AGREEMENT made as of the «\_\_\_» day of «\_\_\_\_\_\_\_\_\_\_\_» in the year «**20\_\_\_**»

(In words, indicate day, month and year.)

BETWEEN the Architect’s client identified as the Owner:

(Name, legal status, address and other information)

**Tarrant County Hospital District d/b/a**

**JPS Health Network**

1500 South Main Street

Fort Worth, Texas 76104

Attn: « »

Telephone: « »

Email: « »

and the Architect:

(Name, legal status, address and other information)

« »

« »

Attn: « »

Telephone: « »

Email: « »

for the following Project:

(Name, location and detailed description)

« »

« »

« »

The Project Manager is:

(Name, legal status, address and other information)

« **»**

« **»**

« **»**

« **»**

The Owner and Architect agree as follows.

# TABLE OF ARTICLES

1 INITIAL INFORMATION

2 ARCHITECT’S RESPONSIBILITIES

3 SCOPE OF ARCHITECT’S BASIC SERVICES

4 SUPPLEMENTAL AND ADDITIONAL SERVICES

5 OWNER’S RESPONSIBILITIES

6 COST OF THE WORK

7 COPYRIGHTS AND LICENSES

8 CLAIMS AND DISPUTES

9 TERMINATION OR SUSPENSION

10 MISCELLANEOUS PROVISIONS

11 COMPENSATION

12 SPECIAL TERMS AND CONDITIONS

13 SCOPE OF THE AGREEMENT

# ARTICLE 1   INITIAL INFORMATION

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

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

§ 1.1.1 The Owner’s design program for the Project (the "Design Program"):

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

The Project generally consists of the design and construction of [\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_] as described in more detail in this Section 1.1 and in this Agreement.

§ 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 (the "Budget"):

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

« »

The Budget may be amended from time to time by Owner as further assessments, design, and construction Cost Estimates are provided.

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

.1 Design phase milestone dates, if any:

« »

.2 Construction commencement date:

« »

.3 Phased completion dates:

« »

.4 Substantial Completion date or dates:

« »

.5 Other milestone dates:

« »

The anticipated milestone dates set forth in this Section 1.1.4 shall be incorporated into the Professional Services Schedule, as provided in Section 2.2.1 below.

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

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

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

« »

« »

« »

Telephone: « »

Email: « »

§ 1.1.8 The persons or entities, in addition to the Owner’s representative, who are required to review Submittals and, where indicated, Architect’s Deliverables to the Owner, is as follows:

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

The Project Manager:

« »

« »

« »

The Project Manager shall be copied on all communications from the Architect to the Owner.

**§1.1.8.1** **Notices to Project Manager**

All notices or information to be provided under the Contract Documents to the Owner are also required to be provided, contemporaneously, to the Project Manager, unless Owner expressly notifies the Architect in writing to the contrary. This obligation to furnish all such notices or information to the Project Manager exists whether or not the Contract Documents expressly provide for notice to the Project Manager.

**§ 1.1.8.2 Rights of Project Manager**

Project Manager shall have the same rights of access to the Site as Owner and shall participate in all meetings or conferences in which Owner designates the Project Manager to participate, unless Owner expressly notifies the Architect in writing to the contrary.

**§ 1.1.8.3 Authority of Project Manager**

The Project Manager is an independent contractor retained by the Owner to assist it as a consultant and advisor to the Owner on the Project until Final Completion, unless otherwise designated by Owner. Notwithstanding the presence of the Project Manager at the Project and in Project meetings, the Owner directly employs representatives who will actively participate in Project meetings and be authorized to provide any approval, grant any consent, assert any objection, or make any decision required by the Contract Documents. Unless Architect has been provided with written notice from the Owner granting specific authority to the Project Manager, Project Manager shall not be authorized to bind the Owner as to any approval, consent, objection, or decision. Such limitation of authority, however, shall not obviate or limit Architect’s obligation to provide notices to the Project Manager as set forth in Section 1.1.8.1 above.

**§ 1.1.8.4 Project Manager’s Duties**

The Project Manager shall perform the duties required of it as directed by Owner which shall include, but not be limited to planning, management, and coordination the Project, providing an initial Project program scope and strategy, review of request for proposals/request for qualification and other solicitation documents, review of responses received to request for proposals/request for qualifications, including creating a due diligence process for such review, development and maintenance of a Project cost control system, collaboration with the Contractor and monitoring of the Project Schedule, functional and space programming services, coordination of BIM systems and protocols, review of Contractor’s site-specific safety program, peer review of designed systems, reporting on Project progress, and other such deliverables as assigned by Owner.

§ 1.1.9 In addition to the Project Manager, the Owner shall retain the following consultants ("Owner Consultants"):

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

.1 Geotechnical Engineer:

« »« »

« »

« »

« »

« »

.2 Civil Engineer:

« »« »

« »

« »

« »

« »

.3 Other, if any:

*(List any other consultants retained by the Owner.)*

« »

§ 1.1.10 The Architect identifies the following representative in accordance with Section 2.3:

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

«»

«»

«»

Telephone: «»

Email: «»

Architect shall not furnish a representative over whom Owner has made reasonable and timely objection. Within **seven (7)** Days of Owner’s reasonable written request, Architect shall replace any representative over whom Owner has made a reasonable objection.

§ 1.1.11 The Architect shall retain the consultants identified in Sections 1.1.11.1 and 1.1.11.2 below:

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

§ 1.1.11.1 Consultants retained by Architect as part of the Basic Services ("Architect Consultants"):

|  |
| --- |
| .1 Structural Engineer:  « »« »  « »  « »  « »  « »  .2 Mechanical Engineer:  « »« »  « »  « »  « »  « »  .3 Electrical Engineer:  « »« »  « »  « »  « »  « » |

§ 1.1.11.2 [*Intentionally deleted.]*

« »

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

« »

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the Architect’s services, the PS Schedule, and the Architect’s compensation if the change results in a material alteration to Architect’s services. The Owner may 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 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 **Building Information Models Use.** Architect shall coordinate efforts with the Project Manager and other members of the Project Team to successfully implement the BIM plan for the Project. Architect will provide personnel and appropriate services to ensure the proper flow of information is provided to enable appropriate input into and output from the BIM, including, but not limited to, importing information into the BIM, assisting on conflict resolution, coordinating the sharing of information, facilitating file exchange, and other deliverables as assigned to it in the BIM plan. Architect will provide reports and other BIM deliverables as designated by Owner on a recurring basis.

§ 1.3.2 Any use of, or reliance on, all or a portion of the BIM without agreement on protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in a Building Information Modeling and Digital Data plan , 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 BIM and each of their agents and employees.

§ 1.4 Definitions.

Applicable Law. "Applicable Law" or "Applicable Laws" means any and all laws, statutes, rules, regulations, ordinances, codes, permits, or orders of any federal, state, or local Authorities Having Jurisdiction (including but not limited to the City of Fort Worth) over the Project, all as in effect as of the date of this Agreement and as amended during the term of this Agreement including those governing labor, equal employment opportunity, safety, and environmental protection, further including, without limitation, (i) all applicable zoning ordinances, building codes, fire, and life safety codes; (ii) accessibility laws, codes, and ordinances including but not limited to the Texas Accessibility Standards of the Architectural Barriers Act*,* *Tex. Gov’t.* *Code Ch. 469*, Elimination of Architectural Barriers, and the Americans with Disabilities Act of 1990 (42 U.S.C. §12181) ("ADA"), the 2010 ADA Standards for Accessible Design, and current ADAAG Standards; (iii) all standards relating to construction, inspection, and safety of hospitals set forth in *Tex. Admin. Code § 133* particularly including, but not limited to Subchapter F, H and I and Chapter 135, particularly including, but not limited to Subchapters B and C, excluding the development, implementation, or enforcement of any operational policy or plan, periodic inspection requirements following the issuance of the Certificate of Occupancy, and any “reporting” required of Owner by *Tex. Admin. Code §* *135;* (iv) occupational safety acts and requirements applicable to the Project, including United States Occupational Safety and Health Administration ("OSHA") requirements and related federal and state regulations; (v) requirements of the Fair Labor Standards Act and applicable state wage and hour laws including *Tex. Gov’t. Code §2258.001* et seq.; (vi) applicable laws relating to civil/human rights, including but not limited to (a) requirements under Titles VI and VII of the Civil Rights Act of 1964, as amended, (b) the Equal Pay Act of 1963, (c) the Rehabilitation Act of 1973, and (d) the Age Discrimination in Employment Act requirements; (vii) green building policies and regulations and sustainable building codes, including those implemented by the City of Fort Worth; (viii) all Environmental Laws, applicable storm water, street, utility and other related infrastructure requirements, requirements related to the use, removal, storage, transportation, disposal and remediation of Hazardous Materials and lead based paint, and all related health laws and regulations; (ix) the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”); (x) The Facilities Guidelines Institute Guidelines for Design and Construction of Outpatient Facilities (2018 edition) and Guidelines for Design and Construction of Hospitals (2018 edition); (xi) Centers for Medicare and Medicaid Services (CMS.gov) State Operations Manual for Ambulatory Surgical Centers and State Operations Manual for Hospitals; and (xii) any other applicable local, state, and federal laws respecting the Project.

Architect. The “Architect” is the person or entity identified as such in this Agreement and is referred to throughout the Contract Documents as if singular in number. The term “Architect” means the Architect or the Architect’s authorized representative. Architect has been employed to provide the design Services as indicated herein and to monitor and coordinate other members of the design team retained by Owner or Architect.

Architect Consultant. An “Architect Consultant” is the person or entity retained by Architect to provide professional design or engineering services under a direct contract with the Architect and are listed in Section 1.1.11.1 of this Agreement. “Architect Consultant” is referred to throughout the Contract Documents as if singular in number. Architect Consultant shall be lawfully licensed to provide the particular professional services for which they have been contracted. General duties and Deliverables of the Architect Consultant(s) are provided in Section 2.2.2 herein and in the particular agreement between the Architect Consultant and the Architect.

As-Built Documents. "As-Built Documents" means the Drawings, Specifications, and other materials maintained by the Contractor that document all addenda, Architect’s Supplemental Instructions, Change Orders, responses to Requests for Information, and other postings and markings that record the as-constructed conditions of the Work and all changes made to the Construction Documents during construction.

Authority/ies Having Jurisdiction. “Authority or Authorities Having Jurisdiction” means a federal, state, local, or other regional department, or an individual such as a fire marshal, building official, electrical inspector, utility provider or other individual having statutory authority.

Building Information Model. **"**Building Information Model" or "BIM" means the computable, digital, multi-dimensional representation of the physical and functional characteristics of the Project’s facilities and their related life-cycle information in Autodesk Revit format and Autodesk Civil 3D, to be used as a repository of design and construction information for use by the Project Team during the design, bidding and construction phases of the Project, and for Owner’s use throughout the life-cycle of the Project. Members of the Project Team are required to coordinate all efforts with respect to the BIM in accordance with the protocols established pursuant to Sections 1.3 above.

Close-out Documents. "Close-out Documents" means the product brochures, Submittals, product/equipment maintenance and operations instructions, manuals, and other documents/warranties, As-Built Documents, Record Drawings, affidavits of payment, waiver and release of lien documents, consent of surety, and any other document required of the Contractor as a condition to Final Payment set forth in the agreement between Owner and Contractor for construction of the Project.

Confidential Information. "Confidential Information" shall mean all information, whether or not originated by Owner, which is used in, or a part of, Owner’s business and operations and is: (i) proprietary to, about, or created by Owner; (ii) gives Owner some competitive advantage or the opportunity of obtaining such advantage or the disclosure of which could be detrimental to the interests of Owner; (iii) designated as "Confidential Information" by Owner, or from all the relevant circumstances should reasonably be assumed by Architect to be confidential and proprietary to Owner; or (iv) not generally known by Architect. "Confidential Information" shall not include information that: (a) is or becomes available to the public generally, other than as a result of disclosure by Architect in breach of the terms of this Agreement; (b) becomes available to Architect from a source (other than Owner) which source is not, to the best of Architect’s knowledge, subject to any legally binding obligation to keep the same confidential; or (c) has been independently acquired or developed by Architect.

Construction Phase Services. “Construction Phase Services” are those certain services provided by Architect pursuant to Section 3.6 of this Agreement.

Construction Documents. "Construction Documents" means, collectively, the Drawings, Specifications, details, and other documents prepared by the Architect, Architect Consultants, and by Owner Consultants that describe the scope and quality of the Project and the materials, supplies, equipment, systems and other elements required for construction of the Project. Construction Documents become part of the Contract Documents when listed in the agreement between Contractor and Owner or in any Change Order. Construction Documents shall be marked “Confidential Information” by Architect, all Architect Consultants, and Owner Consultants.

Contract Documents. "Contract Documents" means, collectively, those documents identified as a component of, and are listed as such in the agreement between Contractor and Owner for construction of the Project. These may include, but are not limited to Drawings, Specifications and other Construction Documents, general, supplemental and special conditions, and all pre-bid and/or pre-proposal addenda.

Contractor. "Contractor"means that entity with whom Owner contracts to provide Preconstruction Services and/or construction services to the Project pursuant to an agreement between Owner and Contractor. This term includes a Construction Manager at Risk or a Design-Build firm as well as a general contractor. Contractor” is referred to throughout the Contract Documents as if singular in number and means a Contractor or an authorized representative of the Contractor.

Cost Estimates. "Cost Estimates" or "Cost Estimate" means the cost estimate(s) prepared by the appropriate Project Team member during various phases of a Project based on the review of Drawings, Specifications, and other Deliverables provided by the Architect in the design process.

Day. "Day" means calendar day, unless otherwise stated herein.

Deliverables. "Deliverables" means any and all plans, Drawings, Specifications, photos, designs, studies, sketches, computer programs, reports, and other professional services, which are specified to be delivered by Architect pursuant to the terms of this Agreement.

Design Development Documents. "Design Development Documents" means the design development documents, prepared by Architect for the Project, including plans, elevations, and such other Drawings, calculations, and outline Specifications that, in Owner’s sole opinion, are of such quality and detail that enable Owner to fix and illustrate the size and character of the entire Project in its essentials as to the kinds of materials and assembly details, type of mechanical, electrical, and plumbing systems, and type of structure and to coordinate the interface of all architectural and structural elements with all building systems, as further described in Section 3.3 below.

Drawings. "Drawings" means the plan(s), drawing(s), profile(s), cross-section(s), and supplemental drawing(s), or reproduction(s) thereof, prepared by the Architect and approved by Owner, which show the locations, character, dimensions, and details of the Work for the Project.

Environmental Laws. "Environmental Laws" means any local, state, or federal law, rule, or regulation pertaining to environmental regulation, contamination, clean-up or disclosure, including, as may be amended from time to time including: (i) the Resource Conservation and Recovery Act of 1976 ("RCRA") (42 U.S.C. §6901 et seq.), as amended by the Used Oil Recycling Act of 1980 (Pub. L. No. 96-463, 94 Stat. 2055 (1980)), the Solid Waste Disposal Act Amendments of 1980 (Pub. L. No. 96-482, 94 Stat. 2334 (1980)), and the Hazardous and Solid Waste Amendments of 1984 (Pub. L. No. 98-616, 98 Stat. 3221 (1984)), and regulations promulgated thereunder; (ii) the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA") (42 U.S.C. §9601 et seq.), as amended by the Superfund Amendments and Reauthorization Act of 1986 (Pub. L. No. 99-499, 100 Stat. 1613 (1986)), and regulations promulgated thereunder; (iii) the Toxic Substances Control Act (15 U.S.C. §2601 et seq.); (iv) the Endangered Species Act of 1973 (15 U.S.C. §1531 et seq.) and its amendments; (v) the Clean Water Act, 33 U.S.C.A. § 1251 *et seq*. and National Pollutant Discharge Elimination System (NPDES) regulations; (vi) the Clean Air Act, 42 U.S.C.A. § 7401 *et seq*.; (vii) 2008 Lead Based Paint Renovation, Repair and Painting Program Rule, 40 CFR Part 7445, Subpart E; and (viii) the Emergency Planning and Community Right to Know Act of 1986, 42 U.S.C.A. § 11001 *et seq*.; (ix) any corresponding state laws or ordinances including, without limitation, the (a) Texas Water Quality Control Act; (b) the Texas Water Code Chapter 26; (c) Texas Solid Waste Disposal Act; (d) Texas Health & Safety Code Chapter 361; and (e) Texas Clean Air Act, THSC Chapter 382; and (x) regulations, rules, guidelines, or standards promulgated pursuant to such laws, statutes and regulations, rules, guidelines, and standards as are amended from time to time.

Hazardous Material(s) or Hazardous Substance. "Hazardous Material(s)" or "Hazardous Substance" shall mean any flammables, explosives, radioactive materials, petroleum-based materials exceeding applicable federal, state, or local regulatory limits, asbestos, polychlorinated biphenyl (PCB), radon, and other toxic substances or related materials, including without limitation substances defined as "hazardous wastes," "hazardous substances," "hazardous materials," "toxic substances," or "solid wastes" in the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, 42 U.S.C. Section 9601 et seq.; the Resource Conservation and Recovery Act, 42 U.S.C. Section 2601, et seq.; and any other Applicable Law, including Environmental Laws, and all amendments and revisions thereto. The term “Hazardous Materials” shall be interpreted in the broadest sense to include any and all substances, materials, wastes, pollutants, oils, or governmental regulated substances or contaminants as defined or designated as hazardous, toxic, radioactive, dangerous, or any other similar term in or under any of the Environmental Laws, including but not limited to, asbestos and asbestos containing materials, petroleum products including crude oil or any fraction thereof, gasoline, fuels, lubricating oils and solvents, urea formaldehyde, flammable materials, explosives, PCBs, radon, radioactive materials or waste, or any other substance that, because of its quantity, concentration, physical, chemical, or infectious characteristics may cause or threaten a present or potential hazard to human health or the environment or which may impair the beneficial use of property.

Instruments of Service. “Instruments of Service” are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by Architect, Architect Consultants, Contractor(s), and Owner Consultant(s) under their respective agreements. Instruments of Service may include, without limitation, studies, surveys, models, BIM, sketches, Drawings, Specifications, digital models and other similar materials.

Owner. The Owner is the person or entity identified as such in this Agreement and is referred to throughout the Design-Build Documents as if singular in number. The term “Owner” means the Owner or the Owner’s designated representative.

Owner Consultant. An “Owner Consultant” is a person or entity providing professional services for a portion of the Work under a direct contract with the Owner independently of this Agreement. “Owner Consultant” is referred to throughout the Contract Documents as if singular in number. To the extent required by the relevant jurisdiction, an Owner Consultant shall be lawfully licensed to provide the required professional services.

**Preconstruction Services.** “Preconstruction Services” are those services to be provided by a Contractor during the preconstruction phase of the Project as identified as such in the agreement between Owner and Contractor.

Professional Services Schedule/PS Schedule. "Professional Services Schedule" or "PS Schedule" means the schedule/timeline set out in Exhibit A through which the Architect provides the timing and deadlines for preparation and finalization of the various phases of Architect’s services hereunder. At the discretion of the Owner, and as mutually agreed upon with Architect, the PS Schedule may be revised and defined with more detail as the Project develops.

Project. The Project is identified on the first page of this Agreement. The Project includes the total design and construction of which the Work performed under the Contract Documents may be the whole or a part.

Project Manager. “Project Manager” means that entity identified in Section 1.1.8 and on the first page of this Agreement, comprised of licensed professionals retained by the Owner to provide general oversight within its professionals’ licensed capabilities, including but not limited to project management services for the Project, strategic Project planning, Site planning, operational planning, budgetary impact analysis, scheduling analysis, review and approvals of Applications for Payment, and Project controls, all as detailed in that certain agreement between Owner and Project Manager.

Project Team. "Project Team" means the collection of entities and persons who may be involved in the programming, planning, design, engineering, design assist, construction and/or commissioning of the Project. Members include Owner, Architect, Architect Consultants, Project Manager, the Contractor, and/or any Owner Consultants employed for the purpose of programming, planning, design, engineering, design assist, commissioning, and/or construction of the Project. The constitution of the Project Team may vary at different phases of the Project. The Project Team will be designated by Owner and may be modified from time to time by Owner.

Record Drawings. "Record Drawings" are those final, compiled drawings, prepared and approved by the Architect after review of the As-Built Documents and Contractor’s notes, drawings, and markings thereupon, wherein Architect verifies, in accordance with the Standard of Care, the as-built conditions of the Work.

Schematic Design Documents. "Schematic Design Documents" means, at a minimum, a site development plan, building plans, elevations, sections, and perspective sketches sufficient to convey comprehensive design intent, as further described in Section 3.2.2 below.

Services. "Services" means (i) professional architectural services and/or (ii) professional engineering services as defined in *Tex. Gov’t**.* *Code § 2254.002,* performed by appropriately licensed individuals, the scope of which is set out in more detail in Articles 2, 3, and 4 below***.*** Professional Services shall include Basic Services and, as such services are approved by Owner, Additional Services.

**Site.** “Site” means the property on which the Project is located.

Specifications. "Specifications" means the written product of Architect that establishes the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services including testing and verification for producing the Work.

Standard of Care. "Standard of Care" means that certain standard by which Architect shall perform all services hereunder, as prescribed by *Tex. Gov’t.* *Code §2254.0031* (incorporating *Tex. Local Gov’t.* *Code §271.904(d))*, *to wit*: (i) with the professional skill and care ordinarily provided by competent engineers or architects practicing under the same or similar circumstances and professional license, and (ii) as expeditiously as is prudent considering the ordinary professional skill and care of a competent engineer or architect.

Submittal. A Submittal is any submission by the Contractor to the Owner and Architect for the Architect’s review and approval, demonstrating how the Contractor proposes to conform to the Construction Documents for those portions of the Work for which the Construction Documents require Submittals. Submittals include, but are not limited to, shop drawings, product data, and samples.

Work. "Work" means, in addition to those items set forth in the contract for construction between Owner and Contractor and as defined therein. The Work may include Preconstruction Services and construction services, additional work required by any Change Orders, and any other work reasonably inferable from the Contract Documents for the Project.

# ARTICLE 2   ARCHITECT’S RESPONSIBILITIES

§ 2.1 The Architect shall provide all Services in accordance with the terms of this Agreement, the PS Schedule, and all Exhibits and, in connection therewith, shall render all professional opinions, advice, and exercise its professional judgment at all times in accordance with the Standard of Care. Architect is responsible for the professional quality, technical accuracy, and the coordination and completeness of all Deliverables and Services it, and the Architect Consultants provide, and for their compliance with Applicable Laws and the Standard of Care. The Architect shall re-perform any services, or portions thereof, that fail to satisfy the Standard of Care so that such services meet the Standard of Care. All costs incurred by Architect in performing such corrective services shall be for the Architect’s account, and the Owner shall not be required to pay for such corrective services. In the event that Architect is either not capable of performing such corrections or is not capable of performing such corrections in time to meet the Owner’s requirements, the Owner may have the corrective services performed by a third party, and the Architect shall reimburse the Owner for all reasonable expenses associated with the services of the third party. Architect represents that it is properly licensed to provide the professional Services required by this Agreement and shall cause all Architect Consultants to whom it delegates Services to be appropriately licensed design professionals. All Drawings, Specifications, and other design documents shall bear the seal of the licensed professional who prepared them in accordance with the Applicable Laws. All Drawings, Specifications, and other design documents shall be prepared in accordance with the Owner’s design intent and all other requirements of Owner.

§ 2.2 Cooperation/Collaboration and Scheduling. Architect agrees to provide a high degree of cohesion, cooperation, collaboration, coordination and teamwork to the Project. To this end, Architect shall perform its services on time, in accordance with the PS Schedule, within the Owner’s Budget, and in keeping with the design intent as described by Owner and its representatives. Architect shall, at all times provide complete coordination and cooperation with Owner and other members of the Project Team in the performance of its Services to achieve a cohesive and integrated Project.

§ 2**.2.1** **Professional Services Schedule**. Architect shall prepare a detailed PS Schedule that will govern the provision of Services hereunder and facilitate review of design milestones and Deliverables to the Owner. This PS Schedule and the milestones therein shall conform to the time parameters set forth in Section 1.1.4 above and shall be attached to this Agreement as **Exhibit A**.

§ 2**.2.1.1 Review Cycles.** Time periods for completion of design phases and of the Construction Documents shall be included in the PS Schedule to accommodate a thorough review of the Construction Documents at the following milestones and in the sequential order listed: (i) Programming Phase; (ii) Schematic Design; (iii) Design Development; (iv) sixty-five percent (65%) complete Construction Documents; (v) ninety-five percent (95%) complete Construction Documents; and (vi) one hundred percent (100%) complete Construction Documents. The Architect shall include for each phase the following deadlines in the PS Schedule: (a) Submittal of Deliverables to Owner; (b) initial review by Owner and design team; (c) review meeting to receive and discuss review comments, including comments related to the most recent Cost Estimate; (d) deadline for Architect comments to the Owner; and (e) resolution of comments.

§ 2**.2.1.2** Architect will perform all Services within the time periods established in the PS Schedule. Owner will issue authorization to proceed with each design phase and Architect shall thereafter proceed through the milestones set forth in the PS Schedule and Section 2.2.1.1(a) – (e) above. Once all comments from the Project Team have been resolved in accordance with Architect’s Standard of Care, Owner will issue authorization to proceed with the next phase of the design (Section 2.2.1.1(i) – (vi)) above.

§ 2.2.1.3 Architect acknowledges that the Project may be designed and constructed in a number of phases and Architect may be asked to adjust its PS Schedule in performing its services hereunder to accommodate Owner’s phasing. Architect acknowledges that it will comply with Owner’s adjustment requests to the extent reasonably possible while still providing services in keeping with Architect’s Standard of Care. Architect’s services shall be coordinated with those of other design professionals, Architect Consultants, and Owner Consultants in order to avoid unreasonable delay in the orderly and sequential progress of the Work.

§ 2.2.2 Architect Consultants. Architect shall be responsible for contracting with the Architect Consultants identified in Section 1.1.11 above. Architect shall review all Deliverables and other design and engineering documents prepared by Owner Consultants and Architect Consultants and shall make comments and recommendations regarding the design and engineering of the Project so that the Project is appropriately coordinated among the various disciplines. Architect assumes responsibility for the coordination of the Architect Consultants and Owner Consultants’ documents as a part of Architect’s Basic Services. Architect further agrees to provide all documents and background information for the Project to all Architect Consultants and Owner Consultants involved in the Project in order to achieve an integrated and consistent design of the Project. Architect shall be responsible for the completeness and accuracy of Construction Documents prepared by Architect and Architect Consultants and for their compliance with all Applicable Laws. Architect shall direct all Architect Consultants to make all revisions and modifications to such Construction Documents as may be necessary to comply with the permitting and other regulatory and legal requirements of the jurisdiction of the Project. Nothing contained herein shall relieve any Architect Consultant of its responsibilities to Architect and/or Owner, nor shall it relieve any Architect Consultant of any responsibility to perform services in accordance with the applicable Standard of Care. Architect shall require that all Architect Consultants maintain in effect at all times during the full term of the Project insurance policies providing coverages for all services performed by them in connection with the Project of the types and in such amounts set forth in Section 2.5 and**Exhibit E**.

§ 2.2.2.1 Architect shall contract with and pay for the Services of all Architect Consultants out of the compensation paid to Architect under this Agreement. The Owner shall be identified as a third-party beneficiary in all agreements between Architect and Architect Consultants. The Architect’s Consultants shall acknowledge that they owe a duty of to provide their services in accordance with the Standard of Care applicable to the services provided. Nothing in this Agreement shall create any contractual obligation directly from the Owner to the Architect’s Consultants, or other design professionals not hired directly by the Owner.

§ 2.3 Key Personnel. Architect shall designate in writing to Owner those key employees and representatives who are authorized to act on Architect’s behalf with respect to the Project. Architect representative(s) designated in Section 1.1.10 shall be those responsible for the day-to-day management of the Architect’s Services. Other key personnel may be designated by Architect in Exhibit B. Each person shall be designated with a title and a brief description of the obligations and limitations of each representative’s authority. Architect shall not change representatives or assignments without Owner’s written consent, which consent shall not be unreasonably withheld. Architect shall not assign or retain on the Project any person or entity to whom Owner reasonably objects. Once designated, the key personnel will not be changed unless such person becomes unable to perform any required duties due to death, injury, transfer, or termination of employment with Architect.

§ 2.4 Except with the Owner’s knowledge and consent, the Architect shall not engage in any activity, or accept any employment, interest or contribution that would reasonably appear to compromise the Architect’s professional judgment with respect to this Project. All statements, representations and certifications contained in, or otherwise set out in, Architect’s response(s) to the Request For Qualifications for this Project were true and correct when made, and shall remain true and correct throughout the term of the Agreement.

§ 2.5 Insurance Coverages. The Architect shall at its sole expense maintain in effect at all times during the full term of its services under this Agreement and as otherwise required hereunder, and shall require that Architect Consultants maintain in effect at all times during the full term of providing services, insurance coverages with limits not less than those set forth in **Exhibit E**. Architect and Architect Consultants shall comply with all requirements set forth in **Exhibit E** and shall list Owner and all Indemnitees as additional insureds on all policies required of Architect and Architect Consultants, except on Worker’s Compensation and Professional Liability policies, using ISO Additional Insured Endorsements CG 20 10 10 01 (ongoing operations) and CG 20 37 10 01 (completed operations) or endorsements providing equivalent coverage.

§ 2.5.1 - § 2.5.8 *[Intentionally Deleted. See* ***Exhibit E****.]*

# ARTICLE 3   SCOPE OF ARCHITECT’S BASIC SERVICES

§ 3.1 The Architect’s Basic Services consist of those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services and coordination of other services as set forth in this Agreement. No phase shall begin until all prior phases have been completed and approved by Owner unless the Owner gives its prior written consent thereto.

§ 3.1.1 The Architect shall (i) establish with Owner’s approval and document the form, aesthetics, materials, and construction technology for the Project; (ii) prepare supervise and control the preparation of the plans, Drawings, Specifications, and details for the Project; and (iii) observe the construction of the Project and evaluate conformance with the architectural plans and Specifications prepared by the Architect, all in accordance with the responsibilities of Architect hereunder and Applicable Laws including, but not limited to, all applicable building codes, zoning codes and other statutory and local requirements. The Architect shall also manage the Architect’s services, consult with the Owner, research applicable design criteria, attend Project meetings, communicate with members of the Project team, and report progress to the Owner.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner Consultants. The Architect shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner and the Owner Consultants; provided, however, that (i) the Architect may not rely upon such information or any other information provided by or on behalf of the Owner when the Architect knows or reasonably should know that the information is inaccurate, inadequate, incomplete, or otherwise unfit for its intended purposes, or would infringe the intellectual property rights of a third party, and (ii) the Owner makes no representation or warranty that any information provided to Architect by or on behalf of the Owner is accurate, correct, complete, fit for its intended purpose, or usable without infringing any patent, copyright, trademark, or other intellectual property rights of a third party. If the Architect becomes aware of any error, omission, or inconsistency in such services or information, within **three (3)** Days of discovering the error, omission, or inconsistency, Architect shall notify Owner. The Architect shall coordinate its services with those services provided by the Owner Consultants and furnish BIM or CAD drawings to the Owner Consultants.

§ 3.1.3 A schedule for the performance of the Architect’s services is set forth in Section 2.2.1 above. The PS Schedule includes anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information and shall include allowances for periods of time required for the Owner’s review, for the performance of the Owner’s Consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner’s approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.4 Architect shall perform and manage all Services so that the Project, as designed, can be constructed for an amount that is within the Owner’s Budget and in accordance with Owner’s design requirements. The obligation to design the Project so as to achieve the Owner’s design requirements, including its objectives of scope and cost, shall continue until final acceptance of the Project. Any adjustment to the scope or quality considered necessary to comply with the Owner’s design requirements during the design phase shall be mutually agreed upon and shall be considered normal to that process. Approval or acceptance of any Architect’s Services by Owner shall not in any way release of Architect from any duty, responsibility or liability for such Services, it being understood that Owner is at all times relying upon Architect’s skill and knowledge in performing all Services.

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

§ 3.1.6 The Architect shall , with Owner’s assistance, be responsible for filing documents required for the approval of Authorities Having Jurisdiction over the Project. The Architect shall further assist the Owner and Contractor in the disposition of any comments by local governing authorities related to the acquisition of the required building permits for the Project.

§ 3.1.7 Owner shall have the right to reject any Services it considers defective. Architect shall promptly correct any such defect at Architect’s expense. Should any portion of the Work be damaged or defective due to an error or omission in Architect’s Deliverables or Services, including errors or omissions in any plans, Drawings, Specifications, and other Construction Documents or materials prepared or furnished by Architect, Architect’s Consultants, or any other professional service provider, Architect shall promptly correct any such damage or defect at no additional cost to the Owner. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any fault or defect in the Project or any non-conformance with the Contract Documents, including any errors, omissions, or inconsistencies in the Architect’s Unique Architect Work Product or Non-Unique Architect Proprietary Information.

§ 3.1.8 Architect shall at all times be an independent contractor and have sole responsibility for and control over all means, methods, techniques, sequences and procedures for coordinating, scheduling, and performing its Services, and coordinating and scheduling Architect Consultants’ services to achieve the requirements of this Agreement. Nothing in this Agreement shall be deemed to imply or represent that the Architect, its supervisors and employees, or the Architect Consultants of any tier are the agents or employees of Owner. Neither party shall have the authority to bind or obligate the other in any manner as a result of the relationship created hereby. As an independent contractor, the Architect: (a) except in the case of Owner’s negligence or willful misconduct, assumes full responsibility for (i) the safety of all of the Architect’s agents, directors, officers, employees, Architect Consultants, and subconsultants (and the agents, officers, directors and employees of each of them), and (ii) the protection of all property owned, leased, or utilized by the Architect; (b) shall maintain complete supervision and control over the Architect’s agents, employees, Architect Consultants, and subconsultants; and (c) shall perform all of the Architect’s obligations under this Agreement in accordance with the its own methods subject to compliance with this Agreement.

§ 3.1.9 Architect’s Services shall be provided in stages, including Programming, Schematic Design, Design Development, Construction Documents, and Construction Phase stages. Architect shall not proceed to any subsequent stage of  the Services until the Owner has authorized Architect to proceed in writing, except at the Architect’s sole financial risk. Each stage of Architect’s Services will include appropriate input from various disciplines including Architect’s Consultants, Owner Consultants and any other party necessary to produce a fully integrated set of Construction Documents upon which the Project may be constructed. These shall include, but not be limited to architectural, landscape, Building Information Modeling (BIM), civil, structural, mechanical, electrical and plumbing engineering services, construction cost estimating, scheduling, and Storm Water Pollution Prevention Plan Services, as required.

§ 3.2 Programming Phase and Schematic Design Phase Services

§ 3.2.1 **Programming** **Phase Services.** During the Programming phase, Architect shall schedule and conduct meetings with the Owner and any other necessary individuals or entities to discuss, review, and evaluate Owner’s Design Program as set forth in Section 1.1, Owner’s standards and design requirements, and Owner’s expectations as it concerns functional issues that may impact the Project. Architect shall also review Applicable Laws with respect to the design of the Project and shall visit the Site to become familiar with the functional operational requirements of the Project, existing and proposed facilities, systems, and conditions to ensure the Project, as designed, will functionally interface with the existing conditions and Owner’s Design Program. The Architect shall thereafter again meet with the Owner to discuss a preliminary evaluation of the Owner’s Design program.

§ 3.2.1.1 The Architect shall prepare a preliminary evaluation (the "Pre-Design Task Report") of the Owner’s Design Program. The preliminary evaluation shall address Owner’s expectations, benchmarks, possible alternative approaches to design and construction of the Project, balance scope and Owner’s budget and include the Architect’s recommendations, if any, with regard to accelerated or fast-track scheduling, procurement, or phased construction. The preliminary evaluation shall consider cost information, constructability, and procurement

§ 3.2.1.2 After the Architect meets with the Owner and presents its preliminary evaluation and within the time periods established in the PS Schedule, Architect shall provide a written report to the Owner, summarizing the Architect’s evaluation of the Owner’s Design Program. The report shall include:

.1 allocations of program functions, detailing space and adjacency needs, room-by-room technical requirements, engineering criteria, schedules of medical equipment and functionality, and the function and square foot areas of each room/building;

.2 Site opportunities, conditions, facilities studies, and Project-related requirements, including, but not limited to, codes, rules, regulations, and environmental and/or traffic impact studies that may affect the timely design and construction of the Project;

**.3** collateral requirements such as sustainability targets and environmental issues;

**.4** a preliminary estimate of the Contract Sum, and, if necessary, recommendations to adjust to Owner’s Design Program so as to be within the Owner’s Budget;

.5 Review of the PS Schedule and proposed adjustments, if any, to design milestones; dates for receiving additional information from, or for work to be completed by, the Owner; anticipated date for completion of Programming, Schematic Design, Design Development Documents, Construction Documents, and dates of periodic design review sessions for each phase of design and development of the Construction Documents;

.6 an outline of Architect’s proposed interface with all utility providers as is reasonably necessary in order to determine the necessary Specifications for bringing/connecting all utilities to the Project, including, but not limited to, water, sewer, gas, electric, telecom, cable, and like services;

.7 a determination and identification of Architect Consultants engaged, and to be engaged by Architect as are necessary to complement the Services to fulfill Architect’s requirements under this Agreement; and

**.8** any additional items mutually agreed upon by Owner, Project Manager, and Architect including any Project delivery impacts and decisions.

§ 3.2.1.3 Budget. As part of the Programming Phase, Architect shall review and become thoroughly familiar with Owner’s Budget. If, in the opinion of Architect, the Budget is adequate in terms of categories and values so as to allow for the design and timely construction of the Project as contemplated by Owner, Architect shall confirm in writing its ability to prepare the Design Development Documents that will comply with the Design Program parameters and the Budget. If, however, in the opinion of Architect, the Budget proposed by Owner is inadequate or insufficient, the parties shall diligently pursue making appropriate adjustments as would be necessary to enable Architect to confirm the adequacy of the Budget to meet the goals and mission of the Project. If such efforts should fail, Owner, at its option, may (i) waive the provisions of this subsection; or (ii) terminate this Agreement. The parties acknowledge and agree that subsequent changes in the Design Program or scope of the Project may be cause to modify and/or amend the Budget. Any such modification or amendment to the Budget must be authorized by Owner in writing.

§ 3.2.1.4 The Owner shall review the Architect’s Pre-Design Task report and, if acceptable, provide the Architect with written consent to proceed to the development of the Schematic Design Phase as described in Section 3.2.2. The consent to proceed shall not be understood to modify the Owner’s Design Program unless the Owner and Architect execute a Modification.

§ 3.2.2 **Schematic Design Phase Services.** During the Schematic Design phase the Architect shall provide all Schematic Design Drawings, submittals, and review comments, and shall attend all review meetings and provide all Deliverables within the time periods established in Section 2.2.1 and **Exhibit A**.

§ 3.2.2.1 Upon the Owner’s issuance of a written consent to proceed under Section 3.2.1.4, the Architect shall prepare and submit Schematic Design documents to the Owner. In developing the Schematic Design package, the Architect shall consider environmentally responsible design alternatives, such as material choices and building orientation, and the value of alternative building systems and equipment, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner’s Design Program and Budget. The Schematic Design shall be in accordance with zoning requirements of Authorities Having Jurisdiction and all Site stipulations. As part of the Schematic Design requirements, Architect shall prepare a preliminary construction cost estimate for submission to Owner.

§ 3.2.2.2 The Schematic Design shall include a report identifying any deviations from the Owner’s Design Program and shall include the following Deliverables:

.1 Confirmation of the allocations of program functions, including the analysis of any alternative designs;

.2 Site plan including all utilities;

.3 Building plans, sections and elevations;

.4 Structural systems;

.5 Selections of major building systems, including but not limited to mechanical, electrical (including low voltage systems) and plumbing systems;

.6 Outline Specifications or sufficient Drawing notes describing construction materials;

.7 Design criteria for (i) connection to all proposed temporary and permanent on-Site and off-Site utilities, (ii) the proposed heating, ventilation, and air conditioning system and single line layout of conveyance systems, (iii) the proposed electrical system including reserve capacity, and (iv) the proposed structural system, including the rationale for all determinations, all floor and roof design loads, and lateral loads; and

.8 Basic material selections

.9 Preliminary equipment and medical equipment selections

.10 Other typical construction details.

The Schematic Design may include some combination of physical study models, perspective sketches, or digital modeling. The Architect will develop 3D computer-based building model to convey the intent of the building exterior design to the Owner.

§ 3.2.2.3. Architect shall develop the proposed site and building design in accordance with zoning requirements and site stipulations, and coordinate the site layout with the landscape design and civil engineering consultants. Architect shall perform a preliminary building code review for the proposed design based on relevant building codes with relevant amendments from Authorities Having Jurisdiction. Architect shall also interface with Owner Consultants and incorporate information from Owner Consultants into the design.

§ 3.2.2.4 The Architect will, throughout the Schematic Design Phase, conduct design team meetings at agreed-upon frequency, for design review and to resolve design coordination issues and shall direct efforts of the design team to develop preliminary structural, mechanical and electrical design solutions. Architect shall also confirm that building system components’ spatial allocations align with the schematic plan.

§ 3.2.2.5 Architect will consult with the Civil Engineer on site grading, utility requirements, availability of power and telephone services, and the location of electrical transformers and switch gear and will provide, where appropriate, Drawings, plans or other documents illustrating these Project components. Architect shall timely recommend to the Owner that appropriate investigations, surveys, tests, analyses and reports be obtained as may be necessary for the proper execution of Architect’s services.

§ 3.2.2.6 The Architect shall incorporate all Owner-requested revisions into the Schematic Design Drawings. Upon conclusion of the design milestone review for this phase, Architect shall furnish and deliver to Owner Schematic Design Package which shall include an update on the Cost Estimate as set forth in Section 6.3. The Schematic Design Drawings shall include complete printed sets and shall include renderings, campus plans, site plans, and floor plans as necessary during this phase of the design. Architect shall request review of the completed Schematic Deliverables, updated Cost Estimate, and any adjustments to the PS Schedule to enable Architect to proceed to the Design Development Phase. When Owner considers all elements of the Schematic Design phase are met, Owner will request the Architect proceed with the Design Development Phase which request shall be reflected in the minutes of the particular design meeting in which the request is made.

§ 3.2.2.7 If the updated Cost Estimates exceed the Owner’s Budget, the Owner, Project Manager, and Architect will work collaboratively to ensure that the construction cost estimates are brought to within the Owner’s Budget, which may include Owner modifying its budget, discussion and coordination of value engineering recommendations with Owner’s Program and budget, mutually agreeable revisions to the program, scope or quality, or any combination of these or other discussions and recommendations. Once a collaborative decision is reached, Architect shall then revise the respective design documents as may be necessary. Such revision shall be without increase in the design Services compensation under except as otherwise expressly provided in this Agreement.

§ 3.3 Design Development Phase Services

§ 3.3.1 Based on the Owner’s approval of the Schematic Design Documents, authorization of any adjustments in the Project requirements and the Budget for the Cost of the Work, and/or any adjustments required by local building officials, and upon receipt of authorization of Owner to proceed, the Architect shall prepare Design Development Documents for the Owner’s approval.

§ 3.3.1.**1** The Design Development Documents shall illustrate and describe the development of the completed Schematic Design Documents and shall be refined to establish scaled relationships among the Project components. The Design Development Documents shall consist of Drawings and other documents, including plans, sections, elevations, typical construction details, perspective sketches, narratives of major enclosures, survey of applicable codes, engineering studies, analysis of alternative designs, diagrammatic layouts of building systems, and any value engineering performed or recommended by the Architect to fix and describe the size and character of the Project as to architectural, structural, mechanical, plumbing, and electrical systems, FF&E, and other appropriate elements. The Design Development Documents shall include design criteria for (1) connection to all proposed temporary and permanent on-site and off-site utilities; (2) the proposed heating, ventilation and air conditioning system and single line layout of conveyance systems; (3) the proposed electrical system including reserve capacity; (4) the proposed structural system, including the rationale for all determinations, all floor and roof design loads, and lateral loads’ and (5) other items as mutually agreed upon between Owner, Project Manager and Architect . The Design Development Documents shall further include functional and operational descriptions for the Project commensurate with the level of design completion, and outline Specifications that identify major materials and systems and establish, in general, their quality levels.

§ 3.3.1.**2** Architect shall, as part of Basic Services, review and revise schematic Drawings for dimensional and graphical accuracy, consistency between the separate Drawings, and compliance with accessibility and planning issues pursuant to the building codes, accessibility codes, and other applicable regulations. Architect will also revise the Drawings based on Owner’s preliminary pricing comments (if any) and shall establish guidelines for design of program elements and coordinate all other Architect Consultants and Owner Consultants to evaluate the scope of engineering services. Design Development Documents shall be based upon reliable and accurate calculations that appropriately determine all architectural and engineering components of the Project. Draft Specifications shall be prepared for review and inclusion in the package of Design Development documents, all of which shall be submitted to the Owner and Project Manager, with updated costs estimated, in the "DD Approval Package".

§ 3.3.2 Architect will coordinate with all Architect’s Consultants and Owner’s Consultants, provide the Drawing backgrounds needed for the Architect’s Consultants and Owner’s Consultants to begin performing services, issue draft Specifications for review by the design team, coordinate with the Owner to finalize Specifications, coordinate and conduct weekly design team meetings, and provide all Deliverables within the time periods established in Section 2.2.1 and **Exhibit A**.

§ 3.3.3 Architect shall meet with the Project Team as necessary to thoroughly review the DD Approval Package and the detailed construction cost estimate. During such meeting(s), Architect shall provide input on and advise the Owner of any adjustments to the Owner’s Budget. Architect shall make such revisions to the documents in the DD Approval Package as required by Owner and Project Manager to finalize the Design Development Documents and to align the design with the Owner’s stated requirements and Budget. After incorporating revisions to the DD Approval Package as requested by the Project Team, Architect shall resubmit such revised DD Approval Package, electronically in CAD format and in hard copy, along with any required, updated cost estimates (the "Final DD Package"), to the Owner for approval. The Final DD Package shall include two sets of the complete documents in a format and medium acceptable to the Owner and such complete printed sets of the Final DD Package.

§ 3.3.4 The Architect shall prepare presentation materials at completion of the Design Development phase in a manner that meets Owner’s schedule. Such presentation materials shall be revised and/or supplemented to meet the requirements of this Agreement as reasonably required by Owner. Such materials shall be furnished in electronic format as may be required by the Owner and in hard copy.

§ 3.3.5 Architect shall request written approval of the Final DD Package, updated cost estimates, and any adjustments to the Project Schedule so that it may proceed to the Construction Documents phase. When Owner considers all elements of the Design Development phase are met, Owner will issue written authorization for Architect to proceed with the Construction Documents phase.

§ 3.4 Construction Documents Phase Services

§ 3.4.1 Based on the Owner’s approval of the Design Development Documents, authorization of any adjustments in the Project requirements, Budget, and updated Cost of the Work, Architect shall prepare Construction Documents for the Owner’s approval.

The Construction Documents shall illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work, including, but not limited to all architectural, structural, mechanical, electrical and plumbing Drawings, plans, details, schedules, site lighting, building lighting and common area lighting plans (electrical), low voltage/security design plans, civil design, landscape design, calculations, energy calculations and technical Specifications, and all fire protection designs, including a performance Specification to allow a design/build program by the fire protection subcontractor. Specifications will be based on a 48-division specification model and will be printed on 8 ½ " x 11" book format indicating the actual material selections and other relevant notes. Architect shall make sure that all Drawings and Specifications submitted to Owner for approval are sufficiently complete, unambiguous, and in compliance with all Applicable Laws, including standards promulgated by ADA/TAS and ANSI. Architect shall be responsible for providing certification(s) required by any Authorities Having Jurisdiction over the Project. The Owner and Architect acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4. At the Owner’s request, Architect shall prepare detailed area calculations in a form acceptable to Owner.

§ 3.4.1.1 As part of the Construction Documents Phase, the Architect shall:

**.1** Conduct design team meetings at agreed-upon frequency, for design review and to resolve design coordination issues.

**.2** Coordinate efforts of the design team and Project Team and incorporate into the design all comments from all Consultants.

**.3** Finalize selection and documentation of construction materials and finishes.

**.4** Review document progress with Owner for input and direction, and incorporate Owner-requested revisions.

**.5** Issue progress documents at fifty percent (50%) and ninety-five percent (95%) for Owner’s review and approval.

**.6** Submit Construction Documents packages at appropriate stages for permitting as required to meet the Project schedule.

**.7** Coordinate with Owner and Project Manager to include Owner-directed comments and revisions.

.**8** Compile drawings from Owner Consultants and incorporate into the complete set.

§ 3.4.2 In accordance with Section 2.2.1 above, Construction Documents will be submitted to Owner, reviewed, and any comments incorporated at fifty percent (50%) and ninety-five percent (95%) such that all such comments are resolved at (100%) completion. The Architect shall provide with each review submittal a coordination document set with colored overlays of required design disciplines. These shall include, but not be limited to, mechanical, electrical, plumbing, sprinkler, slab penetrations, telecommunications, and instructional technologies support. With the exception of fire sprinkler design, the Architect shall provide all designs and shall not use design performance documents, unless approved by Owner.

§ 3.4.2.1 All electronic data shall include an organized indexing system and/or a table of contents sufficiently detailed as to each discrete subject matter so as to allow for easy identification and location of each file or page of information.

§ 3.4.2.2 Construction Document Drawings shall be produced on a BIM system as part of the Basic Services. Owner will define the BIM drawing requirements and the final media for the BIM data. Any Drawing revisions shall be investigated and coordinated with other design documents. Any redesign required as a result of conflict and/or comparison with other design documents, shall be provided by Architect in electronic version and provided to Owner as part of the Basic Services. Specifications shall be provided to Owner in both Microsoft Word and in Adobe PDF.

§ 3.4.3 The Architect shall incorporate the design requirements of governmental Authorities Having Jurisdiction over the Project into the Construction Documents.

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

§ 3.4.5 The Architect shall update the Cost Estimate prepared in accordance with Section 6.3. The Architect shall assist the Owner with any decisions made by the Owner prior to completion of Architect’s services in the Construction Documents Phase to reduce the estimated cost thereof. Modifications will be incorporated into the Construction Documents as part of Basic Services.

§ 3.4.6 No later than the 100% Construction Document Deadline set forth in **Exhibit A**, and based on the approved ninety-five percent (95%) complete Construction Documents, Architect shall prepare and deliver to Owner the proposed one hundred percent (100%) complete Construction Documents and the one hundred percent (100%) complete Construction Cost Estimate review comments. If such Cost Estimate exceeds the Budget, Architect shall consult with Owner to identify further potential Drawing and/or Specification modifications that bring the Cost Estimate into compliance with the Budget. Approved modifications shall be incorporated into the Construction Documents at no cost to Owner in the event Owner determines, in its sole discretion that such changes are the responsibility of Architect. Any revisions required to any Drawings after the Drawings are approved by Owner and the authorities having jurisdiction and issued at the "For Construction" phase shall be at no cost to Owner.

§ 3.4.7 Prior to releasing the Construction Documents "For Construction", the Architect shall provide a document that summarizes all design code requirements and provide written certification that the Construction Documents meet all Applicable Laws and required standards. The Architect shall further certify in writing that no asbestos or lead containing materials have been specified or approved by the Architect for installation into the Project.

§ 3.4.8 Architect shall submit all documents required to secure approval of all Authorities Having Jurisdiction over the Project. All requests for reimbursement for any direct costs associated with submitting documents to such authorities and for permit fees shall be included as Reimbursable Expenses and paid pursuant to Section 11.8.1 of this Agreement. The Architect shall file and obtain approval of the Construction Documents from the Texas Department of Licensing and Regulations, Architectural Barriers Division, in accordance with *Tex. Gov’t.* *Code Ch. 469*, as amended, and Title III of the ADA.

§ 3.4.9 Upon written request by Owner, Architect shall prepare, the Construction Documents so as to enable such that the various phases of the Work, may, to at the discretion of Owner, be awarded pursuant to separate contracts to construct that particular phase, which shall constitute an Additional Service.

§ 3.4.10 Before proceeding into the Procurement Phase, the Architect shall obtain Owner’s written acceptance of the final Construction Documents and will reconfirm the alignment of the approved Cost Estimate with the established final Budget. No Construction Documents shall be issued, delivered, or released for any purpose without the prior written consent of Owner. Unless otherwise instructed by Owner, Architect shall deliver electronic and hard copy sets of the approved Construction Documents to Owner.

§ 3.4.11 Drawings, Specifications, and other information furnished or provided by Architect shall be free from material errors, defects, and omissions and sufficiently complete so as to, at all times, comply with the Standard of Care. Approval or acceptance of any design Services by the Owner shall not in any way release Architect or any Architect Consultants from any duty, responsibility or liability for such design Services, it being understood that Owner is at all times relying upon Architect’s professional skill and knowledge in performing the design Services.

§ 3.5 Procurement Phase Services

§ 3.5.1 General

If requested by Owner, the Architect shall assist the Owner in the bidding and award phase of the Project, by providing the following services:

**.1** attend all pre-bid meeting(s) conducted by Owner and document discussions in meeting minutes;

**.2** consult with and advise Owner as to any bidder or proposer inquiries and prepare responses to inquiries as necessary;

**.3** critically review all submittals and responses to Requests for Proposals; and

**.4** prepare any addenda, amendments and/or revisions to the solicitation documents as necessary or directed by Owner.

**§ 3.5.2** Architect will attend all meetings regarding and participate in the evaluation of all proposals in accordance with Owner’s processes and procedures, including, but not limited to, interviewing bidders or proposers. Participation in these sessions shall be included in Basic Services.

**§ 3.5.3** If the response to the solicitation or Request for Proposal, as determined by Owner in its absolute and sole discretion, exceeds the Owner’s Budget for the Cost of the Work and Owner does not amend the Budget, Architect shall consult with Owner and Project Manager in order to identify further potential design and/or Specification modifications to bring the response into compliance with the Owner’s Budget. Approved modifications shall be incorporated into the Construction Documents and appropriate copies reissued at no cost to Owner. Modifications that include deviation from Owner’s Project requirements at Owner’s sole discretion are not Additional Services and no additional compensation will be paid to Architect for same.

**§ 3.5.4** Owner may elect to amend the Owner’s Budget for the Cost of the Work and allocate such additional funds as necessary to accommodate the successful bid or proposal to enable the Project to proceed. In such event, Architect shall assist in the evaluation of the response as it concerns the amended Budget as a Basic Service and not as an Additional Service.

**§ 3.5.5** In the event Architect receives any inquiries whatsoever from bidders, potential bidders, or potential proposers regarding the Project, Architect shall refer such inquiries to Owner. Architect is not authorized to provide any comments, answers or other similar responses to such inquiries. All inquiries must be forwarded to Owner for response.

§ 3.6 Construction Phase Services

§ 3.6.1 General

§ 3.6.1.1 The Architect shall provide administration of the Contract between the Owner and the Contractor as set forth below and in AIA Document A201™–2017, General Conditions of the Contract for Construction as modified for the Project.

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

§ 3.6.1.2.1 As part of Basic Services, Architect shall provide professional office and field services to assist the Owner in the construction phase, and such services shall include without limitation:

**.1** providing phone and electronic communications with Contractor during construction for clarification of Drawings, Specifications, and any other Construction Document prepared by Architect or any Consultants.

**.2** issuing Architect’s Supplemental Instructions ("ASIs"), Architect’s Supplemental Drawings ("ASDs") and responses to Requests for Information ("RFIs") as needed for clarification. Architect shall issue ASIs, ASDs, and responses to RFIs not later than **ten (10)** Days after receipt, or uploading, of an RFI generated by Contractor.

**.3** reviewing Submittals for general compliance with the Contract Documents. Architect shall review Submittals and issue responses, if necessary, not later than **ten(10)** Days after receipt of the submittal.

**.4** attending regular construction progress meetings and reviewing construction progress for adherence to the Construction Documents through site visits provided in Section 3.6.2.1 below. Architect shall provide a site observation report for each visit within **seven (7)** Days of the site visit. The Architect shall review minutes of construction progress meetings and furnish comments to the Owner, Contractor, Project Manager, and other attendees within **seven (7)** Days of the meeting, regardless of whether the Contractor keeps minutes.

**.5** meeting with Owner and Project Manager at the time of site visits to review design or construction concerns.

**.6** collaborating with Project Manager to review and process Contractor’s Applications for Payment. Architect shall review and process Contractor’s Applications for Payment, and issue , together with Project Manager, corresponding Certificates for Payment, not later than **seven (7)** Days after receipt thereof.

**.7** reviewing and processing Owner- or Contractor-initiated changes that require additional review, coordination or re-drawing by Architect may be classified as an Additional Service if redrawing or coordination is not due to (i) incompleteness, error, or ambiguity in the original document or (ii) Architect’s failure to clearly define the intent. Such Additional Services must be approved by Owner as set forth in Article 4 herein. Architect shall review and respond to Owner- or Contractor-initiated changes not later than **seven (7)** Days after receipt thereof.

**.8** coordinating Architect Consultants, including their preparation of various structural, mechanical, electrical, and plumbing Drawings. Architect shall also coordinate the accessibility consultant to facilitate a review of final Construction Documents and issuance of a written report.

**.9** preparing and executing completion of the punch list of deficient or non-complying Work; conduct punch list walk-through with Owner, Project Manager, and Contractor, to check conformance of the Work with the Construction Documents’ requirements, and to verify accuracy and completeness of the Contractor-submitted punch list of Work to be completed or corrected

**.10** issuing the Certificate of Substantial Completion.

**.11** with Owner’s approval and Project Manager’s input,authorization of Final Payment upon completion of the Project.

**.12** review of Contractor’s As-Built Drawings.

§ 3.6.1.3 If the subject of an RFI cannot be reasonably answered by the RFI response deadline set forth in Section 3.6.1.2.1.2, or if any other deadline set forth above cannot be timely met, Architect shall so advise Owner and propose an alternative deadline and the basis for such proposal, the acceptance of which shall be in the sole discretion of Owner. Architect shall make reasonable efforts to answer Contractor’s questions, RFIs, and submittals in the shortest timeframe possible in order to collaborate in the prosecution of the Work on a schedule that recognizes that "**TIME IS OF THE ESSENCE**."

§ 3.6.1.4 Subject to Section 4.2 and except as provided in Section 3.6.3.4, the Architect’s responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates **ninety (90)** days after the final Certificate for Payment is issued, unless extended by mutual agreement.

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become familiar with the progress and quality of the portion of the Work completed, and to determine if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. On the basis of such site visits, Architect shall prepare and submit within **seven (7)** Days of said visit, a site observation report. Architect shall report on the progress and quality of the Work and shall specifically report (a) known deviations from the Contract Documents and from the most recent construction schedule submitted by Contractor and approved by Owner, and (b) any defects and deficiencies observed in the Work. The Architect shall be responsible for the Architect’s negligent acts and omissions, and for the negligent acts and omissions of Architect Consultants, their agents, and their employees in the performance of Services pursuant to this Agreement. Nothing in this Agreement shall relieve the Architect of liability for the consequences of its failure to perform Services in accordance with this Agreement or the requisite Standard of Care.

§ 3.6.2.1.1 Notwithstanding the foregoing, the Architect shall visit the site at regular and appropriate intervals to monitor the progress and quality of the Work, including, without limitation, at the following times:

.1 site layout and staking;

.2 drilling and pouring of footings;

.3 pouring of building slab;

.4 mechanical, electrical, and plumbing installation;

.5 setting of structural steel;

.6 roof assembly;

.7 exterior finish;

.8 test and balance of specialty trades

.9 interior finish;

.10 immediately prior to each occasion when the Architect certifies an Application for Payment submitted by the Contractor; and

.11 such other times as may be necessary for the Architect to determine that construction of the Project complies with the requirements of the Contract Documents and Applicable Laws.

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

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

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

§ 3.6.2.5 [*Intentionally deleted.]*

§ 3.6.2.6 Revisions to Drawings/Specifications. Architect shall prepare such amended or revised Drawings and/or Specifications as would be necessary to fully and accurately reflect any approved changes to the Drawings and/or Specifications. Amended or revised Drawings and/or Specifications shall be delivered to the Contractor with a request for review for any impact to cost of work, impact to schedule, and any necessary modifications. Thereafter, Architect shall review the Contractor’s proposal and recommend approval or disapproval to Owner. Upon submittal to Owner of any Deliverable, documentation, or data that was created or modified by Architect, including but not limited to Drawings, Specifications, and any adjustments to the Budget, all representations contained therein shall be true and accurate as to each such creation or modification. Modifications and revisions to the Construction Documents which are made necessary by the errors and/or omissions of Architect or Architect Consultants shall be corrected by Architect at its sole cost and expense.

§ 3.6.3 Certificates for Payment to Contractor

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

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

§ 3.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment, copies of which shall be sent to the Owner with certification of each by the Architect.

§ 3.6.3.4 Certificate for Payment – Final Payment

§ 3.6.3.4.1 Upon receipt of Contractor’s Application for Final Payment, Architect shall, together with the Project Manager, conduct an inspection of the Work to determine whether all of the Work for the Project has been fully completed in accordance with the Contract Documents. If, upon inspection Architect and Project Manager conclude that the Work has been completed in accordance with the Contract Documents and all conditions to final payment set forth in the agreement between Owner and Contractor have been performed, and the requirements set forth in Section 3.6.3.4.2 below have been met, and Owner and Project Manager agree that the Project is complete and ready for Final Payment, Architect may proceed with the issuance of the Certificate for Final Payment.

§ 3.6.3.4.2 **Close-Out and Architect Record Drawings.** No later than **sixty (60)** Days after issuance of Architect’s Certificate of Substantial Completion and prior to Architect’s delivery of the Certificate for Final Payment to Owner, Architect shall:

**.1** Obtain, review and inspect all Close-Out Documents, guarantees, warranties, service agreements, bonds and all other fiscal surety instruments, and all other documentation required of the Contractor by the Contract Documents to ensure full and complete compliance. Within **seven (7)** Days of such confirmation, Architect shall transmit the above-described documentation to Owner;

**.2** Furnish the Architect’s Record Drawings to Owner, marked as “Confidential Information”;

**.3** Furnish one (1) digital copy of all Record Drawings and BIM in Autodesk Revit format and Autodesk Civil 3D to Owner. Each disk shall be appropriately labeled to include identification of the software program (and version thereof) utilized. Drawings shall be in the electronic format identified by Owner, marked as “Confidential Information”

a. All electronic data shall include an organized indexing system and/or a table of contents sufficiently detailed as to each discrete subject matter so as to allow for easy identification and location of each file or page of information;

b. It is expressly acknowledged and agreed that the original disks remain the property of the Architect. If differences between the versions provided and the Architect versions should subsequently be discovered, the Architect versions shall be deemed originals, absent any fraud, malfeasance, or mutual mistake.

**.4** Furnish one (1) copy, in Word format, of the Project’s Specifications, marked as “Confidential Information.”

§ 3.6.4 Submittals

§ 3.6.4.1 The Architect shall review the Contractor’s Submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect’s action in reviewing Submittals shall be taken in accordance with the approved Submittal schedule or, in the absence of an approved Submittal schedule, with reasonable promptness as to not cause delay in the Work or in the activities of Owner, Contractor, or separate contractors, while allowing sufficient time, in the Architect’s professional judgment, to permit adequate review and involvement of the Project Manager in the process.

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

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

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

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

§ 3.6.4.6 Upon Owner’s request, and as part of the Basic Services, Architect shall participate in an expedited Submittal process for the mechanical, electrical, plumbing, and building control trades, and shall participate in any Submittal meetings associated with such expedited process.

§ 3.6.5 Changes in the Work

§ 3.6.5.1 The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time with the consent of Owner. Subject to Section 4.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner’s approval and execution in accordance with the Contract Documents, but no change order or adjustment to the Contract Sum or Contract Time shall be issued by the Architect without the specific written authorization of Owner.

§ 3.6.5.2 The Architect shall analyze written requests by the Owner or Contractor for changes to the Work, including requests for adjustments to the Contract Sum or Contract Time and shall report the results of this analysis in writing to the Owner, Project Manager, and Contractor with a reasonable period of time so as not to cause delay to the progress of the Work, but no later than **ten (10)** Days from receipt of the proposed change. If the Architect determines that implementation of the requested change would result in a material change to the Project that may cause an adjustment of Contract Time or Contract Sum, the Architect shall make recommendations to the Owner and Project Manager. After consultation with appropriate Project Team members, and at the request of Owner, Architect will provide an estimate of the potential cost of such change, including an estimate of the effect of the change on the Contract Time.

§ 3.6.5.3 The Architect shall timely update all Construction Documents as may be necessary to accurately reflect conditions resulting from approved change orders to enable timely delivery of complete and accurate Architect Record Drawings. The Architect shall review all As-Built Documents and other working drawings and promptly notify Owner of any deficiencies observed by the Architect prior to the finalization of the Record Drawings.

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

§ 3.6.6 Project Completion

§ 3.6.6.1 The Architect shall:

.1 conduct inspections to determine, with the agreement of the Project Manager and the Owner, the date or dates of Substantial Completion and the date of final completion;

.2 issue Certificates of Substantial Completion;

.3 forward to the Owner, for the Owner’s review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and,

.4 issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect’s knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

§ 3.6.6.2 The Architect’s inspections shall be conducted with the Project Manager to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected. The Architect shall give prompt written notice to Owner if the Architect becomes aware of any material defect, error, or omission or inconsistency in the Project or in the Contract Documents. Architect, in consultation with the Project Manager, will issue to Owner and Contractor within **seven (7)** Days after the inspection, a punch list identifying non-conforming Work. Upon request, Architect may advise Owner as to the value of the Work completed and the cost to finish the Work. Architect shall continue to inspect the Work completed from the punchlist until it determines, in consultation with the Project Manager, that an appropriate Certificate for Substantial Completion can be issued. Architect shall promptly take all such steps as are required by TDLR to ensure the Project is completed in compliance with applicable TDLR requirements including, but not limited to, obtaining a passing inspection by the Architect’s registered accessibility specialist.

§ 3.6.6.3 When the Work is found to have reached Substantial Completion as defined in the Construction Contract, the Architect, coordinating with the Contractor, shall prepare a punch list of non-conforming items of work. The Architect shall inform the Owner and Project Manager about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work. Prior to issuance of a Certificate for Final Payment, Architect shall comply with the requirements of Section 3.6.3.4.

§ 3.6.6.4 The Architect shall forward to the Owner the following documents received from the Contractor: (1) consent of surety or sureties to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens; and (3) any other documentation required of and received from the Contractor under the Contract Documents as a condition to Final Payment. Architect shall prepare and transmit to Owner one set of reproducible Record Drawings showing significant changes in Architect’s work made during construction based on marked-up Drawings and other data furnished by Owner or Contractor to the Architect and on issued Addenda, Change Orders, Change Directives, RFI responses, Submittal Comments and ASI information as set forth in Section 3.6.3.4.

§ 3.6.7 Facility Operation Services

§ 3.6.7.1 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 and Project Manager to review the facility operations and performance.

§ 3.6.7.2 As part of the Basic Services, Architect shall, upon Owner’s request, visit the Project site to review the Work and prepare a report to be issued to the Owner and, at the Owner’s discretion, to the Contractor indicating outstanding Work to be corrected and warranty issues to be addressed by the Contractor. To the extent that services of the Architect other than the on-site review and preparation of said report (1) are required for the Contractor’s correction of the Work or the Contractor’s satisfaction of warranty requirements; or (2) are requested in writing by the Owner and are not required, in whole or in part, as a result of the Architect’s failure to fully perform the services required hereunder, such services shall be compensated as Additional Services.

§ 3.6.7.3 The Architect shall provide any reasonable assistance in (1) the utilization of any equipment or system, such as initial start-up testing, adjusting and balancing, and preparation of operation and maintenance manuals, in a form satisfactory to Owner, on the determination or design parameters of the exterior enclosure, and the structural, electrical, vertical transportation, mechanical, heating, ventilation, air condition, building automation, building security, fire and life safety, and other systems of the Project; and (2) as an Additional Service, the orientation of personnel for operation and maintenance or commissioning.

§ 3.6.7.4 The Architect shall provide assistance in connection with troubleshooting, analysis, evaluation, and construction in the utilization of any system or equipment installed in the Project. Any additional design work required in connection therewith shall be an Additional Service, except to the extent determined to be an error or omission by Architect or the Architect Consultants, in which case Architect shall provide the redesign at no charge to Owner.

§ 3.6.7.5 Notwithstanding the foregoing, the Architect shall, from time to time, and as part of the Basic Services, consult with the Owner as necessary throughout the first year of the warranty period established in AIA Document A201™–2017, General Conditions of the Contract for Construction as modified for the Project (the "Warranty Period"). In the event it is determined that any portion of the completed Work does not perform in accordance with the requirements of the Contract Documents, the Architect shall provide reasonable assistance to the Owner to remedy the non-conforming Work. Reasonable assistance shall include, without limitation:

.1 Coordination with the Owner and Project Manager in identifying all remedial Work during the Warranty Period;

.2 Attending warranty inspections with the Owner and Project Manager and monitoring follow-up warranty Work or services by the Contractor during the warranty period; provided, however, that if such warranty inspections or follow-up Work relates to the services performed solely by Architect Consultants, then the Architect shall require each Architect Consultant to perform the obligations set forth in this Section and will not be required to do so itself; and

.3 Participate in a program to critique the design and construction of the Project, as reasonably requested by the Owner or the Project Manager.

# ARTICLE 4   SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 *[Intentionally deleted.]*

§ 4.2 Architect’s Additional Services

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to circumstances within the reasonable control of the Architect or otherwise due to the fault of the Architect, any Additional Services provided in accordance with this Section 4.2 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the PS Schedule. If Additional Services are due to circumstances within the reasonable control of the Architect or otherwise due to the errors or omissions of the Architect or any Architect Consultants, the Architect shall provide such Additional Services at its own expense. No Additional Services shall be paid or provided until Owner has approved same, in advance, in writing to Architect.

§ 4.2.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following Additional Services until the Architect receives the Owner’s written authorization. If Architect commences such services without first notifying and obtaining written authorization from Owner, and if Owner does not subsequently authorize such services, the Architect does so at its own risk, and the Owner shall not be required to pay or otherwise be liable for any costs associated with such services. Additional Services may include the following:

.1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner after the "For Construction" set of Drawings are issued, or a major design change in the Project including, but not limited to size, quality, complexity, the Owner’s schedule for the Project or Budget for Cost of the Work, or procurement or delivery method;

.2 Changing or editing previously prepared Unique Architect Work Product or Non-Unique Architect Proprietary Information necessitated by the enactment or revision of codes, laws, regulations or official interpretations, which enactment or revision was not known or reasonably could not have been known to be intended to take effect at the time of preparation of such documents;

.3 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;

.4 Consultation concerning replacement of Work resulting from fire or other cause during construction;

.5 Preparation of computer-based animations, special or enhanced presentation Drawings or renderings, models, or media representations other than those included in Basic Services in Article 3;

§ 4.2.2 *[Intentionally deleted.]*

§ 4.2.3 *[Intentionally deleted.]*

§ 4.2.4 Except for services required under Section 3.6.7 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided more than **ninety (90)** Days after the date of the Certificate for Final Payment shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

§ 4.2.5 *[Intentionally deleted*.*]*

# ARTICLE 5   OWNER’S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide necessary information 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 original Budget for the Project, including (1) the Budget for the Cost of the Work as defined in Section 6.1; (2) the Owner’s other costs; and, (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner’s Budget for the Cost of the Work, the Owner shall notify and consult the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project’s scope.

§ 5.3 The Owner has identified a representative authorized to act on the Owner’s behalf with respect to the Project in Section 1.1.7 above and a Project Manager representative has been designated in Section 1.1.8. The Owner shall endeavor to 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. Architect acknowledges that decisions and communications from Owner may flow through the Project Manager and shall take into account the time required for inclusion of the Project Manager in the communications and decision-making process.

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

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

§ 5.6 *[Intentionally deleted.]*

§ 5.7 *[Intentionally deleted.]*

§ 5.8. Upon the Architect’s request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner 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, and the Owner agrees. The Owner shall require that Owner Consultants maintain professional liability insurance as appropriate to the services provided.

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

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

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

§ 5.12 Except as otherwise provided in this Agreement, or when direct communications have been specifically authorized, Owner shall endeavor to communicate with the Contractor and the Architect Consultants through the Architect about matters arising out of or relating to the Contract Documents. The Owner shall promptly notify the Architect of any direct communications that may affect the Architect’s services.

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

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

§ 5.15 *[Intentionally deleted.]*

§ 5.16 No inspections of the Project or review of Deliverables by Owner shall reduce the level or extent of Architect’s responsibilities arising pursuant to this Agreement. Neither the approval and/or final acceptance of a Project or any Deliverables, nor the payment of any Invoice by Owner shall constitute or be deemed, a release of Architect’s obligation to perform and timely deliver the Services in accordance with the Standard of Care and this Agreement.

§ 5.17 Any provisions in this Agreement to the contrary notwithstanding, all consents, revisions, and/or approvals by Owner shall be in its sole and absolute discretion and shall not be valid or enforceable unless evidenced by a fully executed written amendment to this Agreement. Architect acknowledges that the Owner’s Project Manager shall not have any express or implied authority to vary or otherwise amend or waive compliance with the terms of this Agreement in any way.

§ 5.18 **No Warranties by Owner**. Architect acknowledges that any and all tests, maps, reports, and Drawings in the possession of Owner that reflect or depict site boundaries, recorded easements, topography, utility locations, and other site conditions and/or restrictions which may impact the design and/or construction of the Project were prepared solely for Owner’s benefit and for information only purposes, and that Architect shall have no right to rely upon such and that any reliance thereon shall be at Architect’s own risk. OWNER HEREBY DISCLAIMS ANY EXPRESS OR IMPLIED WARRANTIES AS TO THE ACCURACY OR COMPLETENESS OF THE ABOVE-MENTIONED REPORTS, TESTS, MAPS AND DRAWINGS.

# ARTICLE 6   COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect, determined as follows, with precedence in the order listed:

**.1** The first Owner-accepted Fixed Price or Guaranteed Maximum Price ("GMP") when such Fixed Price or GMP is submitted for the Work;

**.2** In the absence of a Fixed Price or GMP:

a) For completed construction, the cost of all such Work;

b) For Work not constructed:

i) the lowest bona fide bid received from a qualified bidder for any or all such Work; or

ii) if the Work is not bid, the bona fide negotiated proposal submitted for any or all such Work, or

c) For Work for which no such bid or proposal is received:

i) the latest detailed estimate of construction cost if one is available, or

ii) if such detailed estimate is not available, the latest preliminary estimate of construction cost.

In calculating the estimates under this Section 6.1, the Cost of the Work shall include the Contractor’s general conditions costs and fee, if any, and if not, overhead, and profit. The Cost of the Work does not include the compensation of the Architect; the costs of the land, rights-of-way, financing, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

§ 6.2 *[Intentionally deleted.]*

§ 6.3 When the Project requirements have been sufficiently identified, the Owner shall cause to be prepared a preliminary Cost Estimate. This Cost Estimate may 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 will review and provide input the Cost Estimate pursuant to the requirements to do so during each design phase set forth in Sections 3.2, 3.2 and 3.4 herein. The Architect shall advise the Owner of any changes in Project requirements or general market conditions that should be considered in updating any Cost Estimate. In preparing Cost Estimates, Project Manager may 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 make reasonable adjustments in the scope of the Project and to include in the Contract Documents alternate bids as may be necessary to adjust the estimated Cost of the Work.

§ 6.4 Any information provided by Contractor to update a Cost Estimate submitted by the Project Manager shall be provided to Owner and Architect within **seven (7)** Days of a review meeting. Architect shall issue a comprehensive list of review comments to each Cost Estimate not later than **seven (7)** Days after the review meeting.

§ 6.5 If updates to Cost Estimates exceed the Budget by more than twenty percent (20%) for Schematic Design, fifteen percent (15%) for Design Development, ten percent (10%) for 50% Construction Documents and three percent (3%) for 95% Construction Documents, Architect shall consult with Owner to identify potential design and/or Specification modifications that could result in the Cost Estimate being in compliance with the Budget. Approved modifications shall be incorporated into subsequent document submittals at no cost to Owner.

§ 6.6 If the Owner’s Budget for the Cost of the Work at the conclusion of the Construction Documents Phase Services is exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall

.1 give written approval of an increase in the Budget for the Cost of the Work;

.2 authorize rebidding or renegotiating of the Project within a reasonable time;

.3 terminate in accordance with Section 9.5;

.4 in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or,

.5 implement any other mutually acceptable alternative.

§ 6.7 If the Owner chooses to proceed under Section 6.6.4, the Architect shall, without additional compensation, 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. In the event Owner proceeds under Section 6.6.4, and Owner makes elections against the advice of Architect that cause the estimate of the Cost of the Work to exceed the Budget even after revisions are made pursuant to Section 6.6.4, future revisions to the documents to address such elections shall be performed as an Additional Service. Otherwise, the Architect’s services for modifying the Construction Documents shall be without additional compensation.

# ARTICLE 7   COPYRIGHTS AND LICENSES

§ 7.1 The Instruments of Service and the architectural works (as defined by 17 U.S.C. 101) embodied thereby, prepared by the Architect, Architect Consultants and subconsultants pursuant to this Agreement and for the Project shall be property of the Owner and the Owner shall hold all common law, statutory and other rights in them, including all copyright rights, (collectively "Unique Architect Work Product") upon creation and payment for services to produce such Unique Architect Work Product; provided, however, that (i) Unique Architect Work Product shall not include (a) administrative information developed by the Architect, Architect Consultants or subconsultants in the ordinary course of business (e.g., accounting records, internal memorandums and the like), (b) means or methods of Architect, Architect Consultants and subconsultants which relate to its general architectural services and which are not specifically related to the Project or the services provided under this Agreement (e.g. individual standard features and design elements that are dictated by functional requirements or other utilitarian concerns or are staple building components), or (c) pre-existing proprietary information of the Architect, Architect Consultants and subconsultants (the foregoing (b) and (c) collectively being "Non-Unique Architect Proprietary Information"), and (ii) in the event of termination of this Agreement by Owner with or without cause, Owner shall be entitled to utilize either Unique Architect Work Product or Non-Unique Architect Proprietary Information upon payment to Architect of the amounts due for services to produce acceptable Unique Architect Work Product or Non-Unique Architect Proprietary Information, subject to Owner’s rights to withhold pursuant to this Agreement. To this end, the Architect agrees and does hereby assign, grant, transfer and convey to the Owner, its successors and assigns, the Architect’s entire right, title, interest and ownership in and to such Unique Architect Work Product, including, without limitation, all rights relating to copyright arising under 17 U.S.C. Section 101 *et. seq*., and any and all copyright registrations or applications associated therewith. The Architect confirms that the Owner and its successors and assigns shall own the Architect’s right, title and interest in and to, including the right to use, reproduce, make derivative works, distribute by sale, rental, lease or lending or by other transfer of ownership, to perform publicly, and to display, all such Unique Architect Work Product, whether or not such items constitute a "work made for hire" as defined in 17 U.S.C. Section 201(b). In addition, the Architect hereby grants the Owner a fully paid-up, royalty free, perpetual, assignable, non-exclusive license to use, copy, modify, create derivative works from, and distribute to third parties Non-Unique Architect Proprietary Information in connection with exercise of the Owner’s rights in the operation, maintenance, repair, renovation, expansion, replacement and modification of the building which is the subject matter of the Project (whether by the Owner or a third party). The Architect shall obtain similar assignments, confirmations, and licenses from Architect Consultants and subconsultants.

§ 7.1.1 The Architect, Architect Consultants and subconsultants shall be permitted to retain copies, including reproducible copies, of the Unique Architect Work Product prepared by the Architect, Architect Consultants and subconsultants, as applicable, for information and reference in connection **with the Project only**, which are, and shall remain Confidential Information. Architect, Architect Consultants, and/or any subconsultants are prohibited from using, and shall not use, any Unique Architect Work Product for incorporation into services for a third party or on or in connection with a project of a third party. The Architect, Architect Consultants and subconsultants, shall deliver to the Owner all Unique Architect Work Product prepared by the Architect pursuant to this Agreement or for this Project upon the earlier to occur of the Owner’s request, completion of the Project, or termination of this Agreement. Upon Owner’s written request, Architect shall provide prior drafts of Unique Architect Work Product at no additional cost. Drafts shall not be provided unless or until specifically requested by Owner. Owner shall be entitled to immediate possession of any Unique Architect Work Product upon payment by Owner for the services to produce the same.

§ 7.1.2 Architect shall forever and irrevocably be entitled to use the Non-Unique Architect Proprietary Information in any configuration desired by the Architect in providing general services to third parties **except that** Architect, Architect Consultants and subconsultants shall not be entitled to use the overall form and the specific arrangement and composition of spaces and elements in the overall form as depicted by the whole of the Non-Unique Architect Proprietary Information for incorporation into services for or on a project of, a third party.

§ 7.2 Submission or distribution of Unique Architect Work Product or Non-Unique Architect Proprietary Information 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 Owner, Architect and the Architect Consultants.

§ 7.3 In the event the Owner uses the Non-Unique Architect Proprietary Information on a project not related to the Project without retaining and maintaining the retention of the author, the Owner releases the Architect and Architect 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 Architect 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 Non-Unique Architect Proprietary Information on another project not related to the Project. The terms of this Section 7.3 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4 or if the Architect or any Architect Consultants violate the Confidentiality provisions in this Agreement.

§ 7.4 Any unauthorized use of the Non-Unique Architect Proprietary Information on a project not related to the Project by Owner shall be at the Owner’s sole risk and without liability to the Architect and the Architect Consultants.

§ 7.5 Assuming Owner has paid amounts due Architect for services performed hereunder, Architect shall, within **seven (7)** Days of Owner’s request, provide copies of all completed or partially completed Unique Architect Work Product and/or Non-Unique Architect Proprietary Information in both hard copy electronic format and/or any other format required by Owner.

# ARTICLE 8   CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 All claims and causes of action arising out of or related to this Agreement, shall only be brought in accordance with *Tex. Local Gov’t.* *Code §271.153*. This section does not waive a defense or a limitation on damages available to a party to a contract, other than a bar against suit based on sovereign immunity. Nothing in this Agreement shall be construed as a waiver of sovereign immunity; nor constitute or be construed as a waiver of any of the privileges, rights, defenses, remedies, or immunities available to Owner. The failure to enforce, or any delay in the enforcement, of any privileges, rights, defenses, remedies, or immunities available to the under this Agreement or under Applicable Law shall not constitute a waiver of such privileges, rights, defenses, remedies, or immunities or be considered as a basis for estoppel.

§ 8.1.2 To the extent damages are covered by Builder’s Risk insurance provided for the Project, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201–2017, General Conditions of the Contract for Construction as modified for the Project. 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 *[Intentionally deleted.]*

§ 8.2 Mediation

§ 8.2.1 *[Intentionally deleted.]*

§ 8.2.2 *[Intentionally deleted.]*

§ 8.2.3 *[Intentionally deleted.]*

§ 8.2.4 The method of binding dispute resolution shall be the following:

(Check the appropriate box.)

[ «» ] Arbitration pursuant to Section 8.3 of this Agreement

[«**X**»] Litigation in a court of competent jurisdiction in accordance with *Tex. Local Gov’t.* *Code §262.007*.

[ « » ] Other: (Specify)

« »

§ 8.2.5 Continued Performance. Architect shall continue to provide Services and shall maintain the progress of the Project during the pendency of any litigation proceeding. The Owner shall continue to make payments to the Architect in accordance with this Agreement and Applicable Law; provided, however, Owner shall be under no obligation to make payments on or against any matter wherein a bona fide dispute exists. Partial payments shall be made to the extent a bona fide dispute does not dictate otherwise.

§ 8.3 Arbitration

*[Intentionally deleted].*

# ARTICLE 9   TERMINATION OR SUSPENSION

§ 9.1 **Termination for Cause by the Architect:** If Owner fails to pay any amounts due Architect under the Agreement, Architect may, in addition to any other rights afforded under the Contract Documents or at law, terminate the Agreement for cause as follows: Upon the **thirty-first (31st)** day following the date any amount was due Architect and was not paid by Owner, Architect may provide written notice to Owner that it intends to terminate the Agreement unless the problem cited is cured, or commenced to be cured, within **thirty (30)** days of Owner’s receipt of such notice. If Owner fails to cure, or reasonably commence to cure, such problem, then Architect may give a second written notice to Owner of its intent to terminate within an additional **seven (7)** day period. If Owner fails to cure, or reasonably commence to cure, such problem within the specified time period, the Architect may declare the Agreement terminated for default by providing written notice to Owner of such declaration.

§ 9.2 **Suspension by Owner**. The Owner may, without cause, order the Architect in writing to suspend, delay or interrupt the services or the Project in whole or in part for such period of time as the Owner may determine. Upon receipt of such notice, the Architect shall, unless the notice requires otherwise, immediately discontinue services on the date and to the extent specified in the notice. If the Owner suspends the Project for more than **ninety (90)** consecutive Days, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in the interruption and resumption of the Architect’s services. The Architect’s fees for the remaining services and the PS Schedule shall be equitably adjusted.

§ 9.3 If the Owner suspends the Project for more than **one hundred twenty (120) cumulative** Days in a 365-day period for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than **seven (7)** Days’ written notice. Owner shall not be responsible for payment of any fees, costs, expenses or damages incurred by Architect except that Owner shall compensate Architect for services performed prior to notice of such suspension.

§ 9.4 **Termination for Cause by Owner**. If the Architect fails to (i) comply with applicable legal requirements of the Project, (ii) timely pay (within **ten (10)** Days of receipt of funds from Owner), without cause, its Consultants, (iii) prosecute the Services with promptness and diligence to ensure that the same are completed by the times set forth in the Architect’s PS Schedule, (iv) perform the Services using qualified, licensed design professionals, or (v) perform material obligations under the Agreement, then Owner shall have the right, in addition to any other rights and remedies provided in the Contract Documents or by Applicable Law, to terminate this Agreement. Upon the occurrence of an event set forth in this Section 9.4, or as otherwise provided by Applicable Law, Owner may provide written notice to Architect that it intends to terminate the Agreement unless the problem cited is cured, or commenced to be cured, within **ten (10)** Days of Architect’s receipt of such notice. If Architect fails to cure, or reasonably commence to cure, such problem then Owner may declare the Agreement terminated for cause by providing written notice to Architect of such declaration. Owner may complete the Services in whatever fashion it deems most efficient and practical. To the extent Owner has been adversely impacted by Architect’s default and termination, Owner shall be entitled to recover against Architect all of Owner’s costs allowed under Applicable Law.

§ 9.5 **Termination for Convenience by Owner**. The Owner may terminate this Agreement at any time by giving the Architect **ten (10)** Days written notice that Owner intends to terminate the Agreement. Architect shall be entitled to recover from Owner payment for the portion of the Architect’s Services that are completed at the time of termination as well as any Reimbursable Expenses incurred prior to receipt of the notice to terminate. In addition, Architect shall be entitled to collect the reasonable costs directly resulting from the Owner’s termination of the Agreement such as costs incurred by termination of agreements with Consultants, if any, and storing or transferring the Instruments of Service to the Owner. In the event of termination for convenience, the Architect shall not be entitled to recover from Owner any indirect or consequential costs, lost profits, or other speculative amounts that are not direct, actual costs, are not quantifiable, or supported by documentation or Texas law. In no event shall the Owner be required to pay any amount to the Architect in excess of the Architect’s basic compensation as described herein.

§ 9.6 *[Intentionally deleted.]*

§ 9.7 *[Intentionally deleted.]*

§ 9.8 *[Intentionally deleted.]*

§ 9.9 The Owner’s rights to use the Architect’s Instruments of Service, Unique Architect Work Product, and Non-Unique Architect Proprietary Information in the event of a termination of this Agreement are set forth in Article 7 and Section 9.5.

# ARTICLE 10   MISCELLANEOUS PROVISIONS

§ 10.1 **Governing Law**. This Agreement shall be governed by the law of the State of Texas, without regard to its conflict of law principles.

§ 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 for the Project.

§ 10.3 **Assignment.** The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. The Architect shall not assign this Agreement without the written consent of the Owner. The Owner may, without consent of the Architect, assign this Agreement to any assignee, including an institutional lender, so long as the assignee is financially capable of paying for the Architect’s services or Owner shall remain responsible for the obligations under this Agreement. The Architect shall execute all consents reasonably required to facilitate such assignment.

§ 10.4 **Certificates.** 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 **ten (10)** 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 **ten (10)** 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 INDEMNITY

**§ 10.5.1 TO THE FULLEST EXTENT PERMITTED BY LAW, ARCHITECT SHALL INDEMNIFY AND HOLD HARMLESS OWNER, its Directors, EMPLOYEES, AGENTS, ASSIGNEES, DESIGNEES AND REPRESENTATIVES (HEREINAFTER REFERRED TO INDIVIDUALLY AS AN "INDEMNITEE" AND COLLECTIVELY AS THE "INDEMNITEES") FROM AND AGAINST ALL CLAIMS, DAMAGES, LOSSES, LIABILITIES, COSTS, AND EXPENSES, INCLUDING BUT NOT LIMITED TO REASONABLE ATTORNEYS’ FEES AND COSTS, INCURRED BY OWNER AND ANY INDEMNITEE THAT:**

**.1** **are DUE TO THE INTENTIONAL OR NEGLIGENT VIOLATION OF ANY ORDINANCE, REGULATION, STATUTE, OR OTHER LEGAL REQUIREMENT IN THE PERFORMANCE OF THIS AGREEMENT, BY ARCHITECT, ITS AGENT, ANY ARCHITECT CONSULTANT UNDER CONTRACT WITH ARCHITECT, OR ANY OTHER ENTITY OVER WHICH THE ARCHITECT EXERCISES CONTROL;**

**.2 are CAUSED BY OR RESULT FROM ANY NEGLIGENT OR INTENTIONAL TORT, ACT, OR OMISSION IN VIOLATION OF ARCHITECT’S STANDARD OF CARE, BY THE ARCHITECT, ITS AGENT, ANY ARCHITECT CONSULTANT UNDER CONTRACT WITH ARCHITECT, OR ANY OTHER ENTITY OVER WHICH THE ARCHITECT EXERCISES CONTROL;**

**.3 are CAUSED BY OR RESULT FROM ANY CLAIM ASSERTING INFRINGEMENT OR ALLEGED INFRINGEMENT OF A PATENT, TRADEMARK, COPYRIGHT, OR OTHER INTELLECTUAL PROPERTY RIGHT IN CONNECTION WITH THE INFORMATION FURNISHED BY OR THROUGH ARCHITECT, ITS AGENT, ANY ARCHITECT CONSULTANT UNDER CONTRACT WITH ARCHITECT, OR ANY OTHER ENTITY OVER WHICH THE ARCHITECT EXERCISES CONTROL;**

**.4 are DUE TO THE FAILURE OF ARCHITECT, ITS AGENT, ANY ARCHITECT CONSULTANT UNDER CONTRACT WITH ARCHITECT, OR ANY OTHER ENTITY OVER WHICH THE ARCHITECT EXERCISES CONTROL TO PAY ARCHITECT CONSULTANTS OR SUBCONSULTANTS AMOUNTS DUE FOR SERVICES PROVIDED IN CONNECTION WITH THE PROJECT;**

**.5 are DUE TO THE FAILURE OF ARCHITECT, ITS AGENT, ANY ARCHITECT CONSULTANT UNDER CONTRACT WITH ARCHITECT, OR ANY OTHER ENTITY OVER WHICH THE ARCHITECT EXERCISES CONTROL TO PAY ANY TAXES, TAX LIABILITY, UNEMPLOYMENT INSURANCE AND/OR WORKERS’ COMPENSATION ARISING OUT OF THE PERFORMANCE OF THE SERVICES HEREUNDER; OR**

**.6 OTHERWISE ARISE OUT OF OR RESULT FROM THE PERFORMANCE OF THE SERVICES UNDER THIS AGREEMENT, INCLUDING SUCH CLAIMS, DAMAGES, LIABILITIES, LOSSES, COSTS, AND/OR EXPENSES ATTRIBUTABLE TO BODILY INJURY, SICKNESS, DISEASE OR DEATH, OR TO INJURY TO OR DESTRUCTION OF TANGIBLE PROPERTY, INCLUDING LOSS OF USE RESULTING THEREFROM, BUT ONLY TO THE EXTENT SUCH CLAIMS, DAMAGES, LOSSES, COSTS AND EXPENSES ARE CAUSED BY OR RESULT FROM ANY NEGLIGENT OR INTENTIONAL ACTS OR OMISSIONS OF THE ARCHITECT, ITS AGENT, ANY ARCHITECT CONSULTANT UNDER CONTRACT WITH THE ARCHITECT, OR ANY OTHER ENTITY OVER WHICH THE ARCHITECT EXERCISES CONTROL.**

**NOTHING CONTAINED IN THIS** **SECTION 10.5.1 SHOULD BE CONSTRUED TO REQUIRE ARCHITECT TO INDEMNIFY OR HOLD HARMLESS OWNER OR ANY INDEMNITEE FROM ANY CLAIMS OR LIABILITIES RESULTING FROM THE NEGLIGENT ACTS OR OMISSIONS OF OWNER OR THE INDEMNITEES (*TEX. GOV’T.*** ***CODE §2254.0031*).**

§ 10.5.2 Reimbursement of Governmental Entity’s Fees In and Coordination of Defense of Claims. To the extent Owner and/or any Indemnitee incurs attorneys’ fees in defense of any claim asserted against Owner and/or any Indemnitee which arises or results from the alleged acts or omissions of the Architect described in Section 10.5.1 above, Architect shall reimburse Owner and Indemnitees their reasonable attorneys’ fees in proportion to the Architect’s liability found after a final adjudication of liability. Any defense shall be coordinated by Architect with the Owner’s general counsel Architect and Owner agree to furnish timely written notice to each other of any such claim.

§ 10.5.3 Additional Insured Status. Architect shall name Owner and the Indemnitees as additional insureds on the Architect’s commercial general liability policy using ISO Additional Insured Endorsements as required in Exhibit E and provide Owner and the Indemnitees any defense allowed under said policy. Any endorsement to Architect’s general liability policy prohibiting or limiting the coverages required herein or in Exhibit E shall be modified such that the policy will respond to the obligations of the Architect as set forth in this Section to the fullest extent allowed under Texas law

§ 10.5.4 It is agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of the indemnification obligations under Section 10.5 or the additional insured requirements in Section 10.5.3 and Exhibit E, such legal limitations are made a part of the contractual obligations and shall operate to amend the obligations to the minimum extent necessary to bring the provision into conformity with the requirements of such limitations, and as so modified, the obligations shall continue in full force and effect. Should any provision or any part of any provision of this Agreement be held invalid, unenforceable or contrary to public policy, law, statute or ordinance, then the remainder of the provision, paragraph, Section and/or Agreement shall not be affected thereby and shall remain valid and fully enforceable.

§ 10.5.5 Survival. The obligations contained in this Section 10.5 shall survive the expiration, completion, abandonment, and/or termination of the Agreement and final completion of the Work and any other services to be provided pursuant to this Agreement to the extent and for the time periods allowed under Applicable Law.

§ 10.6 Hazardous Materials. 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, except to the extent that such hazardous substances were knowingly introduced to the Project site by Architect or knowingly specified by the Architect’s Plans, Drawings, Specifications, or other documents, in which case the Architect shall be responsible. In the event the Architect or any other party encounters asbestos or hazardous or toxic materials at the Project site, or becomes aware that such materials are present at the Project site or in any adjacent areas that affect the performance of the Architect’s service, Architect may suspend performance of services on the Project until the Owner retains appropriate consultants or contractors to identify, abate, and/or remove the asbestos, hazardous, or toxic materials and ensure that the Project site is in full compliance with Applicable Laws and regulations. Architect shall give written notice to the Owner of the discovery of Hazardous Materials before the Architect suspends performance of services on the Project.

§ 10.7 *[Intentionally deleted.]*

§ 10.8 Confidentiality Provisions Applicable to Architect

§ 10.8.1 *[Intentionally deleted*]*.*

§ 10.9 **Severability**. 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 **No Waiver.** No waiver of any provision of this Agreement shall be of any force or effect, unless such waiver is in writing, expressly stating to be a waiver of a specified provision of this Agreement and is signed by the party to be bound thereby. Either party’s waiver of any breach or failure to enforce any of the provisions of this Agreement at any time, shall not in any way limit or waive that party’s right thereafter to enforce or compel strict compliance with this Agreement or any portion or provision or right under this Agreement.

**§ 10.11** **Notices.** Any notice, demand, or request required by or made pursuant to this Agreement shall be deemed properly made if made in writing and delivered by hand delivery, telefax and confirmed by first class mail, postage prepaid, or deposited in the United States Mail, postage prepaid, addressed to the respective representative and to the respective addresses set forth below:

**IF TO THE OWNER:**

**Adam Lane**

**JPS Health Network**

1500 South Main Street

Fort Worth, Texas 76104

Telephone: 817.702.9998

Email: ALane02@jpshealth.org

**Darrick Walls**

**JPS Health Network**

1500 South Main Street

Fort Worth, Texas 76104

Telephone: 817.691.2062

Email: dwalls@broaddususa.com

with a copy to:

**Daphne Walker**

**Sr. Vice President, Chief Legal Counsel**

1500 South Main Street

Fort Worth, Texas 76104

Telephone: 817.702.9988

Email: dwalker10@jpshealth.org

**IF TO THE ARCHITECT:**

« »

« »

« »

« »

Telephone: « »

Email: « »

The parties may change the address where or the individual to whom notice is to be given by providing notice of such change pursuant to this Section 10.11. Nothing contained in this Section 10.11 shall be construed to restrict the transmission of routine communications between representatives of the Owner and the Architect.

**§ 10.12 Audits, Books and Records.** Architect shall keep and maintain under generally accepted accounting principles full, true and complete records, as are necessary to fully disclose to Owner or the United States Government, or their authorized representatives, upon audits or reviews, sufficient information to determine compliance with the terms and conditions of this Agreement and all Applicable Laws.

**§ 10.12.1 Inspections and Audits.** Architect agrees that all relevant records related to this Agreement or any work product under this Agreement, including practices of its Consultants, shall be subject, at any reasonable time, to inspection, examination, review, audit, and copying by Owner or any of its outside auditors (as identified by Owner in writing in advance of any audit) at any office or location of Architect where such records may be found upon reasonable notice.

**§ 10.12.2 Records Retention.** All records relevant to this Agreement shall be retained for a minimum of seven (7) years. This retention period runs from the date of full and final payment for the relevant goods or services by Owner, or from the date of termination of this Agreement, whichever is later. Retention time shall be extended when an audit is scheduled or in progress for a period reasonably necessary to complete an audit and/or to complete any administrative proceeding or litigation which may ensue.

**§ 10.13 Badging/Credentialing/Access Requirements.** Architect shall be responsible for compliance with Owner’s badging and credentialing process for all of Architect’s employees, agents, representatives, Architect Consultants, and subconsultants who will be accessing the Project site at any time. Owner’s badging and credentialing requirements can be found in **Exhibit D**. No Architect employee, agent, representative, Architect Consultant, or subconsultant shall be allowed access to the Project site until the Architect has demonstrated to Owner that said individual has successfully completed the requirements set forth in this Section 10.13. Architect will issue a monthly report to Owner that lists all employees, agents, representatives, Architect Consultants, and subconsultants who have met the requirements of this Section 10.13. In the event access by any Architect employee, agent, representative, Architect Consultant, or subconsultant is revoked, restricted or downgraded, or said individual is not provided "clear" status after a background check, Architect will immediately notify Owner in writing. If required by Owner, all employees, agents, representatives, Architect Consultants, and subconsultants shall be required to display a credentialed badge at all times and must sign in with the Owner’s security personnel at designated locations to gain access to the Project site.

**§ 10.14 Professional Jurisdiction Statement**. The Texas Board of Architectural Examiners, 333 Guadalupe, Suite 2-350, Austin, Texas 78701, Phone (512) 305-9000, has jurisdiction over individuals licensed under the Regulation of the Practice of Architecture Law, Tex. Occ. Code § 1051. The Texas Board of Registration for Professional Engineers, 1917 IH35 South, Austin, Texas 78741, Phone (512) 440-7723, has jurisdiction over individuals licensed under the Texas Engineering Registration Law, Tex. Occ. Code § 1001.

# 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, categorized as follows:

|  |  |
| --- | --- |
| Programming Phase | $ « » |
| Schematic Design | $ « » |
| Design Development | $ « » |
| Construction Documents | $ « » |
| Procurement | $ « » |
| Construction Phase | $ « » |
| **Total:** | $ « » |

.2 Percentage Basis

*(Insert percentage value)*

« » (« » ) % of the Owner’s Budget for the Cost of the Work.

.3 Other

*(Describe the method of compensation)*

« »

§ 11.2 *[Intentionally deleted.]*

§ 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.)

Absent written agreement on a fixed price adjustment to Architect’s fee, any changes shall be paid on a time and materials basis. Reimbursable Expenses shall be paid as set forth in Section 11.8below. Hourly rates shall be those set forth in Section 11.7 below.

§ 11.4 Compensation for Additional Services of the Architect Consultants when not included in Section 11.3, shall be the amount invoiced to the Architect plus «**zero**» percent ( «**0**»%), or as follows:

(Insert amount of, or basis for computing, Architect’s consultants’ compensation for Supplemental or Additional Services.)

«**N/A**»

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

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Programming Phase | « » | percent ( | « » | %) |
| Schematic Design Phase | « » | percent ( | « » | %) |
| Design Development Phase | « » | percent ( | « » | %) |
| Construction Documents Phase | « » | percent ( | « » | %) |
| Procurement Phase | « » | percent ( | « » | %) |
| Construction Phase | « » | percent ( | « » | %) |
| Total Basic Compensation | $ « » | percent ( | 100 | %) |

§ 11.6 *[Intentionally deleted*.*]*

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

§ 11.7 The hourly billing rates for services of the Architect and the Architect Consultants are set forth below. The rates shall be adjusted in accordance with the Architect’s and Architect Consultants’ normal review practices.

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

|  |  |
| --- | --- |
| **Level** | **Rate Per Hour** |
| « » | $ « » |
| « » | $ « » |
| « » | $ « » |
| « » | $ « » |
| « » | $ « » |
| « » | $ « » |
| « » | $ « » |
| « » | $ « » |

§ 11.8 Compensation for Reimbursable Expenses

§ 11.8.1 Reimbursable Expenses are in addition to compensation for Basic and Additional Services and include expenses incurred by the Architect and the Architect Consultants directly related to the Project. Reimbursable Expenses not contained below will not be compensated or reimbursed. Approved Reimbursable Expenses are as follows:

.1 Transportation and authorized travel outside the DFW Metroplex and subsistence, but only when approved by Owner in advance in writing;

.2 Dedicated data and communication services, teleconferences, Project web sites, and extranets;

.3 Permitting and other fees required by Authorities Having Jurisdiction over the Project;

.4 Printing, reproductions, plots, and standard form documents;

.5 Postage, handling, and delivery;

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

.7 If required by the Owner, and only with the Owner’s prior written approval, the Architect 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 and/or Architect Consultants;

.8 All taxes levied on reimbursable expenses except those taxes from which the Project or Owner is exempt; and

.9 Registration fees and any other fees charged by Authorities Having Jurisdiction or by other entities as necessary to achieve the Sustainable Objective;

§ 11.8.2 Reimbursable expenses will be paid at cost by the Owner.

§ 11.9 *[Intentionally deleted.]*

§ 11.10 Payments to the Architect

**§ 11.10.1 Initial Payments**

*[Intentionally deleted.]*

§ 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 within **thirty (30) Days** of presentation of the Architect’s invoice. Amounts unpaid «**thirty-one**» («**31**» ) 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. Interest rate:

« As allowed under *Tex. Gov't. Code § 2251.021 et seq.* »

§ 11.10.2.2  *[Intentionally deleted.]*

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

§ 11.10.3 With each invoice, Architect shall provide a duly executed Conditional Waiver and Release on Progress Payment waiving and releasing all liens or claims for payment for the services covered by the invoice submitted. Upon submitting the final invoice, Architect shall execute and provide a Conditional Waiver and Release on Final Payment. Each waiver and release document shall comply with applicable state laws such that it is effective to waive and release all liens Architect may have, conditioned only upon receipt of payment.

§ 11.10.4 Architect shall make payment to Consultants within ten (10) Days after receipt of payment from Owner. Should it become necessary, and in the sole discretion of Owner and after five (5) Day notice to Architect, Owner may issue joint checks to Architect and Consultants.

§ 11.10.5 **Taxes.** Owner is a hospital district and political subdivision of the State of Texas. Materials and services utilized in the design and construction of the Project may be exempt from state and local sales and use taxes pursuant to *Tex. Tax Code §151.309(5)*. Architect is responsible for compliance with all tax exemptions applicable to the Project. Owner will process all invoices submitted by Architect to ensure the invoices comply with Owner’s tax-exempt status.

# ARTICLE 12   SPECIAL TERMS AND CONDITIONS

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

See **Exhibit C**.

# 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 B101™–2017, Standard Form Agreement Between Owner and Architect, as modified herein.

.2 AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, dated as indicated below:

(Insert the date of the E203-2013 incorporated into this agreement.)

«**N/A**»

.3 Exhibits:

(Check the appropriate box for any exhibits incorporated into this Agreement.)

[ « **X** » ] Other Exhibits incorporated into this Agreement:

(Clearly identify any other exhibits incorporated into this Agreement)

**Exhibit A – Professional Services Schedule/****PS Schedule**

**Exhibit B – Architect’s Key Personnel**

**Exhibit C – Owner’s Special Conditions**

**Exhibit D – Owner-Provided Information  
Exhibit E – Architect Insurance Requirements**

.4 Other documents:

(List other documents, if any, forming part of the Agreement.)

«**N/A**»

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

|  |  |  |
| --- | --- | --- |
| **OWNER**:  **Tarrant County Hospital District d/b/a**  **JPS Health Network** |  | **ARCHITECT:**    [\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_] |
| (Signature) |  | (Signature) |
| «» « » |  | «» « » |
| (Printed name and title) |  | (Printed name, title, and license number, if required) |