

State of Rhode Island Version of AIA® Document B101™ – 2017

Standard Form of Agreement Between Owner and Architect - Owner and DESIGN AGENT Edition



COMPARATIVE

NOTE: This comparative version of AIA Document B101–2017 shows additions and deletions to standard AIA content by the State of Rhode Island. Additions to AIA Document B101–2017 are underlined (addition); deletions are stricken (~~deletion~~). Publication of this modified version of AIA Document B101–2017 does not imply the American Institute of Architects' endorsement of any modification by the State of Rhode Island.

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Standard Form of Agreement Between Owner and Architect - Owner and DESIGN AGENT Edition

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

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

State of Rhode Island, acting by and through the Department of
Administration, Division of Purchases, on behalf of the User Agency
One Capitol Hill, Second Floor
Providence, Rhode Island 02908-5855
401-578-8100 (telephone); 401-574-8387 (facsimile)
www.ridop.ri.gov

~~and the Architect:~~

on behalf of the User Agency:
(Name, legal status, address, telephone and ~~other information~~ facsimile numbers,
and website)



This comparative version of AIA Document B101–2017 is modified by the State of Rhode Island. Publication of this version of AIA Document B101 does not imply the American Institute of Architects' endorsement of any modification by the State of Rhode Island.

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

THIS COMPARATIVE DOCUMENT IS FOR REFERENCE PURPOSES ONLY AND IS NOT FOR USE.

and the Design Agent:
(Name, legal status, address, telephone and facsimile numbers, and website)

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

The Owner and ~~Architect~~ Design Agent agree as follows.

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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.)

§ 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.)

§ 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.)

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

.1 Design phase milestone dates, if any:

.2 Construction commencement date:

.3 Substantial Completion date or dates:

.4 Other milestone dates:

§ 1.1.5 The Owner intends the following procurement and delivery method for the Project:
(Identify method such as competitive bid or negotiated contract, as well as any requirements for accelerated or fast-track design and construction, multiple bid packages, or phased construction.)

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

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

§ 1.1.7 The Owner identifies the following representative in accordance with Section 5.3:
(List name, title address, and other contact information for the preferred methods of contact.)

§ 1.1.7.1 The User Agency identifies the following representative in accordance with Section 5.3
(List name, title address, and other contact information for the preferred methods of contact.)

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

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

.1 Geotechnical Engineer:

.2 Civil Engineer:

.3 Other, if any:
(List any other consultants and contractors retained by the Owner.)

§ 1.1.10 The ~~Architect~~Design Agent identifies the following representative in accordance with Section 2.3:
(List name, title, address, and other contact information for the preferred methods of contact.)

§ 1.1.11 The ~~Architect~~Design Agent shall retain the consultants identified in Sections 1.1.11.1 and 1.1.11.2:
(List name, legal status, address, telephone and ~~other contact information~~facsimile numbers, and website.)

§ 1.1.11.1 Consultants retained under Basic Services:

.1 Structural Engineer:

.2 Mechanical Engineer:

.3 Electrical Engineer:

§ 1.1.11.2 Consultants retained under Supplemental Services:

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

§ 1.2 The Owner and Architect/Design Agent 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/Design Agent shall appropriately adjust the Architect's/Design Agent's services, schedule for the Architect's/Design Agent's services, and the Architect's/Design Agent'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~~may 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/DESIGN AGENT'S RESPONSIBILITIES

§ 2.1 The Architect/Design Agent shall provide professional services as set forth in: (i) the Solicitation issued by the Owner; and (ii) this Agreement. The Architect/Design Agent represents that it is properly licensed in the jurisdiction where the Project is located state of Rhode Island to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals. No part of the professional services shall be performed by Subconsultants or Subcontractors without the Owner's prior written consent.

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

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

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

§ 2.5 The Architect/Design Agent shall maintain the following types and limits of insurance until termination of this Agreement. ~~If any of, unless different amounts have been specified in 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. Solicitation:~~

§ 2.5.1 Commercial General Liability (including broad-form contractual liability and completed operations) with policy limits of not less than ~~—(\$—)~~\$1,000,000 for each occurrence and ~~—(\$—)~~in the aggregate for bodily injury and property damage.

§ 2.5.2 Commercial Automobile Liability covering vehicles owned, hired, and ~~non-owned~~nonowned vehicles used, by the Architect/Design Agent with policy limits of not less than ~~—(\$—)~~per accident \$1,000,000 combined single limit and

aggregate for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

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

§ 2.5.4 Workers' Compensation at statutory limits.

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

§ 2.5.6 Professional Liability covering bodily injury and property damage due to the Design Agent's negligent acts, errors, and omissions in the performance of professional services with policy limits of not less than ~~—(\$—)~~\$2,000,000 per claim and ~~—(\$—)~~ in the aggregate, maintained during the term of this Agreement and for a period of 5 years after the Final Completion of any and all of the Design Agent's Basic and Additional Services under this Agreement. Any retroactive date or prior acts exclusions to which such coverage is subject shall predate the date on which services hereunder are commenced and the date of this Agreement.

§ 2.5.7 Additional Insured Obligations.

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

§ 2.5.8 ~~The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5. The Design Agent shall provide the Owner and the User Agency, on an annual basis for the duration of this Agreement and from time to time upon request, with a copy of a policy endorsement and certificates of insurance that name the State of Rhode Island and the User Agency as "certificate holders" and as "additional insureds" and that otherwise evidences compliance with the requirements of this Section 2.5. The certificate of insurance must state that 30 calendar days' advance notice of cancellation, nonrenewal, or material change (together with a copy of the materially changed policy or endorsement) in coverage will be sent to: Rhode Island Department of Administration, Division of Purchases, One Capitol Hill, Providence, Rhode Island 02908-5855, fax # (401) 574-8387, and must reference the Project and this Agreement. Material changes that are not acceptable to the Owner may result in termination by the Owner pursuant to Section 9.4. All policies, endorsements, and certificates of insurance must include the following language: Coverage is primary and noncontributory. Subrogation is waived for the additional insured.~~

ARTICLE 3 SCOPE OF ARCHITECT'SDESIGN AGENT'S BASIC SERVICES

§ 3.1 The ~~Architect's~~Design Agent's Basic Services consist of those described in the Solicitation and in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in this Article 3 or in the Solicitation are Supplemental or Additional Services.

§ 3.1.1 The ~~Architect~~Design Agent shall manage the ~~Architect's~~Design Agent's services, consult with the Owner and the User Agency, research applicable design criteria, facilitate and attend Project meetings, communicate with members of the Project team, and report progress to the Owner and the User Agency on a regular basis and as requested from time to time by the Owner and the User Agency.

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

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

§ 3.1.4 The ~~Architect~~Design Agent 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~~Design Agent's written approval.

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

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

§ 3.2 Schematic Design Phase Services

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

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

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

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

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

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

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

§ 3.2.6 The ~~Architect~~Design Agent shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3. As necessary or appropriate, the Design Agent and its consultants shall participate in value engineering review meetings with the Owner.

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

§ 3.3 Design Development Phase Services

§ 3.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's written authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the ~~Architect~~Design Agent shall prepare Design Development Documents for the Owner's written approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels. The Design Development Drawings shall also include manufacturer's cut sheets for all architectural finish materials, both interior and exterior, samples for significant interior and exterior materials, and manufacturer's cut sheets for all lighting and plumbing fixtures and trim. The Design Development Documents shall include equipment schedules with sizing information, one-line diagrams, trunk utility sizes for all mechanical, electrical, and fire protection systems, and preliminary sizing for all typical structural components.

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

§ 3.3.3 The ~~Architect~~Design Agent shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's ~~approval~~written approval. As necessary or appropriate, the Design Agent and its consultants shall participate in value engineering review meetings with the Owner.

§ 3.4 Construction Documents Phase Services

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

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

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

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

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

§ 3.5 Procurement Phase Services

§ 3.5.1 General

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

§ 3.5.2 Competitive Bidding

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

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

- .1 facilitating the distribution of Bidding Documents to prospective bidders;
- .2 organizing attending and conductingparticipating in a pre-bid conference for prospective bidders; and
- .32 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents, with the written approval of the Owner, for distribution to theall prospective bidders in the form of addenda; and, through the Owner's website.
- .4 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

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

§ 3.5.3 Negotiated Proposals

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

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

- .1 facilitating the distribution of Proposal Documents for distribution to prospective contractors and requesting their return upon completion of the negotiation process;
- .2 organizing and participating in selection interviews with prospective contractorsbidders;
- .32 preparing responses to questions from prospective contractorsbidders and providing clarifications and interpretations of the Proposal Documents, with the written approval of the Owner, for distribution to theall prospective contractorsbidders in the form of addenda through the Owner's website; and,
- .43 participating in negotiations with prospective contractorsbidders, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.

§ 3.5.3.3 If the Proposal Documents permit substitutions, upon the Owner's written authorization, the ArchitectDesign Agent shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions for distribution to all prospective contractorsbidders through the Owner's website.

§ 3.6 Construction Phase Services

§ 3.6.1 General

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

§ 3.6.1.2 The ArchitectDesign Agent shall advise and consult with the Owner during the Construction Phase Services. The Architect The Design Agent shall supervise all Project meetings and record and distribute all meeting minutes. The Design Agent shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. The ArchitectThe Design Agent shall review the schedule of values submitted by the Contractor to assure that the Contract Sum is allocated properly to the various portions of the Work. The schedule of values shall be in such form and supported by such data to substantiate its accuracy as the Design Agent and the Owner may require. This schedule, if

and when approved by the Design Agent and the Owner in writing, shall be used as a basis for reviewing the Contractor's Applications for Payment. The Design Agent shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences, or procedures, or for safety precautions and programs in connection with the Work, nor shall the Architect-Design Agent be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect-Design Agent shall be responsible for the Architect's-Design Agent's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Contractor or of any other persons or entities performing portions of the Work.

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

§ 3.6.2 Evaluations of the Work

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

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

§ 3.6.2.3 The Architect-Design Agent shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or the Contractor. The Architect's-Design Agent'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-Design Agent shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect-Design Agent shall endeavor to secure faithful performance by both the Owner and the Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents rendered reasonably in the Design Agent's professional judgment and in good faith.

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

§ 3.6.3 Certificates for Payment to Contractor

§ 3.6.3.1 The Architect-Design Agent shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's-Design Agent's certification for payment shall constitute a representation to the Owner, based on the Architect's-Design Agent's evaluation of the Work as provided in Section 3.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's-Design Agent's knowledge,

information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed in writing to the Owner by the ArchitectDesign Agent.

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

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

§ 3.6.4 Submittals

§ 3.6.4.1 The ArchitectDesign Agent shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect'sDesign Agent'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'sDesign Agent's professional judgment, to permit adequate review.

§ 3.6.4.2 The ArchitectDesign Agent shall review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect'sThe Design Agent shall provide prompt written notice to the Owner and the User Agency, however, if the Design Agent becomes aware of any error, omission, or inconsistency in such submittals or information. The Design Agent's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences, or procedures. The Architect'sDesign Agent's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 3.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the ArchitectDesign Agent shall specify the appropriate performance and design criteria that such services must satisfy. The ArchitectDesign Agent shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the ArchitectDesign Agent. The Architect'sDesign Agent's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The ArchitectDesign Agent 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 ArchitectDesign Agent shall review and respond to requests for information about the Contract Documents. ~~The Architect shall set forth, in the Contract Documents, the requirements for requests for information.~~ Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect'sDesign Agent's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, and with the ArchitectOwner's prior written approval, the Design Agent shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

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

§ 3.6.5 Changes in the Work

§ 3.6.5.1 The ArchitectDesign Agent 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. The Design Agent shall: (i) review with the Owner and the User Agency all other changes in the Work proposed by the Contractor; and (ii) advise the Owner and the User Agency regarding their scope, cost, and any adjustment in time. Subject to Section 4.2, the ArchitectDesign Agent shall prepare Change Orders and Construction Change Directives for the Owner's written approval and execution in accordance with the Contract Documents.

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

§ 3.6.6 Project Completion

§ 3.6.6.1 The ArchitectDesign Agent shall:

1. conduct inspections to determine the date or dates of Substantial Completion and the date of ~~final completion~~Final Completion;
2. issue Certificates of Substantial Completion;
3. forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and,
4. with the Owner's prior written approval, 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'sDesign Agent's inspections shall be conducted with the Owner and the User Agency to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected.

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

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

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of ~~Substantial~~Final Completion, the ArchitectDesign Agent shall, without additional compensation, conduct a ~~meeting~~minimum of 2 meetings with the Owner and the User Agency to review the facility operations and performance.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

§ 4.1.1 The services ~~listed below are not included specifically set forth in the Solicitation shall be deemed to be~~ Basic Services ~~but may be required for the Project. The Architect for all purposes under this Agreement and shall not require additional compensation. If there are services listed below in this Section 4.1.1, the Design Agent shall provide the listed them as Supplemental Services only if specifically designated in as the table below as the Architect'sDesign Agent's responsibility, and the Owner shall compensate the ArchitectDesign Agent as provided in Section 11.2. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project.~~

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

(Designate the Design Agent's Supplemental Services, if any.)

Supplemental Services	Responsibility (Architect, Owner, or not provided)
§ 4.1.1.1 — Programming	
§ 4.1.1.2 — Multiple preliminary designs	
§ 4.1.1.3 — Measured drawings	
§ 4.1.1.4 — Existing facilities surveys	
§ 4.1.1.5 — Site evaluation and planning	
§ 4.1.1.6 — Building Information Model management responsibilities	
§ 4.1.1.7 — Development of Building Information Models for post construction use	
§ 4.1.1.8 — Civil engineering	
§ 4.1.1.9 — Landscape design	
§ 4.1.1.10 — Architectural interior design	
§ 4.1.1.11 — Value analysis	
§ 4.1.1.12 — Detailed cost estimating beyond that required in Section 6.3	
§ 4.1.1.13 — On-site project representation	
§ 4.1.1.14 — Conformed documents for construction	
§ 4.1.1.15 — As-designed record drawings	
§ 4.1.1.16 — As-constructed record drawings	
§ 4.1.1.17 — Post-occupancy evaluation	
§ 4.1.1.18 — Facility support services	
§ 4.1.1.19 — Tenant-related services	
§ 4.1.1.20 — Architect's coordination of the Owner's consultants	
§ 4.1.1.21 — Telecommunications/data design	
§ 4.1.1.22 — Security evaluation and planning	
§ 4.1.1.23 — Commissioning	
§ 4.1.1.24 — Sustainable Project Services pursuant to Section 4.1.3	
§ 4.1.1.25 — Fast-track design services	
§ 4.1.1.26 — Multiple bid packages	
§ 4.1.1.27 — Historic preservation	
§ 4.1.1.28 — Furniture, furnishings, and equipment design	
§ 4.1.1.29 — Other services provided by specialty Consultants	
§ 4.1.1.30 — Other Supplemental Services	

§ 4.1.2 Description of Supplemental Services

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

(Describe in detail the Architect's Design Agent's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit. The AIA publishes a number of Standard Form of Architect's Design Agent's Services documents that can be included as an exhibit to describe the Architect's Design Agent'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 ArchitectDesign Agent shall provide, as a Supplemental Service, the Sustainability Services required in AIA Document E204™–2017, Sustainable Projects Exhibit, attached to this Agreement. The Owner shall compensate the ArchitectDesign Agent as provided in Section 11.2.

§ 4.2 Architect'sDesign Agent's Additional Services

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

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

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

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

- .1 Reviewing reviewing a Contractor's submittal out of sequence from the submittal schedule approved by the ArchitectDesign Agent;

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

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

- .1 ~~—(—) 2~~ reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor;
- .2 ~~—(—) weekly~~ visits to the site by the ~~Architect~~Design Agent during construction, ~~and as necessary to resolve construction exigencies, and biweekly visits to the site by the Project engineers during any installation of their portion of the Work;~~
- .3 ~~—(—) 2~~ inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents;
- .4 ~~—(—) 2~~ inspections for any portion of the Work to determine ~~final completion.~~Final Completion; and
- .5 ~~2 inspections within 12 months, as directed by the Owner or the User Agency following Final Completion to determine punch list and warranty compliance.~~

§ 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 ~~working~~ 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 ~~the~~ Contractor, whichever is earlier, shall be compensated as Additional Services to the extent the ~~Architect~~Design Agent 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~~Design Agent, extension of the ~~Architect's~~Design Agent's services beyond that time shall be compensated as Additional Services.

ARTICLE 5 OWNER'S RESPONSIBILITIES

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

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

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

§ 5.3.1 The User Agency shall identify a representative authorized to act on the User Agency's behalf with respect to the Project. The User Agency shall render decisions in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Design Agent's services.

§ 5.4 ~~The~~ If necessary for the Design Agent to perform its services under this Agreement, ~~the~~ Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a

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

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

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

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

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

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

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

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

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

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

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

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

ARTICLE 6 COST OF THE WORK

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

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

§ 6.3 The Design Agent, if an architect, shall provide detailed cost estimates of the Cost of the Work at the intervals specified in the Project Schedule. In preparing estimates of the Cost of Work, the ArchitectDesign Agent shall be permitted to include contingencies for design, bidding, and price escalation; to determine what materials, equipment, component systems, and types of construction are to be included in the Contract Documents; to recommend reasonable adjustments in the program and scope of the Project; and to include design alternates as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget. The Architect'sDesign Agent's estimate of the Cost of the Work shall be based on current area, volume, or similar conceptual estimating techniques. If the Owner requires a detailed estimate of the Cost of the Work, the ArchitectThe Design Agent, if an engineer, shall provide an opinion of probable construction value. An engineer must provide detailed cost estimates if such an estimate, if estimates are identified as the Architect's responsibility in Section 4.1.1, as a Supplemental Service. in Section 4.1.

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

§ 6.5 If at any time the Architect'sDesign Agent's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the ArchitectDesign Agent 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 ArchitectDesign Agent in making such adjustments.

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

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

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

§ 6.8 The Owner may also engage the services of an estimator to assist in the evaluation of the Owner's budget and the Cost of the Work. The Design Agent and the Owner will exchange and reconcile the detailed information of their estimators to refine and confirm the Owner's budget and the Cost of the Work.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The ArchitectDesign Agent 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 ArchitectDesign Agent and the Architect'sDesign Agent'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 ArchitectDesign Agent and the Architect'sDesign Agent's consultants.

§ 7.3 The ArchitectUpon execution of this Agreement, the Design Agent grants to the Owner a nonexclusive perpetual license to use the Architect'sDesign Agent's Instruments of Service, including electronic or digital documents, solely and exclusively for purposes of constructing, using, maintaining, altering, and adding to the Project, and shall have and retain all rights to use and reproduce them for the production and maintenance of the Work described therein, 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 ArchitectDesign Agent shall obtain similar nonexclusive licenses from the Architect'sDesign Agent's consultants consistent with this Agreement. These Instruments of Service shall be conveyed to the Owner in their original operative, editable, electronic form in order to allow the Owner's integration of the data into the Owner's or User Agency's facilities management database. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, ~~subject to any protocols established pursuant to Section 1.3,~~ solely and exclusively for use in performing services or construction for the Project. If the ArchitectDesign Agent rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 Upon full payment of all sums due the Design Agent under this Agreement, all of the original Drawings, Specifications, and electronic data prepared by the Design Agent for the Project shall, without further action by the Design Agent, become the property of the Owner. In the event the Owner uses or others use the Instruments of Service without retaining, directly or indirectly, the authors of the Instruments of Service, the Owner releases the ArchitectDesign Agent and Architect'sDesign Agent's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge, or otherwise transfer any license granted herein to another party without the prior written agreement of the ArchitectDesign Agent. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the ArchitectDesign Agent and the Architect'sDesign Agent'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 ArchitectDesign Agent shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law;

~~but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive. The Design Agent waives~~ 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~~Design Agent 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, ~~as modified by the Owner.~~ The ~~Owner or the Architect, as appropriate,~~ Design Agent shall require of ~~the contractors, its~~ consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The ~~Architect~~Design Agent 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~~the termination of this Agreement, except as specifically provided in Section 9.7.

§ 8.1.4 ~~To the fullest extent permitted by law, the Design Agent shall indemnify and hold harmless the Owner, the User Agency and the State of Rhode Island in accordance with State of Rhode Island General Conditions of Purchase Regulation 220-RICR-30-00-13.21.~~

§ 8.1.4.1 ~~Without limiting the generality of the foregoing, the defense and indemnity set forth in this Section 8.1.4 includes, without limitation, all judgments, liabilities, damages, losses, claims, demands, and actions on account of bodily injury, death, or property loss to a person or entity indemnified hereunder or any other matter in question persons or entities, whether based upon statutory (including, without limitation, workers compensation), contractual, tort, or other liability of any person or entity so indemnified.~~

§ 8.1.4.2 ~~The remedies set forth herein shall not deprive any person indemnified hereunder of any other indemnity action, right, or remedy otherwise available to any such person or entity at common law or otherwise.~~

§ 8.1.4.3 ~~The Design Agent will include the indemnity set forth in this Section 8.1.4 without modification, in each Subcontract with any Subconsultant or Subcontractor.~~

§ 8.1.4.4 ~~Notwithstanding any other language in the Contract Documents to the contrary, the indemnity hereunder shall survive Final Completion of the Work and final payment under this Agreement and shall survive any termination of this Agreement.~~

§ 8.1.5 ~~The Owner shall have the right to deduct from any payments due to the Design Agent the amount of any unpaid obligations owed to the State of Rhode Island by the Design Agent, including without limitation, any and all unpaid taxes, the amount of any claim against the Design Agent arising out of or related to this Agreement, or any amount on account of any other reason permitted by applicable law.~~

§ 8.2 ~~Mediation~~ Initial Decision and Mediation

§ 8.2.1 ~~Any claim, dispute~~Claims shall be ~~subject to mediation referred to the Initial Decision Maker for initial decision. The Purchasing Agent appointed pursuant to the provisions of the "State Purchases Act," R.I. Gen. Laws § 37-2-1 et seq., will serve as the Initial Decision Maker in accordance with the provisions of the State Purchases Act, State of Rhode Island Procurement Regulations, and this Section 8.2.1. An initial decision shall be required as a condition precedent to binding dispute resolution. If such matter relates pursuant to or is the subject~~Section 8.3.1 of a ~~lien~~any Claim arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien prior to the date final payment is due.

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

stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings. For any Claim not resolved by the Initial Decision Maker procedures set forth in Section 8.2.1, and prior to the implementation of the binding dispute resolution procedures set forth in Section 8.3.1, the Design Agent shall have the option to pursue mediation, exercisable by written notice to the Owner within 30 calendar days of an Initial Decision. In the event of the exercise of such option by the Design Agent, the Owner and the Design Agent shall attempt to select a mediator, and in the event that the Owner and the Design Agent cannot agree on a mediator, either party may apply in writing to the Presiding Justice of the Providence County Superior Court, with a copy to the other, with a request for the court to appoint a mediator, and the costs of the mediator shall be borne equally by both parties.

§ 8.2.3 Deleted. 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 Deleted. 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 Binding Dispute Resolution

§ 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. For any Claim not resolved by the Initial Decision Maker procedures set forth in Section 8.2.1, or mediation at the option of the Design Agent pursuant to Section 8.2.2, the method of binding dispute resolution shall be determined in accordance with the provisions of the "Public Works Arbitration Act," R.I. Gen. Laws §§ 37-16-1 et seq.

§ 8.3.1.1 Deleted. 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 Deleted. 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 Deleted. 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 Deleted.

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

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

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the ArchitectDesign Agent in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect'sDesign Agent's option, cause for suspension of performance of services under this Agreement. If the ArchitectDesign Agent elects to suspend services, the ArchitectDesign Agent shall give ~~seven~~7 working days' written notice to the Owner before suspending services. In the event of a suspension of services, the ArchitectDesign Agent 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 ArchitectDesign Agent all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect'sDesign Agent's services. The Architect'sDesign Agent's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 ~~The Owner may suspend the Project as provided in this Agreement, the State Purchases Act, R.I. Gen. Laws §§ 37-2-1 et seq., the State of Rhode Island Procurement Regulations, or other applicable law.~~ If the Owner suspends the Project, the ArchitectDesign Agent shall be compensated for services performed prior to notice of such suspension. ~~WhenIf and 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'sDesign Agent's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than 90 cumulative working days for reasons other than the fault of the ArchitectDesign Agent, the ArchitectDesign Agent may terminate this Agreement by giving not less than ~~seven~~7 working days' written notice.

§ 9.4 Either party may terminate this Agreement upon not less than ~~seven~~7 working 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 ArchitectDesign Agent for the Owner's convenience and without cause. ~~The Owner may also terminate this Agreement: (i) in the event of the unavailability of appropriated funds; (ii) in the absence of a determination of continued need; or (iii) as otherwise provided in the State Purchases Act, R.I. Gen. Laws §§ 37-2-1 et seq., the State of Rhode Island Procurement Regulations, or other applicable law.~~

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

§ 9.7 Deleted. 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 Design Agent's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 9.7.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 ~~This Agreement shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3. This Agreement is subject to , and governed by, the laws of the State of Rhode Island, including all procurement statutes and regulations (available at www.ridop.ri.gov), and applicable federal and local law, all of which are incorporated into this Agreement by this reference. In the event of any conflict between this Agreement and any such procurement statutes or regulations or any other provision of Rhode Island law, the procurement statutes, regulations, and Rhode Island law will control. The Design Agent hereby consents to and confers exclusive personal jurisdiction upon the courts of the state of Rhode Island and of the federal government sitting within this state. In the event of any conflicts or discrepancies among the Contract Documents, the provisions of the Contract Documents will be interpreted in the order of priority set forth in the State of Rhode Island General Conditions of Purchase Regulation 220-RICR-30-00-13.4(B). This Agreement is considered part of the Purchase Order and therefore is ranked in the Order of Precedence with the Purchase Order, 220-RICR-30-00-13.4(B)(4).~~

§ 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, as modified by the Owner.

§ 10.3 The Owner and Architect Design Agent, 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; provided, however, that the Design Agent may not assign its rights nor delegate its responsibilities under this Agreement without the Owner's prior written consent.~~

§ 10.4 If the Owner requests the Architect Design Agent to execute certificates, the proposed language of such certificates shall be submitted to the Architect Design Agent for review at least 14 days a reasonable time 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.~~

§ 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. The User Agency is a disclosed third-party beneficiary of this Agreement and shall have all of the rights and benefits to which such a party is entitled hereunder. Nothing contained in this Agreement shall create a contractual relationship with, or a cause of action in favor of, any other third party against the Owner, User Agency, or Design Agent.~~

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

Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 If the ~~Architect~~Design Agent 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 Owner is the State of Rhode Island, acting by and through its Department of Administration Division of Purchases, and therefore, pursuant to the provisions of R.I. Gen. Laws § 34-28-31, liens against the Project are not enforceable.

ARTICLE 11 COMPENSATION

§ 11.1 For the Architect’s Basic Services described under Article 3, the Owner shall compensate the ~~Architect as follows:~~ Design Agent as set forth in the Cost Proposal Exhibit.

.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~~Design Agent’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:~~Design Agent as set forth in the Cost Proposal Exhibit.

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

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section 4.2, the Owner shall compensate the ~~Architect as follows:~~Design Agent at the hourly rates set forth in the Cost Proposal Exhibit.
~~(Insert amount of, or basis for, compensation.)~~

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

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

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

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

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

Employee or Category

Rate (\$0.00)

§ 11.8 Compensation for Reimbursable Expenses

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

- ~~1 Transportation and authorized out-of-town travel and subsistence~~authorized transportation, authorized out-of-town travel and subsistence, except for travel to and from the Design Agent's offices or the Consultant's offices, to meet with the Owner, the User Agency, or to visit the Project site; travel reimbursable expenses are subject to the limitations established from time to time for state employees by the Rhode Island Department of Administration Office of Accounts and Control;
- ~~2 Deleted~~ Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;
- ~~3 Permitting~~ permitting and other fees required by authorities having jurisdiction over the Project;
- ~~4 Printing authorized additional printing, reproductions, and plots; provided to the Owner and/or Contractor(s) for review, bidding, and construction administration and standard form documents provided to the Owner and/or Contractor;~~
- ~~5 Postage~~ authorized postage, handling, and delivery;
- ~~6 Expense~~ expense of overtime work requiring higher than regular rates, if authorized in writing in advance by the Owner;
- ~~7 Renderings~~ renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner ~~or required~~in excess of those required by the Solicitation or requested by the Owner in writing for the Project;
- ~~8 Deleted~~ 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~~ all taxes levied on professional services and on reimbursable expenses;

- .10 ~~Site authorized site~~ office expenses;
- .11 ~~Registration 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 other~~ similar ~~authorized~~ Project-related expenditures.

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

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

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

§ 11.10 Payments to the ~~ArchitectDesign Agent~~

§ 11.10.1 Initial Payments

§ 11.10.1.1 ~~An~~No 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 ~~ArchitectDesign Agent~~ 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'sDesign Agent's~~ payments to the Certifying Authority shall be credited to the Owner's account at the time the expense is incurred.

§ 11.10.2 Progress Payments

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable ~~upon presentation of the Architect's invoice. Amounts unpaid—(—) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect not later than the 30th working day following written approval by the Owner of the Design Agent's invoice. No interest shall be due or payable on account of any payment due or unpaid except in accordance with the provisions of "Prompt Payment by Department of Administration," R.I. Gen. Laws §§ 42-11.1-1 et seq.~~

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

~~—%~~

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

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

§ 11.10.2.4 Retainage in the amount of five (5%) percent of any amount otherwise due the Design Agent hereunder, excluding reimbursable expenses, shall be retained until the close-out of the Project.

§ 11.10.3 Within 10 working days of receipt of any progress payment from the Owner, the Design Agent must pay its Subconsultants and Subcontractors the full amount included for each such Subconsultant and Subcontractor reflected in the Design Agent's invoice for payment.

§ 11.10.4 The Owner may, at its sole option, issue joint checks to the Design Agent and to any Subconsultant or Subcontractor or material or equipment suppliers to whom the Design Agent failed to make payment for Work properly performed or material and equipment suitably delivered.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

~~Deleted.~~ Special terms and conditions that modify this Agreement are as follows:
(Include other terms and conditions applicable to this Agreement.)

ARTICLE 13 SCOPE OF THE AGREEMENT

§ 13.1 This Agreement represents the entire and integrated agreement between the Owner and the ArchitectDesign Agent 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 ArchitectDesign Agent.

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

- .1 The Purchase Order issued by the Owner
- .2 Solicitation # _____ issued by the Owner, including without limitation, the Invitation to Bid, the Instructions to Bidders, the Specifications and Drawings, any Addenda, and the Bid Checklist (with applicable forms)
- .13 AIA Document B101™–2017, Standard Form Agreement Between Owner and ArchitectDesign Agent, as modified by the Owner.
- .24 AIA Document A201–2017, General Conditions of the Contract for Construction, as modified by the Owner E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:
(Insert the date of the E203–2013 incorporated into this agreement.)
- .35 Exhibits:
(Check the appropriate box for any exhibits incorporated into this Agreement.)
 - ☐ AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204–2017 incorporated into this agreement.)
 - ☐ Other Exhibits incorporated into this Agreement:
(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits and scopes of services identified as exhibits in Section 4.1.2.)
Cost Proposal Exhibit
- .46 Other documents:
(List other documents, if any, forming part of the Agreement.)
The Design Agent's Response to the Solicitation, including without limitation, the Bidder Certification Cover Form, the Technical Proposal, and the Cost Proposal

The person signing for the Design Agent represents that he or she has been duly authorized to execute this Agreement on behalf of the Design Agent.

This Agreement entered into as of the day and year first written above; provided, however, that this Agreement shall not become a valid, binding, and enforceable contract unless and until the Owner shall have issued a Purchase Order.

**THE STATE OF RHODE ISLAND, acting by
and through its Department of Administration,
Division of Purchases**

OWNER (Signature)

(Printed name and title)

ARCHITECTDESIGN AGENT (Signature)

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