction cost shall be established by the Owner as a condition of this Agreement~~ and ~~shall may~~ be adjusted throughout the Project as required under Sections 5.3 and 6.4. Evaluations of the Owner's budget for the Cost of the Work represent the Architect's judgment as a design professional.

§ 6.3 The Owner shall ~~require-permit~~ the Construction Manager to include appropriate contingencies for design, bidding or negotiating, price escalation, and market conditions in estimates of the Cost of the Work. The Architect shall ~~be entitled to rely on the accuracy and completeness of estimates of the Cost of the Work the Construction Manager prepares as the Architect progresses with its~~ ~~prepare its own estimates of the Cost of the Work as necessary for~~ Basic Services. The Architect shall prepare, as an Additional Service, revisions to the Drawings, Specifications or other documents required due to the Construction Manager's inaccuracies or incompleteness in preparing cost estimates, or due to market conditions the Architect could not reasonably anticipate. The Architect may review the Construction Manager's estimates solely for the Architect's guidance in completion of its services, however, the Architect shall report to the Owner any material inaccuracies and inconsistencies noted during any such review.

§ 6.3.1 If the Architect is providing cost estimating services ~~as a Supplemental Service~~, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Architect and the Construction Manager shall work together to reconcile the cost estimates.

§ 6.4 ~~If, prior to the conclusion of the Design Development Phase, If at any time, the Architect's or the Construction Manager's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect, in consultation with the Construction Manager and as a Basic Service, 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.~~

§ 6.5 If ~~at any time~~ the Construction Manager's 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 Section 9.5;
- .3 in consultation with the Architect and Construction Manager, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
- .4 implement any other mutually acceptable alternative.

§ 6.6 If the Owner chooses to proceed under Section 6.5.3, the Architect, without additional compensation, shall incorporate the revisions in the Construction Documents Phase as necessary to comply with the Owner's fixed budget for the Cost of the Work. ~~at the conclusion of the Design Development Phase Services, or the budget as adjusted under Section 6.5.1. The Architect's revisions in the Construction Documents Phase shall be the limit of the Architect's responsibility under this Article 6.~~

§ 6.7 After incorporation of modifications under Section 6.6, the Architect shall, ~~as an Additional Service,~~ make any required revisions to the Drawings, Specifications or other documents necessitated by the Construction Manager's subsequent cost estimates, the Guaranteed Maximum Price proposal, or Control Estimate that exceeds the Owner's budget for the Cost of the Work. ~~except when the excess is due to changes initiated by the Architect in scope, basic systems, or the kinds and quality of materials, finishes or equipment. The Architect's revised drawings and/or specifications shall be performed as a Basic Service.~~

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 Construction Manager, 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.~~ The Architect grants to the Owner a nonexclusive, irrevocable license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, completing, using, maintaining, altering and/or adding to the Project, provided that the Owner substantially performs its obligations, including prompt payment of all undisputed sums when due, under this Agreement. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement.

The license granted under this section permits the Owner to authorize the Contractor, Construction Manager, and/or Subcontractors to reproduce applicable portions of the Instruments of Service for use in performing services required for the Project.

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

§ 7.4 Except for the licenses granted or referenced in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. Except as permitted under this Agreement, ~~T~~he 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~~ Michigan. No claim by the Owner shall be barred as untimely if filed within six (6) years of Substantial Completion of the Project. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

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

§ 8.1.3 The Architect shall indemnify and hold the Owner and the Owner's officers and employees harmless from and against damages, losses, expenses (including reasonable attorneys' fees and legal expenses) and judgments to the extent the foregoing damages, losses, expenses, and judgments arise ~~from claims by third parties, including reasonable attorneys' fees and expenses recoverable under applicable law, but only to the extent they are caused by~~ the negligent acts or omissions of the Architect, its employees and its consultants in the performance of professional services under this Agreement or the Architect's breach of this Agreement. The Architect's obligation to indemnify and hold the Owner and the Owner's officers and employees harmless does not include a duty to defend. ~~The Architect's duty to indemnify the Owner under this Section 8.1.3 shall be limited to the available proceeds of the insurance coverage required by this Agreement.~~

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

§ 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 non-binding 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~~ litigation.

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

§ 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 undisputed 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 for this reason. 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~~ negotiated by the parties.

§ 9.2 If the Owner suspends the Project for more than 30 consecutive days, 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~~ negotiated by the parties.

§ 9.3 If the Owner suspends the Project for more than 90 ~~cumulative~~ consecutive 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~~ shall continue and shall not be terminated or diminished in any manner.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the ~~State of Michigan~~ 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, except as modified in this Agreement. The term "Contractor" as used in A201-2017 shall mean the Construction Manager.

§ 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. The Architect shall obtain the Owner's Approval prior to disclosures of information for purposes of verifying that such disclosures contain no confidential information (including, for example, information protected by FERPA).

§ 10.8 If the Architect or Owner receives information specifically designated as "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.

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

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.)

« As described in Section 4.1 based on the Architect's hourly rates to be negotiated prior to performance »

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

« See Section 11.2 »

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Sections 11.2 or 11.3, shall be the amount invoiced to the Architect at cost without mark-up 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 (« »	%)
<u>Bidding Phase</u>	« »	percent (« »	%)
<u>Construction Phase</u>				
Total Basic Compensation	one hundred	percent (100	%)

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

~~**§ 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 properly and actually 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.)~~

« See Section 11.2 »

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; in light of the Owner's tax-exempt status, the parties shall discuss major reimbursable items prior to purchase;
- 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. Reimbursable expenses shall not exceed without the express written approval of the Owner.

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

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

« »

§ 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, p~~Payments for undisputed services shall be made monthly in proportion to services performed. Undisputed Ppayments are due and payable ~~upon presentation within thirty (30) days of the Owner's receipt of the~~ Architect's invoice. Amounts unpaid ~~« thirty » (« 30 »)~~ days after the invoice due date shall bear interest at the rate entered below, ~~or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.~~

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

~~« 5 »~~ % ~~« See MCL 438.31 »~~

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

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

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

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

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

~~« § 12.1 The Architect shall perform its responsibilities and services in a manner consistent with the professional standards of the Architectural profession in the State of Michigan.~~

~~§ 12.2 The Architect shall not be entitled to additional compensation in the event it is necessary to extend the contract completion date because the Project is delayed due to conditions beyond the control of the Owner.~~

~~§ 12.3 Basic Services include assisting the Owner in developing the program requirements of the Project.~~

~~§ 12.4 Basic Services include investigations of existing conditions or facilities.~~

~~§ 12.5 As part of Basic Services, the Architect will review, evaluate and accept or reject any substitution proposed by the Contractor prior to receipt of bids. Requests for substitutions following receipt of bids will be reviewed by the Architect as an additional service.~~

~~§ 12.6 Basic Services include the preparation and delivery of reproducible record drawings showing significant changes in the work made during construction based on marked up prints, drawings and other data furnished by the Construction Manager to the Architect.~~

~~§ 12.7 The Architect shall not be entitled to additional compensation in the event it is necessary to extend the contract completion date because the Project is delayed due to conditions beyond the control of the Owner such as strikes, weather, materials shortages, etc.~~

~~§ 12.8 The Architect and Construction Manager shall provide the Owner the necessary bidding information. The referenced bid specifications shall consist of the unabridged AIA contract forms which the Architect shall modify as necessary to be consistent with this Agreement and the laws of the State of Michigan, including, but not limited to dispute resolution procedures. The Architect shall include in bid specifications, and in any of the relevant document provisions indicating that modified version(s) of standard AIA Owner/Contractor Agreement(s) and modified General Conditions will be utilized; such documents shall be subject to the Owner's approval. The Architect shall have the responsibility of amending AIA Document A201 – 2017 to remove all reference to arbitration and to incorporate AIA Document A201 – 2017, as modified, into the project manual. The items listed in this Section 12.8 shall be a joint effort of the Architect and Construction Manager.~~

~~§ 12.9 The Architect hereby agrees that it will be the Architect who is responsible for the construction/remodeling of the school building(s) described in this Agreement pursuant to the provisions to Section 763.99(a) of Part III of the regulation of the Environmental Protection Agency also known as 40 CFR 763.99(a)(7) as published in Federal Register. The Architect shall certify in compliance with said Section that no ACBM (asbestos containing building~~

material) was specified as a building material in any construction document for the building(s); the Architect shall submit a copy of the certification to the Environmental Protection Agency Regional Office and to the Owner, which shall include the certification in its management plan.

§ 12.10 The Architect shall specify in each contract that no ACBM shall be used in the construction of the school building(s).

The Architect also agrees that it will coordinate with the Owner's personnel or the consultant, above referenced, in order to appropriately integrate the replacement of non-hazardous materials, as required under the general contracts, with the asbestos removal and treatment process for the entire construction Project(s). The Owner agrees that it shall place sole reliance upon its personnel and/or the qualified asbestos consultant, and its contractors or subcontractors, as to the means of accomplishing the asbestos removal or treatment process.

Except as expressly provided herein, the Architect shall have no responsibility whatsoever with regard to the identification, analysis, or removal of hazardous materials. The Architect shall require that, upon issuance of the final certificate for payment, each contractor certify to the Owner that to the best of the contractor's knowledge, no ACBM was used in the construction work.

The Architect shall immediately notify the Owner, in writing, of the presence at the Project site of any hazardous substances, construction materials or components of which the Architect is aware.

§ 12.11 (a) If errors and omissions in the Project are detected in the plans and specifications before the Work has been bid, the cost of any re-design required to incorporate the item or feature omitted or to correct the error shall be borne by the Architect. Any additional construction costs in this instance resulting from the inclusion of the omitted item or feature or to correct the error shall be borne by the Owner.

(b) If errors and omissions in the Project are detected in the plans and specifications after the Work has been bid, and if revision, removal or replacement of a portion of the Work is required, the Architect shall pay the cost of redesign and, if the Architect's error or omission was due to professional negligence, then the Architect shall pay for the cost of the revision, removal, and the reconstruction required to incorporate the omission or to correct the error, and the Owner shall be responsible only for the costs it would have incurred had the error or omission not occurred.

(c) The Architect and Owner acknowledge that no set of Construction Documents will be free of errors and that some errors and/or omissions may be within the standard of care of the industry. As such, the Owner will set aside a reasonable contingency based on Architect's past performance to accommodate the potential for additional costs arising out of errors and/or omissions that are within the standard of care of the industry.

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

§ 12.13 In the event of mediation arising out of or relating to this Agreement, Owner reserves the right to require that the mediation hearing be conducted in the general area where the Owner's principal place of business is located

§ 12.14. The Architect shall provide the following within its Basic Services:

Services necessitated by recommendations given by the Owner or Construction Manager (as authorized)
Making revisions to drawings because the estimate of the cost of the work exceeds the Owner's budget.
Preparing designs and documentation for alternate bids solely for the purposes of managing the Owner's budget
Preparing for, and attending, public presentations, meetings or hearings.
Preparing for, and attending, a dispute resolution proceeding or legal proceeding.
Evaluating the qualifications of bidders.
Reviewing a contractor's submittal out of sequence from the initial submittal schedule
Responding to all contractor requests for information.
Evaluating all claims as the Initial Decision Maker.

§ 12.15 The Architect, without additional cost to the Owner, shall maintain in force professional liability insurance providing coverage for the Architect for any negligent act in the Architect's rendering of or failure to render Professional services and protecting the Owner for damages arising from results of such errors and omissions. Any "claims made" insurance shall be maintained in force during the life of the Project and for a period of no less than six (6) years following the date of substantial completion. Any "occurrence based" insurance shall be maintained in force during the life of the Project and for a period of no less than twelve (12) months after the date of substantial completion. The Architect shall notify the Owner thirty (30) days in advance if this coverage becomes unavailable or if the coverage amount is substantially changed. The Architect shall provide the Owner with certificates of insurance evidencing the insurance coverage of the Architect, which certificates shall be attached to this Agreement. The Owner shall be listed as "additional insured" on all coverages to the extent reasonably permitted by the carrier.

§ 12.16 The Architect shall produce original drawings and specifications, as well as all construction bulletin drawings and specifications in pdf format acceptable to the Owner as a part of Basic Services. Additionally, the Architect shall assemble and deliver all field drawings used for the Project as a part of Basic Services.

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

§ 12.18 The Architect agrees to provide assistance up to one (1) year beyond the date of substantial completion as a part of Basic Services, as well as a post-occupancy evaluation of the building thirty (30) days prior to the expiration of the last Contractor warranty period. This review shall include architectural, plumbing, mechanical, electrical, civil and structural review of the Project, to determine whether the Project components are performing as specified prior to the expiration of the relevant warranty.

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

§ 12.20 The Architect will not discriminate against any employee or applicant for employment, to be employed in the performance of this contract, with respect to hire, tenure, conditions or privilege of employment, or any matter directly or indirectly related to employment, because of race, age, sex, color, religion, national origin, ancestry or physical disability. Breach of this covenant may be regarded as a material breach of this 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:

- 1 AIA Document B133™–2019, Standard Form Agreement Between Owner and Architect, Construction Manager as Constructor Edition
- 2 ~~AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below, if completed, or the following:~~
~~(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 E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition dated as indicated below.
(Insert the date of the E234–2019 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.

LAKEWOOD PUBLIC SCHOOLS

OWNER (Signature)

«Steven Skalka »« Superintendent »

(Printed name and title)

ARCHITECT (Signature)

« »« »

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

ATTACHMENT “B”

FAMILIAL DISCLOSURE STATEMENT

AFFIDAVIT OF _____
(insert name of affiant)

STATE OF MICHIGAN)
)ss
COUNTY OF _____)

_____ makes this Affidavit under oath and states as follows:

(insert name of affiant)

1. I am a/the:
- ☐ President
 - ☐ Vice-President
 - ☐ Chief Executive Officer
 - ☐ Member
 - ☐ Partner
 - ☐ Owner
 - ☐ Other (please specify) _____

of [insert name of contractor], a bidder for architectural services for Lakewood Public Schools.

2. I have personal knowledge and/or I have personally verified that the following are all of the familial relationships existing between the owner(s) and the employee(s) of the aforementioned contractor and the school district's superintendent and/or board members:

3. I have authority to bind the aforementioned contractor with the representations contained herein, and I am fully aware that the school district will rely on my representations in evaluating bids for architectural services.

4. I declare the above information to be true to the best of my knowledge, information and belief. I could completely and accurately testify regarding the information contained in this affidavit if requested to do so.

(signature of affiant)

Dated: _____

Subscribed and sworn before me in _____ County,
Michigan, on the ____ day of _____, 20____

_____(signature)

_____(printed)

Notary public, State of Michigan, County of _____

My Commission expires on _____

Acting in the County of _____

ATTACHMENT “C”

IRAN ECONOMIC SANCTIONS ACT CERTIFICATION

I am the _____ (title) _____ of _____ (bidder) _____, or I am bidding in my individual capacity (“Bidder”), with authority to submit a binding bid for the provision of architectural services to Lakewood Public Schools. I have personal knowledge of the matters described in this Certification, and I am familiar with the Iran Economic Sanctions Act, MCL 129.311, et seq. (“Act”). I am fully aware that the school district will rely on my representations in evaluating bids.

I certify that Bidder is not an Iran-linked business, as that term is defined in the Act. I understand that submission of a false certification may result in contract termination, ineligibility to bid for three (3) years, and a civil penalty of \$250,000 or twice the bid amount, whichever is greater, plus related investigation and legal costs.

(signature)

(printed)

(date)

ATTACHMENT “D”

SUMMARY – SCOPE OF WORK

The items below are not intended to be a complete description of the scope of work but rather a partial summary of the scope of work as projected at this time.

- Replace roofs at all buildings
- Improve parking lots and drives at all school buildings
- Construction of a new bus garage
- Athletic facilities improvements, including:
 - Stadium bleachers, fencing, and new scoreboard
 - Tennis court resurfacing and underdrainage
 - Replace the high school track
- Water system upgrades
- Safe and secure entrances
- Renovation for consolidation or new build
- Other improvements to be determined with the advice of the architect and construction manager.

Project Budget for Bond Sizing Purposes: \$25-50 Million