

prepare Record Drawings on CD-ROM in AutoCad 2010 or newer version, and shall prepare Specifications and Construction Documents in an electronic format specified by the Owner, all of which include significant changes known to the Architect. The Auto CAD files shall be named to correspond to sheet name and number. The Architect shall also review and recommend approval or disapproval of O&M manuals.

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

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance, to review correction-period items, and to make appropriate recommendations to the Owner. At the beginning of the final month of the one-year correction period, the Architect shall inspect the Project and report in writing any discrepancies observed. The Architect shall cooperate with the Owner to actively pursue and resolve issues regarding discrepancies or defects in the Work.

§ 3.6.6.6 As a part of the Architect's Basic Services, the Architect and its consultants, in particular its mechanical and electrical consultants, shall actively participate in commissioning and be a part of the commissioning team. The Architect and its consultants shall provide information and assistance to the Owner and the Owner's commissioning agent as needed for the commissioning process, consult and cooperate with the Owner's commissioning agent, and engage in any other services necessary for the commissioning process including attendance at all Commissioning meetings by the Architect and Mechanical and Electrical Engineers. The Contractor will be responsible to coordinate the commissioning of all designated systems. Commissioning shall demonstrate that each designated system operates as designed and specified. The Contractor will also be responsible to prepare for Owner approval a checklist of operations and tests to illustrate that each designated system is operational and to measure the performance of such systems. The Architect shall maintain a log of the commissioning, provide its written approval, and coordinate the comparison of performance with specification.

§ 3.6.6.7 The Architect shall observe the progress of the Work and other requirements in the Contract Documents for achieving Final Completion and shall advise the Owner of that recommended date.

§ 3.6.6.8 The Architect shall further receive and forward to the Owner for the Owner's review and use, all written warranties, O&M manuals, and related documents required by the Contract Documents and assembled by the Contractor. The Architect's review of the as-builts and O&M Manuals prior to forwarding to the Owner shall occur no more than three weeks after receipt. The Architect shall assist in supplying information, advice and communication with respect to the warranty or correction periods of the Contract for Construction. The Architect and the Owner shall cooperate in reviewing and securing the correction of defective work.

§ 3.6.6.9 The Architect shall observe the progress of the Work and other requirements in the Contract Documents for achieving Final Completion and shall advise the Owner of that recommended date. The Architect shall issue a final Certificate for Payment, in consultation with the Owner, upon compliance with the requirements of the Contract Documents.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

§ 4.1.1 The services listed below are not included in Basic Services but may be required for the Project, included in Basic Services or Other Basic Services if designated as the Architect's responsibility or which list the Architect's assistance or participation. If the Responsibility column lists "Owner" or "N/A," and if the Architect is required by the Owner to perform the Service, then it is an Additional Service. The Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2, or elsewhere in this Agreement as the Architect's responsibility. The Owner shall compensate the Architect as an Additional Service as provided in Section 11.2 only if the Owner requests the Architect in writing to perform the service, the service is not listed as the Architect's responsibility, and the Architect informs the Owner in advance and in writing that the service will be an Additional Service. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties

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agree that the listed Supplemental Service is not being provided for the Project. This list is not intended to change duties specified in other provisions of this Agreement.
(Designate the Architect's Supplemental Services and the Owner's Supplemental Services required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 4.1.2 below or attach the description of services as an exhibit to this Agreement.)

Supplemental Services	Responsibility (Architect, Owner, or not provided)
§ 4.1.1.1 Programming	<u>Architect</u>
§ 4.1.1.2 Multiple preliminary designs	<u>Architect, if necessary</u>
§ 4.1.1.3 Measured drawings	<u>Architect</u>
§ 4.1.1.4 Existing facilities surveys	<u>Architect</u>
§ 4.1.1.5 Site evaluation and planning	<u>Architect</u>
§ 4.1.1.6 Building Information Model management responsibilities	<u>Architect</u>
§ 4.1.1.7 Development of Building Information Models for post construction use	<u>N/A</u>
§ 4.1.1.8 Civil engineering (on and off site)	<u>Architect</u>
§ 4.1.1.9 Landscape design	<u>Architect</u>
§ 4.1.1.10 Architectural interior design (color coordination)	<u>Architect</u>
§ 4.1.1.11 Value analysis engineering	<u>N/A</u>
§ 4.1.1.12 Cost estimating	<u>Architect</u>
§ 4.1.1.13 On-site project representation	<u>Architect (weekly)</u>
§ 4.1.1.14 Conformed documents for construction	<u>Architect</u>
§ 4.1.1.15 As-designed record drawings	<u>Architect</u>
§ 4.1.1.16 As-constructed record drawings	<u>Architect (from Contractor per Section 3.6.6.3.I)</u>
§ 4.1.1.17 Post-occupancy evaluation	<u>Architect</u>
§ 4.1.1.18 Facility support services; Start-up Assistance	<u>Architect coordinate with Owner and Contractor</u>
§ 4.1.1.18 Facility support services	
§ 4.1.1.19 Tenant-related services	<u>N/A</u>
§ 4.1.1.20 Architect's coordination of the Owner's consultants	<u>Through Owner, with Architect assistance</u>
§ 4.1.1.21 Telecommunications/data design	<u>Architect</u>
§ 4.1.1.22 Security evaluation and planning	<u>Owner, with Architect's assistance</u>
§ 4.1.1.23 Commissioning	<u>Owner, with Architect's assistance</u>
§ 4.1.1.24 W.S.P. Requirements	<u>N/A</u>
§ 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3	
§ 4.1.1.25 Historic preservation	<u>N/A</u>
§ 4.1.1.26 Furniture, furnishings, and equipment design	<u>Architect, for specialized equipment</u>
§ 4.1.1.27 Environmental Studies and Reports	<u>N/A</u>
§ 4.1.1.27 Other services provided by specialty Consultants	
§ 4.1.1.28 Schedule Development and Monitoring	<u>Architect and Owner</u>
§ 4.1.1.28 Other Supplemental Services § 4.1.29 Environmental Report (SEPA)	<u>Architect, with Owner's assistance</u>
§ 4.1.30 OSPI Funding Process	<u>N/A</u>

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Supplemental Services	Responsibility (Architect, Owner, or not provided)
§ 4.1.31 Constructability Analysis	N/A
§ 4.1.32 OSPI Energy Report (ELLCA)	N/A
§ 4.1.33 Schedule Development and Monitoring	Architect

§ 4.1.2 Description of Supplemental Services

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

(Describe in detail the Architect's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit. The AIA publishes a number of Standard Form of Architect's Services documents that can be included as an exhibit to describe the Architect's Supplemental Services.)

As described in this Agreement and its exhibits.

§ 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.)

As described in this Agreement and its exhibits.

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

§ 4.2 Architect's Additional Services

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Agreement, if mutually agreed in writing by the Owner and Architect. The Architect shall not move forward in rendering such Additional Services without the written permission of the Owner. In the absence of mutual agreement in writing, and subject to this Section 4.2, the Architect shall promptly notify the Owner prior to providing any services requiring an adjustment in the Architect's compensation and shall specify the proposed adjustment. Failure to provide such timely written notice shall be a waiver of any compensation for Additional Services. If requested by the Owner in writing, the Architect shall proceed with Additional Services even if the parties have not yet agreed to the change in compensation. If the Owner deems that all or a part of such Additional Services is not required, the Owner shall give prompt written notice to the Architect, and the Architect shall have no obligation to provide, and the Owner shall have no obligation to compensate the Architect for, those services. Except for services required due to the fault, fault, negligence, wrongdoing, or responsibility of the Architect, any Additional Services provided in accordance with this Agreement and Section 4.2 shall entitle the Architect to a reasonable adjustment in compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

§ 4.2.1 Upon recognizing the need to perform the following Additional Services, ~~Services not caused by the fault or negligence of the Architect,~~ the Architect shall notify the Owner in writing with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following Additional Services until the Architect receives the Owner's written ~~authorization; authorization; items that are deleted below are not Additional Services but are included as a part of Basic Services or Other Basic Services:~~

- .1 Services necessitated by a substantial change in the Initial Information, a material change to 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, or bid packages in addition to those listed in Section 1.1.6;
- .2 Services necessitated by the unexpected enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;
- .3 Changing or editing previously prepared Instruments of Service necessitated by unexpected 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

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- building permit, or (b) contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;
- .4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- ~~.5 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner-authorized recipients;~~
- .6 Preparation of design and documentation for alternate bid or proposal requests ~~proposed by the Owner;~~ except for price-protection alternates proposed by the Owner and as otherwise required by this Agreement;
- .7 Preparation for, and attendance at, a public presentation, meeting or ~~hearing;~~ hearing except as otherwise required by this Agreement;
- .8 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto; or
- ~~.9 Evaluation of the qualifications of entities providing bids or proposals;~~
- .10 Consultation concerning replacement of Work resulting from fire or other cause during ~~construction;~~ or,
- ~~.11 Assistance to the Initial Decision Maker, if other than the Architect.~~ construction.

§ 4.2.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner in writing with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, ~~upon These Additional Services will be performed at no cost to the Owner to the extent caused by the fault or negligence of the Architect. If, after receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Architect of the Owner's determination. The Owner shall determination and the Architect shall have no further obligation to provide those services. The Owner shall have no obligation to compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice.~~

~~.1 Reviewing a Contractor's submittal out of sequence from the submittal schedule approved by the Architect;~~
~~.2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation; unless the Owner agrees in writing that the Architect shall perform the Additional Services. Items that are deleted below are not Additional Services but are included as a part of Basic Services or Other Basic Services.~~

- .3 Preparing Change Orders and Construction Change Directives that require detailed and extraordinary evaluation of Contractor's proposals and supporting data, or the detailed and extraordinary preparation or revision of Instruments of Service;
- ~~.4 Evaluating an extensive number of Claims as the Initial Decision Maker; or, Service, and except where the change is a result of the Architect's error or omission or that require only minimal work by the Architect or its consultants; or~~
- .5 Evaluating detailed and extraordinary substitutions proposed by the Owner or Contractor and with the Owner's agreement making subsequent revisions to Instruments of Service resulting therefrom.

§ 4.2.3 The Architect shall provide Construction Phase Services exceeding the limits set forth below as Additional ~~Services. Services unless necessitated by the fault or negligence of the Architect.~~ When the limits below are reached, the Architect shall notify the Owner:

- .1 ~~(—) reviews~~ Two reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
- .2 ~~(—) Weekly~~ visits to the site by the Architect during construction
- .3 ~~(—) inspections~~ Two reviews for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 ~~(—) inspections~~ Two reviews for any portion of the Work to determine final ~~completion~~ completion
- .5 Regular visits to the site by the Architect's mechanical, electrical, structural, and civil engineers over the duration of their portion of the Project during construction.

~~§ 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 60-90 days after (1) the date of Substantial Completion of the Work or (2) ~~the initial date of Substantial Completion identified in the agreement between the Owner and Contractor, whichever is earlier, or~~ issuance of the punch list, ~~whichever is the later, and not within the original scope of services,~~ shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

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

ARTICLE 5 OWNER'S RESPONSIBILITIES

~~§ 5.1~~ Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, ~~including which, upon mutual agreement, may include 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 furnish the services of a Scheduling Consultant that shall be responsible for creating the overall Project schedule. The Owner shall adjust the Project schedule, if necessary, as the Project proceeds.

~~§ 5.3~~ The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in ~~Section 6.1; Article 6;~~ (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall may update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. ~~The Owner Architect shall furnish the services of a Cost Consultant that shall be responsible for preparing all estimates of the Cost of the Work. The Owner may, but is not obligated to, separately engage its own cost consultant. If the Owner significantly and materially increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality. Any increase to the budget to respond to anticipated market conditions shall neither constitute Additional Services nor entitle the Architect to additional compensation, nor shall there be Additional Services because an accepted bid exceeds the budget. For the purposes of this Section, a "significant" increase or decrease shall be an Owner-directed adjustment or cumulative adjustments to the budget exceeding 3% of the budget identified in this Agreement, the purpose of which was to provide for design enhancements.~~

~~§ 5.3.1~~ The Owner acknowledges that accelerated, phased or fast-track scheduling provides a benefit, but also carries with it associated risks. Such risks include the Owner incurring costs for the Architect to coordinate and redesign portions of the Project affected by procuring or installing elements of the Project prior to the completion of all relevant Construction Documents, and costs for the Contractor to remove and replace previously installed Work. If the Owner selects accelerated, phased or fast-track scheduling, the Owner agrees to include in the budget for the Project sufficient contingencies to cover such costs.

~~§ 5.4~~ The Owner shall identify a representative authorized to act on the Owner's behalf with respect to the Project. ~~The When provided to the Owner in a timely manner, the~~ Owner shall render decisions and approve the Architect's submittals in a timely manner in order to avoid unreasonable delay in the orderly and sequential progress of the Architect's services. The Architect shall provide submittals to the Owner in a timely manner.

~~§ 5.5~~ ~~The Owner~~ Unless otherwise provided for under this Agreement, the Architect shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions, and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark. The Architect's design shall not require the Owner to obtain any easements without the Owner's prior written consent.

~~§ 5.6 The Unless otherwise provided for 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. The Architect will utilize this information in the Construction Documents and work with the Owner's geotechnical engineers to assist the Owner in determining the scope and scale of the required geotechnical services. The Architect and Architect's consultants will copy the Owner on any correspondence with the Owner's Geotechnical Engineer.~~

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

~~§ 5.8 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E204™ 2017, Sustainable Projects Exhibit, attached to this Agreement.~~

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

§ 5.10 The Owner shall furnish tests, inspections and reports during construction as 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-materials and soils compaction, as listed in Section 1.1.10. The Architect's review of such tests, inspections and reports shall be included as a part of the Architect's compensation for Basic Services unless otherwise defined in this Agreement. Results of these tests are the property of the Owner.

§ 5.11 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests. The Owner is not required to furnish these services for the Architect's benefit.

§ 5.12 The Owner shall provide prompt written notice to the Architect if the Owner becomes aware of any fault or defect in the Project, including errors, omissions or inconsistencies in the Architect's Instruments of Service. The Owner's failure to so notify shall not relieve the Architect of its responsibilities under this Agreement, and the Owner shall have no duty of observation, inspection or investigation.

§ 5.13 The Owner shall endeavor to include the Architect in all communications with the Contractor that relate to or affect the Architect's services or professional responsibilities. The Owner shall responsibilities concerning the cost, time, sequence, scope, or requirements of the Project. The Owner shall endeavor to promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. The Architect shall contemporaneously provide the Owner with copies of all written communications between the Architect and the Contractor concerning the cost, time, sequence, scope, or requirements of the Project.

~~§ 5.14 Before executing the Contract for Construction, the Owner shall coordinate. The Owner shall provide the Architect with a copy of its proposed modified AIA Document A201, General Conditions for the Contract for Construction. Before finalizing for bidding the Contract for Construction, the Architect shall review the proposed form of Contract (including the general conditions) and provide comments to the Owner for the purpose of coordinating the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The Architect shall provide administration of the Contract between the Owner and Contractor as set forth herein and in AIA Document A201, General Conditions of the Contract for Construction.~~

as revised by the Owner. The Owner shall provide the Architect a copy of the executed agreement between the Owner and Contractor, including the General Conditions of the Contract for Construction.

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

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

ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project as designed or specified by the Architect and shall ~~include~~ include, among other things, the contractors' general conditions costs, overhead and profit. The Cost of the Work shall include the cost projected to the time of bid opening of labor and materials to be provided by the Contractor under the Contract for Construction. In addition, a reasonable allowance for contingencies shall be included for market conditions at the time of bidding and for changes in the Work related to design. The Cost of the Work also includes the reasonable value of labor, materials, and equipment, donated to, or otherwise furnished by, the Owner. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, sales tax, financing, or Owner contingencies for elective changes in the Work; equipment furnished by the Owner through separate contracts (but does include equipment furnished by the Owner and installed by the Contractor), or other costs unrelated to construction of the Project that are the responsibility of the Owner. The Architect shall endeavor to maximize use of the construction funds available.

§ 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 5.3 and 6.4, the Initial Information and defined below, and may be adjusted throughout the Project.~~ When the Project requirements have been sufficiently identified, the Architect, through its Cost Consultant, shall prepare a preliminary estimate of the Cost of the Work. This estimate shall represent the Architect's judgment as a design professional familiar with the construction industry and should be based on current area, volume or similar conceptual estimating techniques. As the design process progresses through the end of the preparation of the Construction Documents, the Architect shall update and refine the preliminary estimate of the Cost of the Work. The Architect shall advise the Owner of any adjustments to previous estimates of the Cost of the Work indicated by changes in Project requirements or general market conditions. If at any time the Architect's estimate of the Cost of the Work exceeds the budget, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget, and the Owner shall cooperate with the Architect in making such adjustments. Evaluations of the Owner's budget for the Cost of the Work represent the Architect's judgment as a design professional. The minimum requirements of the Architect's cost estimates shall include the following:

- .1 Cost estimates shall be developed using CSI format and Unifomat methods and separated by major project components such as demolition, site development, phasing, and by each structure. Summary totals of all components shall be provided.
- .2 Estimates shall include an appropriate escalation factor to the currently scheduled time of bidding and shall be itemized by detailed categories within each specification section to provide reasonable assurance that the Project cost will not exceed the budget set for the Project.
- .3 Estimates shall be provided to the Owner in Microsoft Excel electronic format.
- .4 Civil, Landscape, Hazardous Materials, Athletic Fields, Electrical and Mechanical estimates shall be provided by firms that specializes in those trades.
- .5 Cost items that identify unit prices are acceptable provided that labor, materials and equipment contributions are shown including the applicable markups.
- .6 Use of lump sums and allowances shall total no more than five percent (5%) of the applicable CSI category and no more than ten percent (10%) in the aggregate for Schematic Design estimate, five percent (5%) for Design Development, and one percent (1%) for Construction Documents.
- .7 All labor rates and burden shall be identified.
- .8 Estimates shall be reviewed by the Architect and its consultants and acknowledged in writing prior to submission of the estimate to the Owner. Cost estimates shall include a design contingency appropriate for the phase of work and the complexity of the Project.

§ 6.2.1 BUDGET

- .1 The budget is the sum described below that the Owner establishes (in writing) as the limit for constructing the Project designed, specified, selected or specially provided for by the Architect.
- .2 The budget for the Project will initially be set by the Owner upon execution of this Agreement. The Owner has no intention of adjusting the budget but will re-evaluate the budget during the design phase.
- .3 The Architect shall promptly notify the Owner in writing if for any reason the Architect believes that the Cost of the Work of the Project will exceed the budget.
- .4 The Owner may change the budget at any time prior to bid opening and give notice of the change to the Architect, whose compensation will be changed only for services performed as a result of a change in the scope of the Architect's services. The budget will not change after the bids are opened, except that the Owner may elect to proceed with a bid that exceeds the budget at no change in the cost of the Architect's fee.
- .5 The Architect will work cooperatively in endeavoring to obtain for the Owner the improvements covered by the program and scope of Work at a favorable cost consistent with quality workmanship, materials, durability, and competitive bidding.
- .6 In observing the Architect's responsibility to comply with the budget, the Architect shall avoid allowing increases to the scope of Work as outlined in the program. Any substantial changes to the program must be accomplished through a Change in Services, approved by the Owner, which includes any applicable change in the budget.

§ 6.3 The-In preparing estimates of the Cost of the Work, the Architect, in consultation with the Owner shall require the Cost Consultant to include appropriate contingencies for design, bidding or negotiating, price escalation, and market conditions in estimates of the Cost of the Work. The Architect shall be entitled to rely on the accuracy and completeness of estimates of the Cost of the Work the Cost Consultant prepares as the Architect progresses with its Basic Services. The Architect shall prepare, as an Additional Service, prepare, as a part of Basic Services, revisions to the Drawings, Specifications or other documents required due to the Architect's Cost Consultant's inaccuracies or incompleteness in preparing cost estimates, or due to market conditions the Architect could not reasonably anticipate. The Architect may review the Cost Consultant's estimates solely for the Architect's guidance in completion of its services, however, the Architect as otherwise provided in this Article 6. The Architect shall review the Cost Consultant's estimates and shall report to the Owner any material inaccuracies and inconsistencies noted during any such review.

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

§ 6.5 If the estimate of the Cost of the Work at the conclusion of the Design Development Phase or during the Construction Documents Phase exceeds the Owner's budget for the Cost of the Work, the Owner shall at its discretion

- .1 give written approval of an increase in the budget for the Cost of the Work;
- .2 terminate in accordance with Section 9.5;
- .3 in consultation with the Architect, revise the Project program, scope, or quality as required and/or quality to the extent consistent with the requirements of the program and the Project to reduce the Cost of the Work; or, and/or,
- .4 implement any other mutually acceptable alternative alternative, including protective alternate bids proposed by the Architect for the Owner's consideration as may be necessary to adjust the estimated Cost of the Work to meet the Owner's budget for the Cost of the Work.

§ 6.6 If the Owner chooses to proceed under Section 6.5.3, 6.5.3 and/or Section 6.5.4, the Architect, without additional compensation, shall incorporate the revisions in the Construction Documents Phase as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Design Development Phase Services, or the budget as adjusted under Section 6.5.1. The Architect's revisions in the Construction Documents Phase shall be the limit of the Architect's responsibility under this Article 6.

§ 6.6.1 If the lowest bona fide bid exceeds the budget for the Cost of the Work by more than 5%, then the Owner, at its sole discretion, shall, without additional compensation to the Architect:

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- .1 accept the bid;
- .2 authorize rebidding of the Project within a reasonable time;
- .3 terminate in accordance with this Agreement; or
- .4 cooperate in revising the Project scope and/or quality to the extent consistent with the requirements of the program and the Project to reduce the Cost of the Work.

§ 6.6.2 If the Owner chooses to proceed under Section 6.6.1.4, and if the revisions still do not reduce the lowest bona fide bid to within 5% of the Owner's budget, then in that circumstance the Architect and its consultants, without additional compensation, shall modify the documents for which the Architect is responsible under this Agreement as necessary to comply with the budget for the Cost of the Work. The modification of such documents shall be the limit of the Architect's responsibility under Section 6.6.1.4.

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

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 Drawings, specifications, materials, models, renderings, and other documents, including those in electronic form, prepared by the Architect and the Architect's consultants are Instruments of Service. The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project. Upon request by the Owner, the Architect shall provide electronic copies, including CADD, Word, and similar files to the Owner for the Owner's and Contractor's use at no additional cost. If for any reason a conflict occurs between information on the computer media and the stamped, signed documents, the information on the stamped, signed documents shall govern. Any additions or modifications to the information contained on, or generated from the electronic media made by anyone other than the Architect may result in adverse consequences, which the Architect can neither predict nor control.

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

§ 7.3 The Architect grants to the Owner a nonexclusive license regardless of any termination except as specifically set forth below to use and reproduce, in any medium and without additional cost, the Architect's Instruments of Service solely and exclusively for purposes of constructing, completing, using, expanding, modernizing, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums due pursuant to Article 9 and Article 11. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce at no additional cost applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates Project or for completing, using, expanding, modernizing, maintaining, altering and adding to the Project or subsequent projects of the Owner on this site. The Owner may further authorize credentialed design professionals to reproduce and, where permitted by law, to make changes, corrections or additions to the Instruments of Service for the above purposes. If the Architect is adjudged to have rightfully terminated this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate until such time as the Owner pays all amounts adjudicated as due to the Architect.

§ 7.3.1 In the event the Owner uses the Instruments of Service for other projects or for any purpose following a termination of this Agreement other than for cause under Section 9.4 without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising

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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 unauthorized use of the Instruments of Service under this Section 7.3.1. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

§ 7.4 Except for the licenses granted in this Article 7, no other license or right shall be deemed granted or implied under this Agreement. The Owner shall not assign, delegate, sublicense, pledge or otherwise transfer any license granted herein to another party without the prior written agreement of the Architect. Any unauthorized use of the Instruments of Service shall be at the Owner's sole risk and without liability to the Architect and the Architect's consultants.

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

§ 7.6 The Architect shall pay all royalties and license fees related to its design. The Architect shall defend suits or claims for infringement of copyrights and patent rights related to its design and shall release, defend, indemnify, and hold the Owner harmless from loss on account thereof, including any expenses incurred in proving the right to indemnification and for any damages awarded, but shall not be responsible for such defense or loss when a particular design, process or product of a particular manufacturer or manufacturers is required by the Owner or where the copyright violations are contained in drawings, specifications or other documents furnished to the Architect by the Owner. However, if the Architect has reason to believe that the required design, process or product is an infringement of a copyright or a patent, the Architect shall be responsible for such loss unless such information is promptly furnished in writing to the Owner. If the Owner is enjoined from the operation or use of the Project, or any part thereof, as a result of any patent or copyright suit, the Architect shall at its sole cost take all steps as are necessary to procure the right to operate or use the Project, or shall modify or replace the Project at its own cost to avoid the infringement.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of this Agreement and 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, applicable law. Causes of action between the parties to this Agreement pertaining to acts or failures to act shall be deemed to have accrued, and the applicable statutes of limitations and repose shall commence to run, not earlier than the date that the Project achieves Substantial Completion and not later than the Owner's discovery of the error or omission, provided it is within the time period established by applicable law. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

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

§ 8.1.3 The Architect shall indemnify and hold the Owner and the Owner's officers and employees harmless from and against damages, losses and judgments arising from claims by third parties, including reasonable attorneys' fees and expenses recoverable under applicable law, but only to the extent they are caused by the negligent acts or omissions of the Architect, its employees and its consultants in the performance of professional services under this Agreement. Subject to the conditions of this Section 8.1.3, the Architect hereby releases and shall indemnify and hold the Owner, its successors and assigns, and the Owner's Board, directors, officers, Owner's Project Manager, agents and employees of each of the foregoing ("Indemnified Parties") harmless from and against any and all damages, liabilities, and costs, but only to the extent caused by any willful malfeasance, breach of contract, bad faith, or negligent performance of the services of the Architect or any of its consultants of any tier, their respective successors and assigns, the directors, officers, employees and agents of each of the foregoing, or anyone acting on the Architect's

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behalf in connection with this Agreement or its performance. This release, indemnification, and hold harmless includes but is not limited to reasonable attorneys' fees incurred on such claims to the extent that such claims were caused by the Architect's negligence and in proving the right to indemnification. The Architect's obligation to indemnify and hold the Owner and the Owner's officers and employees harmless does not include a duty to defend. The Architect's duty to indemnify the Owner under this Section 8.1.3 shall be limited to the available proceeds of the insurance coverage required by this Agreement.

The Architect shall not, however, be required to so release, indemnify or hold harmless any of the Indemnified Parties against liability for damages caused by or resulting from the sole negligence of the Indemnified Parties. If such damages are caused by or result from the concurrent negligence of the Indemnified Parties and of the Architect or its agents, consultants or employees, then the Architect's release, indemnity and hold harmless obligations hereunder shall be limited to the extent of the negligence of the Architect or its agents, consultants or employees.

In claims against any person or entity indemnified under this Section 8.1.3 by an employee of the Architect, any of its consultants of any tier, anyone directly or indirectly employed by them or anyone for whose acts they may be liable, the indemnification obligation under this Section 8.1.3 shall not be limited by the amount or type of damages, compensation or benefits payable by or for the Architect or a consultant under workers' compensation acts, disability benefit acts or other employee benefit acts. After mutual negotiation of the parties, the Architect expressly waives immunity as to the Owner under Title 51 RCW, "Industrial Insurance"; however, such waiver of immunity only applies to claims against the Owner and does not extend to direct claims against the Architect by Architect's employees.

§ 8.1.4 The Architect and Owner waive incidental, indirect, punitive, special and consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7. This waiver does not, however, limit a party's ability to recover from the other party damages asserted by a third-party.

§ 8.2 Mediation

§ 8.2.1 A Principal of the Architect and the Owner's Superintendent or designee shall meet informally and attempt to resolve any claims, disputes, or other matters in question prior to initiating the mediation process. Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. ("Dispute") shall be exclusively subject to the following alternative dispute resolution procedure in an effort to reduce the incidence and costs of extended disputes and as a condition precedent to the institution by either party of binding dispute resolution. This requirement cannot be waived except by an explicit written waiver signed by the Owner and the Architect. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution. The parties will cooperate in good faith and attempt to resolve any Dispute that arises prior to mediation.

§ 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, or cannot themselves agree to the selection of a mediator within thirty days of the request for mediation, 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, writing and delivered to the other party to this Agreement, and Agreement. If the parties are unable to select a mutually acceptable mediator within thirty days of the request for mediation, the request may be 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 or the American Arbitration Association. 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 if binding dispute resolution proceedings are initiated before the mediation. A principal of the Architect and the Superintendent or designee of the Owner, both having full authority to settle the Dispute (subject only to ratification by the Owner's Board of Directors), must attend the mediation session. To the extent there are other parties in interest, such as the Contractor, Subcontractors, suppliers, and/or consultants, their

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representatives, with full authority to settle all pending Disputes or claims, may also attend the mediation session. Unless the Owner and the Architect mutually agree in writing otherwise, all unresolved claims shall be considered at a single mediation session which shall occur prior to Final Acceptance of the Project by the Owner. Neither party may bring any litigation on a Dispute unless the Dispute has been properly raised and considered in the above mediation procedure, unless required to do so to meet any statutes of limitation or statutes of repose.

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

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

(Check the appropriate box.)

☐ Arbitration pursuant to Section 8.3 of this Agreement ☒ Other: (Specify)

☐ Litigation in a court of competent jurisdiction

☐ Other: (Specify)

Litigation in Yakima County Superior Court

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

§ 8.3 Arbitration

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

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

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

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

§ 8.3.4 Consolidation or Joinder

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

§ 8.3.4.2 Either party, at its sole discretion, may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided

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that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

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

§ 8.2.5 In the event of a claim, dispute, or other matter in question arises between the Owner and Architect, the Architect shall continue to perform the services required by this Agreement without interruption or delay provided that the Owner continues to pay all undisputed amounts owing to the Architect.

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

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects in accordance with this Agreement to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of such a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in as a result of the interruption and resumption of the Architect's services. services and only if the Owner suspends the Project for more than thirty consecutive days. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

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

§ 9.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially or materially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination, during which seven-day period the party responding to the notice shall have the right to cure the default. If, through any cause, either the Architect fails to fulfill in a timely and proper manner its material obligations under this Agreement; or the Architect materially violates any of the covenants, agreements or stipulations of this Agreement; or the Architect becomes insolvent or the subject of any proceeding under bankruptcy, insolvency or receivership law or makes an assignment for the benefit of creditors; or the Architect's representative whose principal services are required in Section I.1.1.1 departs from the Architect's firm (unless a suitable replacement, acceptable to the Owner, is provided), the Owner shall thereupon have the right (but not the obligation) to terminate this Agreement for cause by giving written notice of such termination and specifying the effective date thereof as a date certain at least seven days after the notice. In the event of a termination by the Owner for cause:

- .1 The Architect shall be compensated for services satisfactorily performed prior to termination (that portion of the basic compensation for the terminated services satisfactorily performed prior to termination), together with Reimbursable Expenses then due, but in no event shall this compensation exceed the percentage of total services satisfactorily completed at the time of termination times the total compensation payable under this Agreement. The Owner shall not be liable for any consequential or incidental damages, including but not limited to loss of profits on other projects or of reputation incurred by the Architect as a result of such termination.
- .2 The Owner shall have the right (but not the obligation) to take over performance of the architectural services and prosecute the same to completion, by contract or otherwise, and all finished or unfinished Instruments of Service, including without limitation documents, data, studies, surveys, drawings, maps,

models, photographs and reports prepared by or for the benefit of the Architect shall, at the option of the Owner, become the Owner's property.

- .3 The Owner may withhold any payments to the Architect for the purpose of offset or setoff until such time as the amount of damages due the Owner from the Architect is determined.

§ 9.5 The Owner may terminate this Agreement or a portion thereof upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause. In that event, the Owner shall be entitled to use and/or assign the rights to use all finished and unfinished Instruments of Service and other materials, and the Owner shall release, indemnify and hold harmless the Architect, its agents and employees from any claims arising from the Owner's subsequent use of such documents and other materials, except that the Owner shall not be so obligated to the extent the Architect is solely or concurrently negligent.

§ 9.6 If the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall compensate the Architect for services performed prior to termination, Reimbursable Expenses incurred, and solely for services satisfactorily performed prior to termination (that portion of the basic compensation for the terminated services satisfactorily performed prior to termination), Reimbursable Expenses incurred, and reasonable costs attributable to termination, including the reasonable costs attributable to the Architect's termination of consultant agreements to the extent such costs are consistent with this Article 9. In no event shall this compensation exceed the percentage of total services satisfactorily completed at the time of termination times the total compensation payable under this Agreement. The Architect shall not be entitled to any additional compensation, including without limitation profit and overhead, and the Owner shall not be liable for any consequential or incidental damages, including but not limited to loss of profits on other projects or of reputation incurred by the Architect as a result of such termination.

§ 9.7 In addition to any amounts paid under Section 9.6, if 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:

neither be required to pay any licensing fee as compensation for the Owner's continued use of the Architect's Instruments of Service nor be required to pay to the Architect any termination fee.

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

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

ARTICLE 10 MISCELLANEOUS PROVISIONS

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

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

§ 10.3 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. Neither the Owner nor the Architect shall assign this Agreement without the written consent of the other, except that the Owner may assign this Agreement to a lender providing financing for the Project

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if the lender agrees to assume the Owner's rights and obligations under this Agreement, including any payments due to the Architect by the Owner prior to the assignment.

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

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

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

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such ~~representations~~ representations but the Owner must approve of the time and date for when any photographs are taken after occupancy. The Architect must provide the Owner with usable digital copies (without watermarks) of all photographs taken or used for promotional or professional materials. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall endeavor to provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section ~~10.8.1~~ 10.8.1, unless withholding such information would violate the law, create the risk of significant harm to the public, or prevent a party from establishing a claim or defense in an adjudicatory proceeding, in which cases the receiving party will disclose only to the extent necessary to comply with the law or alleviate the risk of significant harm. 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 a public records request, 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. To the extent required by applicable law and as requested by the Owner, the Architect shall comply, and shall assist the Owner in complying, with the Washington Public Records Act, Chapter 42.56 RCW.

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

§ 10.10 The Architect assures the Owner that it endeavors to comply with all state and federal guidelines and/or regulations and does not discriminate on the basis of race, creed, color, national origin, sex, sexual orientation, marital status, age, veteran status, or disability. This is in accordance with Title VI of the 1964 Civil Rights Act; Section 504 of the Rehabilitation Act, 1973, as amended; Americans with Disabilities Act, July 26, 1990, P.L. 101-336; Title IX of the Education Amendments of 1972, as amended, and RCW 49.60.

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ARTICLE 11 COMPENSATION

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

~~1~~ — ~~Stipulated Sum~~ 3 Other
(~~Insert amount~~)(*Describe the method of compensation*)

~~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~~) Fee. Compensation for Basic Services of the Architect shall be the fixed, lump sum amount of Nine Hundred Ninety Thousand Dollars (\$990,000.00) as stated in Exhibit A. Any amount on Exhibit A not listed as either hourly, an allowance, or a not to exceed amount are lump sum. If the square footage of the Project is changed with the Owner's approval by more than 2% during a phase of the design, compensation will be adjusted retroactively within that phase as well as prospectively for future phases taking as a starting point the OSPI fee schedule. Any change that adds or deletes a separate building shall result in a fee change regardless of the square footage added or deleted. This basic compensation shall not be changed after the bids are opened, even if the accepted bids are less than or exceed the budget.

Change Orders. Compensation for Change Orders, to the extent allowed under this Agreement, shall be as specified in Section 11.3. The Architect will not be entitled to additional compensation for costs incurred because of the fault or negligence of the Architect or its consultants. The Architect shall include with each invoice documentation as reasonably requested by the Owner supporting any additional compensation under this Section.

Alternates. The Architect shall not receive additional compensation for alternates that are already required by this Agreement, but will be compensated for Additional Services performed with respect to additional alternate bids to the extent requested and approved in writing by the Owner.

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

See Exhibit A. The Architect's entitlement to such additional compensation shall be subject to the provisions of this Agreement.

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

Compensation for Additional Services that may arise during the course of the Project, including those under Section 4.2, shall be calculated according to Exhibit A. The Architect's entitlement to such additional compensation shall be subject to the provisions of this Agreement.

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus percent (~~—~~%), or as follows: ten percent (10%).
(*Insert amount of, or basis for computing, Architect's consultants' compensation for Supplemental or Additional Services.*)

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~~§ 11.5 When compensation for Basic Services is based on a stipulated sum or a percentage basis, the Payments on account of services rendered and for Reimbursable Expenses incurred shall be made monthly upon presentation of the Architect's statement of services and shall total the following percentages of the total Basic Compensation payable in each phase, except that payment for Completion of Correction Period shall be made in one payment at the end of that Period. The proportion of compensation for each phase of services shall be as follows:~~

Schematic Design Phase	<u>Fifteen</u>	percent (<u>15</u>	%)
Design Development Phase	<u>Twenty</u>	percent (<u>20</u>	%)
Construction Documents Phase	<u>Thirty</u>	percent (<u>30</u>	%)
Procurement Phase	<u>Three</u>	percent (<u>3</u>	%)
Construction Phase	<u>Thirty</u>	percent (<u>30</u>	%)
Punch List / Close-Out Phase	<u>Two</u>	percent (<u>2</u>	%)
Total Basic Compensation	one hundred	percent (100	%)

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

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

~~§ 11.6.1 When compensation is on a percentage basis and If 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, portions, in accordance with the schedule set forth in Section 11.5. The Architect shall be entitled to compensation in accordance with this Agreement for all services satisfactorily and properly performed whether or not the Construction Phase is commenced.~~

~~§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants are set forth below. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices in Exhibit A. These rates may be adjusted annually consistent with rates charged other Washington school districts, not to exceed 3% per year.~~

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

See Exhibit A.

Employee or Category

Rate (\$0.00)

§ 11.8 Compensation for Reimbursable Expenses

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

- ~~1 Transportation and authorized out-of-town travel and subsistence; Pre-authorized out-of-town travel (greater than 200 miles) and subsistence associated with that travel, except that the Architect shall not be reimbursed for travel between its office and the Project site;~~
- ~~2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and services if required at the Project site and with the Owner's approval, teleconferences, Project web sites, and Project extranets;~~
- ~~3 Permitting and other fees when pre-authorized required by authorities having jurisdiction over the Project;~~
- ~~4 Printing, reproductions, plots, and standard form documents; Printing and reproduction for all documents required for submittal to the Owner or requested by the Owner for its own use or use by the Owner's consultants (but not reproduction for office use of the Architect or its consultants), sets~~

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- required by authorities having jurisdiction, and bidding documents for which the Owner does not directly pay; where possible, the Owner will pay plan-checking and permit fees directly to the applicable agency;
- .5 Postage, handling, and delivery; Postage and delivery of reproductions that are reimbursable pursuant to Section 11.8.1.4;
 - ~~.6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;~~
 - .7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
 - ~~.8 If required by the Owner, and with the Owner's prior written approval, the Architect's consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect's consultants; and authorized in advance and in writing by the Owner and required for the Project, and excluding renderings, models and mockups prepared by the Architect's in-house staff during the course of design or as otherwise already required by this Agreement;~~
 - .9 All sales but not B & O or income or other taxes levied on professional services and on reimbursable expenses;
 - .10 Site office expenses; expenses when pre-approved by the Owner;
 - .11 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and,
 - .12 Other similar Project-related expenditures; expenditures pre-approved in writing by the Owner.

Except as explicitly provided in Exhibit A, the parties agree that the Owner will not be billed extra for any expenses the Architect incurs (e.g., the Architect's or its consultants' time and mileage) as a result of the fact that the Architect's office is located in Kennewick, Washington, its consultants are located in various locations, while the Project site is located in Yakima, Washington. Such travel expenses are included as a part of the Architect's Basic Services.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus ten percent (10 %) of the expenses incurred. The Architect must submit receipts for Reimbursable Expenses.

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

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

§ 11.10 Payments to the Architect

§ 11.10.1 Initial Payments

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

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

§ 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 — (performed within each phase, and shall not exceed the percentages of the total Basic Compensation payable in each phase. Payments are due and payable thirty days from the date of receipt of the Architect's invoice in an acceptable form, provided that the Architect's invoice is received by the Owner by the tenth of the month and provided that the Architect is entitled to payment as provided in this Agreement. Amounts unpaid sixty (60) days after the invoice date~~

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shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.

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

~~%—Amounts unpaid shall bear interest pursuant to RCW 39.76, not to exceed the Bank of America prime rate plus 2 % per annum.~~

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

§ 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 request, the Architect shall also provide the Owner with access to its records for inspection, audit, and reproduction and with an accounting of any services of the Architect or of any of its consultants of any tier. The accounting of services shall detail the services performed, the amounts paid to a consultant (supported by copies of all paid invoices) and such other information as the Owner may reasonably request. The Owner shall not be obligated to make any payment to any consultant, and the Owner is not obligated to reimburse the Architect for such payments if the amount thereof has been taken into account in determining the basic compensation payable to the Architect under this Agreement. If the Owner makes any such payment following a default on the part of the Architect and after reasonable notice from the Owner, the Architect shall reimburse the Owner upon demand for the same, together with all related costs and expenses incurred by the Owner.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

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

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

§ 12.1 Notwithstanding any other provision contained within this Agreement, nothing shall be construed so as to void, vitiate, or adversely affect any insurance coverages held by either party to this Agreement.

ARTICLE 13 SCOPE OF THE AGREEMENT

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

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

- .1 AIA Document B103™—2017, Standard Form Agreement Between Owner and Architect
- ~~.2 AIA Document E203™—2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below as revised~~
(Insert the date of the E203—2013 incorporated into this agreement.)

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

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

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

No Others.

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User Notes:

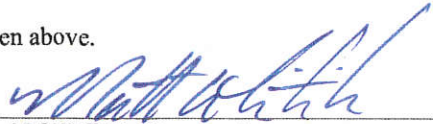
(1381315650)

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

Exhibit A – Fee Schedule dated October 6, 2023

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


OWNER (Signature)
PETER D. FINCH, SUPERINTENDENT
(Printed name and title)


ARCHITECT (Signature)
MATT WHITISH, PRINCIPAL, #10639
(Printed name, title, and license number, if required)

October 6, 2023

Basic A/E Services ¹		Misc. District Improvements	
		\$11M MACC * 0.7 Fee (see notes 1 and 2 below)	
Basic A/E Services - All Phases		\$	770,000
- Schematic Design (SD) Phase	15%	\$115,500	
- Design Development (DD) Phase	20%	\$154,000	
- Construction Documents (CD) Phase	30%	\$231,000	
- Bidding (BID) Phase	3%	\$23,100	
- Construction Administration (CA) Phase	30%	\$231,000	
- Closeout (WA) Phase	2%	\$15,400	
Specialty A/E Services			
Field & Track / Landscape: Stadium (On-Site) Bernardo Wills		\$ 170,000	
Civil Engineering: Stadium (On-Site) JUB Engineers		\$ 15,000	
Civil Engineering / Landscape: MTV Parking (On-Site) JUB Engineers		\$ 10,000	
Survey - Stadium JUB Engineers		\$ 25,000	
Energy Conservation Report (ELCCA)		N/A	
A/E VE & CR Participation All Disciplines		Included	
Commissioning Assistance All Disciplines		Included	
SUB-TOTAL - Specialty A/E		\$	220,000
TOTAL - Basic A/E + Specialty Services	9.0%	\$	990,000
Allowances/TBD Project Scope			
Civil Engineering / Landscape: Stadium (Off-Site) Bernardo Wills & JUB Engineers		TBD	
Civil Engineering / Landscape: MTV Parking (Off-Site) JUB Engineers		TBD	
Survey - MTV Parking Lot JUB Engineers		TBD	
Cost Estimating Thomas Consulting		TBD	
Record As-Built Drawings to CAD If Requested by Owner		TBD	
SUB-TOTAL - Allowances		\$	-
TOTAL FEE: Basic A/E + Specialty + Allowances	9.0%	\$	990,000

Standard Hourly Rates (if hourly services are requested):

Principal Architect	\$185
Project Architect	\$160
Project Manager	\$140
CADD Production	\$100
Clerical	\$70

Reimburseable Summary

Deliverables (reproduction, shipping and materials),
mileage and meals for out of town consultants with
10% mark-up NTE - \$15,000

1. Basic A/E Services include services as described in standard AIA Document B103 - 2007, Article 3. Services include architectural, structural engineering, plumbing design/engineering, HVAC design/engineering, electrical design/engineering and fire protection/fire alarm.

2. Total building/project scope based upon directive from WVSD.