




# Stanwood Camano

School District

TO : BOARD OF DIRECTORS  
FROM : GARY PLATT, EXEC. DIRECTOR – CAPITAL PROJECTS  
SUBJECT : CONTRACT APPROVAL – MCGRANAHAN ARCHITECTS  
DATE : JUNE 20, 2017  
TYPE : ACTION NEEDED



Attached is the draft agreement for architectural and engineering services with McGranahan Architects for the work on the project described as follows on page one:

“The project consists of the replacement of three existing facilities on the current Stanwood High School site; Stanwood High School, The Alternative Learning Center, and the Maintenance and Technology Center. The new buildings will be built around the existing facilities to allow the existing schools to remain in operation throughout construction. The project also includes renovations to the existing Field House and Grandstand structures, demolition of the existing Stanwood High School, Church Creek Elementary, and District Maintenance facility, and the redevelopment of the entire 61 acre site, including parking, sports fields, utilities, and frontage improvements.”

The contract has been reviewed by our risk management pool and was modified by our attorney, Andrew Greene, Perkins Coie LLP. The contract amount is included in the total project budget. The contract term covers the estimated project duration through final completion in June 2021.

Recommendation:

We recommend the board *move to approve the attached agreement B103-2007 between the Stanwood-Camano School District and McGranahan Architects and authorize the Superintendent to execute the agreement.*

 **AIA**® Document B103™ – 2007

**Standard Form of Agreement Between Owner and Architect for a Large or Complex Project**

AGREEMENT made as of the \_\_\_\_ day of June in the year Two Thousand and Seventeen  
(In words, indicate day, month and year.)

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

**Stanwood-Camano School District**  
26920 Pioneer Hwy.  
Stanwood, WA 98292

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

**McGranahan Architects**  
2111 Pacific Avenue, Suite 100  
Tacoma, WA 98420

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

**Stanwood High School**

The Project consists of the replacement of three existing facilities on the current Stanwood High School site; Stanwood High School, The Alternative Learning Center, and the Maintenance and Technology Center. The new buildings will be built around the existing facilities to allow the existing schools to remain in operation throughout construction. The project also includes renovations to the existing Field House and Grandstand structures, demolition of the existing Stanwood High School, Church Creek Elementary, and District Maintenance facility, and the redevelopment of the entire 61 acre site, including parking, sports fields, utilities, and frontage improvements.

The Owner and Architect agree as follows.

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

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### ARTICLE 1 INITIAL INFORMATION

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

*(Note the disposition for the following items by inserting the requested information or a statement such as "not applicable," "unknown at time of execution" or "to be determined later by mutual agreement.")*

This Project involves the replacement of an existing high school, the replacement of an existing alternative high school, the replacement of an existing maintenance facility, and related demolition and site development. The Project parameters and program requirements are set forth in the educational specifications and programming that have been developed by the Architect and approved by the Owner's Board of Directors. The program will be updated as necessary by the Owner to address additional or new requirements that arise during the Project. The Architect will provide services to the Owner through closeout of the overall Project, including design and construction administration services. This Agreement includes and incorporates any services completed by the Architect relating to the Project that occurred prior to the effective date of this Agreement.

§ 1.1.1 The Owner's program for the Project:

*(Identify documentation or state the manner in which the program will be developed.)*

The programming and conceptual design for the Project has been developed in collaborative meetings between the Owner and its staff and the Architect under a separate contract. The program will be updated as necessary by the Owner to address additional or new requirements that arise during the Project.

§ 1.1.2 The Project's physical characteristics:

*(Identify or describe, if appropriate, size, location, dimensions, or other pertinent information, such as geotechnical reports; site, boundary and topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site; etc.)*

Stanwood High School (SHS) will be approximately 241,000 square feet, the Alternative Learning Center (ALC) approximately 43,000 square feet, and the Maintenance and Technology Center (MTC) approximately 9,500 square

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feet. All three buildings will be constructed on the site of the existing 61-acre high school site at 7400 272nd St. NW, Stanwood, WA 98292.

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.4:Article 6:  
(Provide total and, if known, a line item breakdown.)

The amount of the Owner's budget for the Cost of the Work for the Project ("budget"), not including sales tax, is One Hundred and Seventeen Million, Two Hundred and Forty-Four Thousand, Three Hundred and Sixty Dollars (\$117,244,360).

§ 1.1.4 The Owner's anticipated design and construction schedule:

.1 Design phase milestone dates, if any:

<u>Programming:</u>	<u>Previously Complete</u>
<u>Schematic Design Documents:</u>	<u>August 2017</u>
<u>Design Development Documents:</u>	<u>MTC: October 2017</u> <u>SHS/ALC: January 2018</u>
<u>Construction Documents:</u>	<u>MTC: May 2018</u> <u>SHS/ALC: November 2019</u>

.2 Commencement of construction:

<u>Anticipated Bid Opening:</u>	<u>MTC: June 2018</u> <u>SHS/ALC: January 2019</u>
<u>Anticipated Commencement of Construction:</u>	<u>MTC: July 2018</u> <u>SHS: January 2019</u> <u>ALC: April 2019</u>

.3 ~~Substantial~~ Completion date or milestone dates:

<u>Anticipated Substantial Completion:</u>	<u>MTC: February 2019</u> <u>ALC: July 2020</u> <u>SHS: August 2020</u> <u>Parking and Fields: May 2021</u>
<u>Anticipated Final Completion:</u>	<u>June 2021</u>

.4 Other:

None.

§ 1.1.5 The Owner intends the following procurement or delivery method for the Project:  
(Identify method such as competitive bid, negotiated contract or construction management.)

Competitive bidding pursuant to statutory requirements, including RCW 28A.335.190 and Chapter 39.04 RCW. Prevailing wages will be required to be paid pursuant to Chapter 39.12 RCW.

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

The project includes an early site development package to prepare a building pad and Contractor staging area for SHS in the summer of 2018. The MTC will be bid as a separate package of work as much as one year ahead of the remainder of the work. SHS, ALC and the overall site work will be bid as one project. Students will remain on

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campus in existing buildings throughout construction so the Project will include temporary facilities including parking areas and pathways. No work will be performed on existing buildings that are fully or partially occupied. The selected Contractor will be required to execute construction of the Work in a manner and sequence approved by the Owner, which will be defined in the Contract Documents.

**§ 1.1.7 Other Project information:**

*(Identify special characteristics or needs of the Project not provided elsewhere, such as environmentally responsible design or historic preservation requirements.)*

The Architect's Basic Services include coordinating and attending meetings with the selected Contractor and School District staff. Initial meetings should occur in the earliest stages of design. The ideas and suggestions generated in these meetings will be considered and, if accepted by the School District, implemented by the Architect in the design. The Architect will include a staff member of the Owner in all stakeholder meetings. The Architect will also inform the Owner of all key communications between the Architect (including its consultants) and stakeholders.

The Project may receive partial state funding, and will be designed to comply with the Washington Sustainable Schools Protocol.

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

**Gary Platt**

Stanwood-Camano School District  
26920 Pioneer Hwy.  
Stanwood, WA 98292

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

The School District's Board of Directors may review certain aspects of the design and will authorize certain expenditures during the Project such as significant change orders. The School Board will also provide approval to proceed with the Project bid and award of the Contract for Construction.

The Office of the Superintendent of Public Instruction ("OSPI"), Snohomish County, jurisdictional utility providers, the City of Stanwood, and others may review certain of the Architect's submittals.

**§ 1.1.10 The Owner will retain the following consultants ~~and contractors~~ related to the Project:**  
*(List name, legal status, address and other information.)*

~~.1 Cost Consultant:~~

.1 Cost Consultant: N/A; to be retained by the Architect

~~.2 Scheduling Consultant:~~

.2 Scheduling Consultant: To be performed by the Architect

.3 Geotechnical Engineer: Associated Earth Sciences, Inc.

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~~.4~~ ~~Civil Engineer:~~ .4 Civil Engineer: To be provided by the Architect (see Section 1.1.12.1)

.5 Other, if any:

Traffic: Gibson Traffic Consultants

Hazardous Material Abatement: The Knebel Company

Wetlands Biology: Wetland Resources Inc.

Commissioning Agent: TBD

Special Tests & Inspections: TBD

~~.5~~ ~~Other, if any:~~

*(List any other consultants or contractors retained by the Owner, such as a Project or Program Manager, construction contractor, or construction manager as constructor.)*

All information provided by the Owner's consultants shall be reviewed, validated, and coordinated by the Architect and its consultants, and incorporated at no cost into the Project design as a part of the Architect's Basic Services. The Architect may reasonably rely on the information provided by the Owner's consultants in performing the Architect's services, however, the Architect shall provide written notice to the Owner if the Architect becomes aware of any error, omission, or inconsistency in such services or information.

§ 1.1.11 The Architect identifies the following ~~representative~~ representative, who shall be authorized to act on the Architect's behalf with respect to the Project, in accordance with Section 2.3:  
*(List name, address and other information.)*

Chris Lilley

McGranahan Architects

2111 Pacific Avenue, Suite 100

Tacoma, WA 98420

Further, the Architect shall employ an on-staff project administrator from the Schematic Design Phase through Construction Phase. The Architect identifies Chris Lilley, as its on-staff project administrator, who shall be authorized to act on the Architect's behalf with respect to the Project, pursuant to Section 2.3. The Architect shall notify the Owner of any work hour restrictions for anyone on its Project team, and shall endeavor to provide reasonable advance notice to the Owner when anyone on the team will have an absence from the office for a week or more.

§ 1.1.12 The Architect ~~will retain~~ shall engage consultants qualified by training and experience in their respective fields to address the requirements of the Project. All consultants of the Architect shall be acceptable to Owner. Upon request by the Owner, the Architect shall furnish the Owner with a copy of the Architect's contracts with its consultants. These contracts shall be consistent with the terms of this Agreement. The Architect will retain, at the Architect's expense, the consultants identified in Sections 1.1.12.1 and ~~1.1.12.2~~ 1.1.12.2, and the Architect represents that they constitute all consultants reasonably necessary for the design of the Project:  
*(List name, legal status, address and other information.)*

§ 1.1.12.1 Consultants retained ~~under Basic Services~~ by the Architect and paid by the Owner under Basic Services are:

.1 Structural Engineer: PCS Structural Solutions

.2 Mechanical Engineer: BCE Engineers, Inc.

.3 Electrical Engineer: BCE Engineers, Inc.

.4 Cost Consultant: The Robinson Company

.5 Civil Engineer: CPL Inc.

~~.3~~ Electrical Engineer: ~~.6~~ Landscape Architecture: Weisman Design Group

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7 Food Service Design: Halliday and Associates

8 Acoustical Engineering: BCR Acoustics

9 Theater Design: PLA Designs

§ 1.1.12.2 Consultants retained under Additional Services:

None.

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

The Architect shall endeavor to maximize the use of the Owner's budget for the Project for the benefit of the Owner. The Owner, the Architect and their consultants will participate in formal value engineering and constructability-review processes at appropriate stages of the design. During these formal processes, and as required by the Owner, the Architect will meet with and brief the Owner and/or other consultants and answer their questions to determine the advisability of changes in developing Drawings and Specifications. Changes will be proposed to the Drawings and Specifications as a result of these formal processes. The Architect and its consultants, as a part of Basic Services, shall participate in these and other processes and will support, brief, and meet with the Owner and constructability experts and value engineers, answering their questions and working to determine the advisability of changes in the Architect's design documents as recommended. To the extent that any design changes are requested by the Owner after such consultation, the Architect shall make such changes as the Owner directs, except for changes that the Architect reasonably believes will increase the Architect's professional liability beyond current legal or regulatory requirements. To the extent that any directed changes are inconsistent with the initial Program requirements, such changes shall be Additional Services for which the Owner shall compensate the Architect as provided in this Agreement if the requested changes require significant and out-of-sequence modifications to the Construction Documents and are not the result of errors, omissions, or deficiencies in the actions or work product of the Architect or its consultants. No Additional Services, and no other services entitling the Architect to additional compensation, shall be performed without prior written authorization of the Owner.

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Architect shall provide prompt notice to the Owner and, if agreed by the Owner, the Owner and the Architect shall appropriately adjust the schedule, the Architect's services and and/or the Architect's compensation.

## **ARTICLE 2 ARCHITECT'S RESPONSIBILITIES**

§ 2.1 The Architect shall provide the professional services as set forth in this Agreement. Agreement during all phases of the Project. The Architect will perform the services through itself, its employees, and consultants.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. circumstances working on similar projects. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project. The Architect shall cooperate with the Contractor and help to create an environment of mutual respect and focus on the success of the Project. The Architect shall endeavor to promote harmony, cooperation, and good working relationships among and between the Owner, the Architect, the Contractor, and all members of the Project team, to the fullest extent possible in order to further the interests of the Owner and effect prompt completion of the Project within the requirements of the Contract Time and Contract Sum.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project. The Architect shall not change or remove the representative without the Owner's prior written approval. Contact information, including cell phone number, shall be provided.

§ 2.4 Except with the Owner's knowledge and prior written consent, the Architect and its consultants 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.

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§ 2.5 The Architect shall, at its sole cost and expense, secure and maintain the following insurance for the duration of this Agreement. If any of the requirements set forth below exceed the types and limits the Architect normally maintains, the Owner shall reimburse the Architect for any additional cost.

§ 2.5.1 Comprehensive General Liability with policy limits of not less than (\$ ) for each occurrence and in the aggregate for bodily injury and property damage. Commercial General Liability with policy limits as set forth below.

The Architect will, at its sole cost and expense, secure and maintain Commercial General Liability insurance with limits of \$1,000,000 per occurrence and \$2,000,000 per general aggregate. A deductible of up to \$10,000 per occurrence is permitted. The Commercial General Liability policy shall name the Owner, its successors and assigns and the respective directors, employees and agents of each of the foregoing, as additional insureds.

§ 2.5.2 Automobile Liability covering owned, non-owned, and rented vehicles operated by the Architect with policy limits of not less than (\$ ) combined single limit and aggregate for bodily injury and property damage as set forth below.

The Architect will, at its sole cost and expense, secure and maintain Automobile Liability insurance for automobiles owned or hired by the Architect in Washington in the amount of no less than \$1,000,000 combined single limit. The Automobile Liability policy shall name the Owner, its successors and assigns and the respective directors, employees and agents of each of the foregoing, as additional insureds.

§ 2.5.3 The Architect may use umbrella or excess liability insurance to achieve the required coverage for Comprehensive Commercial General Liability and Automobile Liability, provided that such umbrella or excess insurance results in the same type of coverage as required for the individual policies.

§ 2.5.4 Workers' Compensation at statutory limits and Employers Liability (Washington Stop-Gap) with a policy limit of not less than (\$ ) \$1,000,000 per occurrence and \$2,000,000 aggregate.

§ 2.5.5 Professional Liability covering the Architect's negligent acts, errors and omissions in its performance of professional services with policy limits of not less than (\$ ) per claim and in the aggregate as set forth below.

The Architect will maintain for six (6) years after Substantial Completion Professional Liability insurance in an amount no less than \$2,000,000 per claim and annual aggregate (deductible of up to \$100,000 permitted) for damages that may result in any way from the negligent performance of the Architect's obligations under this Agreement. The Architect shall promptly notify the Owner of any material changes to, interruption of, or termination of this insurance, and the Architect shall immediately procure replacement insurance. The Architect shall contractually require its consultants of any tier to maintain Professional Liability insurance in an amount of at least fifty percent (50%) of the above amount, unless otherwise agreed by the Owner. If Professional Liability insurance is not reasonably available for a class of consultants, or not reasonably available in the future to the Architect, the Architect must so notify the Owner immediately.

§ 2.5.6 All such insurance shall be placed with insurers licensed in the State of Washington, possessing an A.M. Best rating of at least "A" or better and a financial rating of no less than "IX," and under such forms and limits of policies as are reasonably acceptable to the Owner. The Owner must approve in advance in writing any deviation from this requirement. Within twenty (20) days of execution of this Agreement and annually thereafter, the Architect shall provide to the Owner certificates of insurance evidencing compliance with the requirements in this Section 2.5. The certificates will show the Owner as an additional insured on the Comprehensive General Liability, Automobile Liability, umbrella or excess policies, the Owner, its successors and assigns and the respective directors, employees and agents of each of the foregoing, as additional insureds on the Commercial General Liability, Automobile Liability, umbrella and excess policies. Such certificates of insurance shall have additional endorsements attached (including renewal or replacement certificates) acceptable to the Owner and signed by the insurer or its authorized representative, certifying that the policies providing insurance of this kind and coverage are in full force and effect. The certificates shall further certify that the policies shall not expire, be cancelled by either party without giving the Owner thirty (30) days' prior notice of such expiration or cancellation. The foregoing requirements as to insurance and acceptability to the Owner of insurers and insurance to be maintained by the Architect shall not in any manner limit or qualify the liabilities or obligations assumed by the Architect under this Agreement.

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### ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's Basic Services consist of those described in Article 3 and include usual and customary structural, mechanical, and electrical engineering services, otherwise in this Agreement, including those provided by the consultants identified in Section 1.1.12.1, and include usual and customary structural, civil, landscape, mechanical, electrical, and other engineering and consulting services necessary to produce a complete and accurate set of Construction Documents. Services not set forth in this Article 3 are Additional Services, or otherwise in this Agreement (including Attachment A) are Additional Services. To the extent this Agreement is inconsistent with Attachment A or other related document of the Architect, this Agreement shall control.

§ 3.1.1 The Architect shall manage the Architect's services, services and the services of the Architect's consultants, and administer the Project to the extent specified in this Agreement. The Architect shall consult with the Owner, research applicable design criteria, attend pre-construction, bidding, and weekly Project meetings, communicate with members of the Project team and report progress to the Owner. During construction, the Architect shall maintain and provide construction logs for submittal reviews, RFIs, ASIs, Change Order Proposals, Proposal Requests and CCDs. During construction, the Architect and engineers will review the Contractor and Subcontractor as-built mark-up drawings on a monthly basis in sequence with the Architect's and Owner's monthly review of payment applications. Review and approval of as-builts by civil, mechanical, and electrical Subcontractors of any tier by the appropriate engineers will be required for approval of payment for the division of Work, and will be so noted in the Contract for Construction.

§ 3.1.2 The Architect shall coordinate its services with those services provided by its consultants as well as by the Owner and the Owner's consultants-consultants and the Contractor. The Architect shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner and the Owner's consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission or inconsistency in such services or information.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit to the Owner and the Scheduling Consultant a schedule of the Architect's services for inclusion in the Project schedule. for the Owner's approval, a schedule of the Architect's services. The schedule of the Architect's services shall include design milestone dates, anticipated dates when cost estimates or design reviews estimates, or design reviews, and other interaction and deliverables may occur, and allowances for periods of time required (1) for the Owner's review (2) for the performance of the Owner's consultants, and (3) for approval of submissions by authorities having jurisdiction over the Project. The Architect's schedule shall be consistent with the milestones identified in Section 1.1.4.

§ 3.1.4 Upon the Owner's reasonable request, the Architect shall submit information to the Scheduling Consultant and participate in developing and revising the Project schedule as it relates to the Architect's services. When Project requirements have been sufficiently identified, the Architect shall prepare, and periodically update, a Project schedule that shall identify milestone dates for decisions required of the Owner, design services furnished by the Architect, completion of documentation provided by the Architect, preconstruction deliverables to the Contractor, commencement of construction and Substantial Completion of the Work. The Architect shall also provide a monthly status report and schedule in a format approved by the Owner.

§ 3.1.5 Once the Owner and the Architect agree to approve the time limits established by the Project schedule, the Owner and the Architect shall not exceed them, except for reasonable cause.

§ 3.1.6 The Architect shall not be responsible for an Owner's directive or substitution made without the Architect's consent, or approval.

§ 3.1.7 The Architect shall, at appropriate times, Project shall be designed and permitted to conform to all applicable State, county, city, and other jurisdictional requirements, standards, and regulations in effect at the time services are provided. The Architect shall also review and comply with all currently existing laws, codes, and regulations applicable to the Architect's services, including applicable codes governing accessibility. The Architect shall, at appropriate times and with sufficient time to avoid delay, contact the governmental authorities required to approve the Construction Documents and the entities providing utility services to the Project. In designing the Project, the Architect shall respond to applicable design requirements imposed by such governmental authorities and by such

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entities providing utility services. The Architect shall contractually require and ensure that the services of all the Architect's consultants comply with currently existing laws, codes, regulations, and governmental authorities. The Architect shall promptly notify the Owner of the nature and impact of any conflict between laws, codes and regulations of various governmental entities having jurisdiction over the Project, and the Owner will cooperate with the Architect in an effort to resolve the conflict. It is understood that the Architect has no control over any reviewing agency's process, performance, or timeliness. The Architect shall have no responsibility for any delays that result from a slow review by a permitting agency, provided that the Architect submitted a complete set of documents to the agency, allowed them a reasonable amount of time for their review, and used its best efforts to obtain timely completion of the review.

§ 3.1.8 The Architect-Owner shall assist the Owner-Architect in connection with the Owner's Architect's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project. The Architect shall have primary responsibility for applying for building code reviews of the Contract Documents, shall provide separate packages of documents for State, local, and other required document reviews, shall coordinate and attend meetings with governmental bodies and utility providers, and shall make application for and coordinate all necessary permits. As part of Basic Services, the Architect shall provide all necessary permitting assistance. The Architect shall also make all revisions to the Construction Documents required by State, local, and other applicable reviews.

§ 3.1.9 The Basic Services will result in a Project design consistent with the Owner's program and suitable for its intended use. At the time of performance, the Architect shall be properly licensed, equipped, organized, and financed to perform the services. The individual(s) listed in Section 1.1.11 shall be actively involved in all phases of the Project, shall be the prime contact with the Owner, and shall not be changed without the Owner's consent. Each person who performs the services shall be experienced and qualified to perform the services he or she performs, and the Owner shall be entitled to rely upon any assistance, guidance, direction, advice, or other services provided by any such person. If requested by the Owner, the Architect shall remove from the services, without cost to the Owner or delay to the Project, any person whose removal the Owner reasonably requests.

§ 3.1.10 The Architect shall, at no cost to the Owner, promptly and satisfactorily correct any services which are defective or not in conformity with the requirements of this Agreement unless the Owner directs the Architect to not perform corrective action. If the Architect fails to make such correction within seven (7) days of written notice from the Owner, the Owner may do so, by contract or otherwise, and recover (e.g., by offset against the compensation otherwise payable under this Agreement) the cost from the Architect. The obligations of the Architect to correct defective or nonconforming services shall not in any way limit any other obligations of the Architect, and the Owner's right to make corrections and charge the Architect therefore is in addition to any and all other rights and remedies available to the Owner under this Agreement or otherwise by law, and shall in no event be construed or interpreted as obligating the Owner to make any correction of defective or non-conforming services.

§ 3.1.11 Any subcontracting of the services shall not relieve the Architect from its responsibility for the performance of the services in accordance with the terms of this Agreement nor from its responsibility for the performance of any of its other obligations under this Agreement.

§ 3.1.12 The Architect shall be and operate as an independent contractor in the performance of the services and shall have control over and responsibility for all personnel performing the services. Nothing contained in this Agreement shall be deemed to create any association, partnership, joint venture, or relationship of principal and agent or master and servant between or among the parties to this Agreement or their affiliates or subsidiaries. The Architect shall perform the services in accordance with its own methods in an orderly and professional manner. In no event shall the Architect be authorized to act on behalf of the Owner to: create any duties or obligations, enter into any agreements or undertakings, waive any provisions of the Contract for Construction; receive or accept contractual notice, execute any Certificate for Payment, Change Order or other document; authorize any payments or accept or approve any Work, services, goods or materials which result in a change in the Contract Sum or Contract Time without prior written approval of the Owner, or act as or be an agent or employee of the Owner.

§ 3.1.13 The Architect shall not utilize any employee who has pled guilty to or been convicted of any felony crime involving the physical neglect of a child under Chapter 9A.42 RCW, the physical injury or death of a child under Chapter 9A.32 RCW or Chapter 9A.36 RCW (except motor vehicle violations under Chapter 46.61 RCW), sexual exploitation of a child under Chapter 9.68A RCW, sexual offenses under Chapter 9A.44 RCW where a minor is a

victim, promoting prostitution of a minor under Chapter 9A.88 RCW, the sale or purchase of a minor child under Chapter 9A.64.030 RCW, or violation of similar laws of another jurisdiction. The Architect shall remove from the services any employee or other person who has engaged in such actions or who the Owner reasonably considers objectionable at no cost to the Owner. Failure to comply with these requirements is grounds for immediate termination of the Agreement.

**§ 3.1.14** The Architect shall comply with all applicable provisions of Chapter 49.60 RCW, the Law Against Discrimination.

**§ 3.1.15** The Architect shall submit design documents to the Owner as described in this Agreement as well as at intervals appropriate to the design process for purposes of evaluation, review, and approval by the Owner. Upon request of the Owner, the Architect shall make presentations as described in this Agreement to explain the design of the Project to representatives of the Owner. The Architect shall be entitled to rely on written approvals received from the Owner in the further development of the design.

**§ 3.1.16** Because this Agreement includes modernization of and/or addition to an existing structure, the Architect shall take care that the new design covered by this Agreement properly interfaces and is compatible with the existing and remaining structures. Areas requiring asbestos removal shall be identified through a consultant engaged by the Owner. If asbestos removal is required, it will be designed under a separate contract, and the Architect shall coordinate its documents with the asbestos consultant. Any areas requiring additional work as determined by the permitting agency to comply with existing codes and regulations should be delineated, and existing electrical and mechanical hook-ups located outside the building should be properly designated. The Architect should perform or direct performance of whatever reasonable on-site investigation may be necessary to determine the condition of the existing structures so that the design which will result from this Agreement is compatible and interfaces with the as-built conditions of the existing structures. All existing conditions cannot be fully known (because of hidden conditions or conditions not reasonably inferable from the site observations or any as-built drawings); therefore, the Architect is not expected to interface with unknown conditions of the existing structure. Destructive inspection and testing approved in writing by the Owner will be a Reimbursable Expense.

### **§ 3.2 SCHEMATIC DESIGN PHASE SERVICES**

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

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

**§ 3.2.3** The Architect shall present its preliminary evaluation to the Owner and shall discuss with the Owner alternative approaches to design and construction of the Project, including the feasibility of incorporating environmentally responsible design approaches. The Architect shall reach an understanding with the ~~Owner-Owner~~, which the Architect shall confirm in writing, regarding the requirements of the Project.

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

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

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§ 3.2.5.1 The Architect shall consider environmentally responsible design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain other environmentally responsible design services under Article 4.

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

§ 3.2.6 The Architect shall submit the Schematic Design Documents to the Owner and the Architect's Cost Consultant. The Architect shall meet with ~~the~~its Cost Consultant to review the Schematic Design Documents.

§ 3.2.7 Upon receipt of the ~~Cost Consultant's~~ Architect's estimate at the conclusion of the Schematic Design Phase, the Architect shall take action as required under ~~Section 6.4, Article 6,~~ and request the Owner's approval of the Schematic Design Documents. If revisions to the Schematic Design Documents are required to comply with the Owner's budget for the Cost of the Work at the conclusion of the Schematic Design Phase, the Architect shall incorporate the required revisions in the Design Development Phase.

§ 3.2.8 Before the Architect proceeds to the Design Development Phase, the Architect shall make a formal presentation of its Schematic Design to the Owner's Representative and then to the Owner's stakeholders. The Owner must then approve in writing completion of the Schematic Design Phase. The Owner's approval shall be deemed only an approval of the proposed concept and not the means, techniques, or materials recommended. The Architect shall also comply with Article 6 regarding estimates of the Cost of the Work.

§ 3.2.9 During this Phase, the Architect will participate in any meetings with the City of Stanwood, if required, and will participate in ongoing meetings with applicable building and planning officials, the Fire Marshall, and consultants.

### § 3.3 DESIGN DEVELOPMENT PHASE SERVICES

§ 3.3.1 Based on the Owner's written approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work pursuant to ~~Section 5.3, 5.3 and Article 6,~~ the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and such other elements as may be appropriate. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels. The Design Development Documents shall include:

- .1 Outline specification and design development plans, building cross sections, and elevations;
- .2 A description of changes from the approved Schematic Design;
- .3 A proposed schedule for the Project through Final Completion;
- .4 Updates to the outline specifications or design criteria;
- .5 Confirmation of the net and gross areas of the improved portions of the building; and
- .6 An update to the code analysis that includes fire, life, safety, and handicap and accessibility issues presented in scaled drawings and written format.

In addition, the Design Development Documents will include the site plan and an update to any required analysis of surface water, parking, set-backs, street improvements, and other zoning and land use issues. During this Phase, the Architect shall coordinate with and engage in any value engineering process pursuant to this Agreement, and will meet with the Owner's maintenance staff, end users, applicable building and planning officials, the Fire Marshall, health officials, and its consultants, if required.

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

adjustments to the prior estimate. This revised cost estimate shall be projected to the expected time of bid and shall be itemized by detailed categories within each specification section.

**§ 3.3.3** Upon receipt of the Cost Consultant's estimate at the conclusion of the Design Development Phase, the Architect shall take action as required under Sections 6.5 and 6.6 and as requested by the Owner, and shall request the Owner's approval of the Design Development Documents. Before the Architect proceeds with the Construction Documents Phase, the Architect shall present its design to the Owner's Representative and then to the Owner's stakeholders and the Owner must approve in writing completion of the Design Development Phase. The Owner's participation and approval shall be deemed only an approval of the proposed concepts and not the specific means and techniques recommended.

### **§ 3.4 CONSTRUCTION DOCUMENTS PHASE SERVICES**

**§ 3.4.1** Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall set forth in detail the coordinated requirements for construction of the Project, 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 of materials and systems and other requirements for the construction of the Work. The Architect shall incorporate the commissioning consultant's requirements into the Contract Documents at no cost. The Owner and Architect acknowledge that in order to construct the Work the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4-3.6.4 and this Agreement.

- .1 The parties will work collaboratively to communicate the status of the Construction Documents during the Construction Documents Phase.
- .2 The Architect shall provide the Construction Documents (including technical Specifications) in ninety-five percent (95%) complete condition to the Owner. At the same time, the Architect shall provide a draft of the proposed "front-end documents" for the Owner's provision of the Contract for Construction, General Conditions, and Instructions to Bidders.
- .3 The Owner shall return to the Architect the ninety-five percent (95%) complete Construction Documents (including technical Specifications) with its comments within fourteen (14) days.
- .4 The Architect shall certify to the best of its knowledge that the Construction Documents are in compliance with the state building code (RCW 19.27) and all pertinent federal, state and local statutes relating to school building construction and construction generally (including applicable accessibility codes). The Owner's review of the Construction Documents will not relieve the Architect of its responsibility for their accuracy or completeness.

**§ 3.4.2** During this Phase, the Architect will respond to comments from building and planning officials and meet with the Owner and its consultants. The Architect shall incorporate into the Construction Documents the design requirements of governmental authorities having jurisdiction over the Project. The Architect shall be responsible as part of its Basic Services (with the assistance of the Owner) for coordinating and filing documents required for the approval of governmental and utility authorities having jurisdiction over the Project including OSPI. The Architect shall be responsible for making the changes in the Construction Documents required by the governmental authorities at its expense, except where such required changes are inconsistent with previous direction from the same authority.

**§ 3.4.3** During the development of the Construction Documents, the Architect shall assist the ~~Owner~~ Owner, if requested, in the Owner's development and preparation of (1) bidding and 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. The Architect shall ensure that the portions of the specification that it provides do not conflict with the Agreement, Instructions to Bidders, and General and Supplemental Conditions provided by the District. In order to facilitate the Architect's review, the Owner will take reasonable efforts to provide the Architect with the proposed language for Owner-provided materials at least thirty (30) days prior to the first planned advertisement for bidding.

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**§ 3.4.4** Prior to the conclusion of the Construction Documents Phase, the Architect shall submit the Construction Documents to the Owner and the Architect's Cost Consultant. The Architect and the Owner shall meet with the Cost Consultant to review the Construction Documents.

**§ 3.4.5** The Architect shall provide the Owner with an adjustment to previous cost estimates reflecting changes in requirements, general market conditions or other changes. This adjusted estimate shall include a base cost that does not exceed the budget and shall also include an itemization of Owner-approved alternate bids proposed and the estimated cost increase or deduction for each. The Architect shall advise the Owner of any adjustments to previous preliminary estimates of construction cost indicated by changes in requirements or general market conditions, including bid climate and the cost and availability of labor and materials. Upon receipt of the Cost Consultant's estimate at the conclusion of the Construction Documents Phase, ~~the Architect~~ the Architect, in consultation with the Owner, shall take action as required under Section ~~6-7-6.5~~ and request the Owner's approval of the Construction Documents.

## **§ 3.5 BIDDING OR NEGOTIATION PHASE SERVICES**

### **§ 3.5.1 GENERAL**

~~The As necessary, the Architect shall assist the Owner in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall attracting, promoting, and educating a list of prospective contractors. The Architect shall also assist the Owner in (1) obtaining either competitive bids or negotiated proposals; competitive bids; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction. The Architect shall participate in or, at the Owner's direction, organize and conduct, a pre-bid conference for prospective bidders. The Architect shall also assist the Owner in bid validation and determination of the successful bid, if any. If requested by the Owner, the Architect shall notify all prospective bidders of the bid results.~~

### **§ 3.5.2 COMPETITIVE BIDDING**

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

**§ 3.5.2.2** ~~The~~ If requested by the Owner, the Architect shall assist the Owner in bidding the Project by

- 1 facilitating the reproduction or online communication of Bidding Documents for distribution to prospective bidders,
- 2 participating in or, at the Owner's direction, organizing and conducting a pre-bid conference for prospective bidders, and
- 3 preparing responses to questions from prospective bidders whether written or asked during the pre-bid meeting and providing clarifications and interpretations of the Bidding Documents in the form of addenda, of addenda, and
- 4 scheduling and facilitating, if requested by the Owner, the formal bid opening in accordance with State of Washington statutory requirements.

The Owner shall, at its option, pay directly for the cost of reproduction or shall reimburse the Architect for such expenses procuring the reproduction of Bidding Documents for distribution to prospective bidders. Further, if requested by the Owner, the Architect shall distribute, or assist in the distribution of, the Bidding Documents to prospective bidders and request their return upon completion of the bidding process. The Architect shall maintain a log of distribution and retrieval, and the amounts of deposits, if any, received from and returned to prospective bidders. The Architect shall assist in preparing the required advertisements for bids and shall provide necessary Bidding Documents for issuance to potential bidders. The Architect shall maintain a list of plan holders and regularly inform the Owner of their identities. The Architect shall prepare and issue necessary addenda, attend the pre-bid conference and bid opening, tabulate the bids and generally assist in evaluating the bids.

**§ 3.5.2.3** The Architect shall consider requests for substitutions, if the Bidding Documents permit substitutions, shall submit recommendations for substitutions for the Owner's consideration, and shall prepare and distribute addenda identifying approved substitutions to all prospective bidders.

### **§ 3.5.3 NEGOTIATED PROPOSALS**

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

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

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- ~~.1 — facilitating the reproduction of Proposal Documents for distribution to prospective contractors, and requesting their return upon completion of the negotiation process;~~
- ~~.2 — participating in selection interviews with prospective contractors; and~~
- ~~.3 — participating in negotiations with prospective contractors.~~

~~§ 3.5.3.3 The Architect shall consider requests for substitutions, if the Proposal Documents permit substitutions, and shall prepare and distribute addenda identifying approved substitutions to all prospective contractors.~~

§ 3.5.2.4 The Architect shall in a timely manner prepare responses to questions from prospective bidders and provide written clarifications and interpretations of the Bidding Documents to all prospective bidders in the form of addenda. The Architect shall consult with the Owner prior to issuing any addenda. The Architect shall not approve any major substitution requests during bidding unless the Owner provides its prior written approval. The Architect shall not approve any substitution requests after contract award unless prior written permission from the Owner is obtained.

§ 3.5.2.5 The Architect shall participate in or, at the Owner's direction, organize and conduct the opening of bids. The Architect shall evaluate the bids and submittals, call bidder references, and submit a certified bid tabulation and written recommendation for award. The Architect shall subsequently document and distribute the bidding results, as directed by the Owner. The Architect shall meet with the Owner's Board of Directors to consider award of the Contract for Construction. If requested, the Architect will participate in a pre-award conference with the Contract as part of Basic Services.

§ 3.5.2.6 The Architect shall assist the Owner in investigating the "responsibility" (as defined in the Bidding Documents and RCW 39.04.350) of the apparent lowest bidder.

§ 3.5.2.7 Following the bid opening, the Architect shall, as part of its Basic Services, issue a conformed set of Contract Documents, consisting of the Bidding Documents with all Addenda items inserted.

## **§ 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 in this Agreement and in AIA Document A201™–2007, General Conditions of the Contract for Construction. If the Owner and Contractor modify AIA Document A201–2007, those modifications shall not affect the Architect's services under this Agreement unless the Owner and the Architect amend this Agreement. Prior to execution of the AIA Document A201-2007 by the Owner and Contractor, the Architect will be provided a copy of the proposed modifications and the Architect will have the opportunity to comment and suggest revisions.

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

§ 3.6.1.3 Subject to Section 4.3, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment upon the Owner's Final Acceptance of the Project (acceptance by the Owner's Board of Directors). The Basic Services shall continue, however, for services associated with the one-year correction period or any warranty set forth in the Contract for Construction.

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### § 3.6.2 EVALUATIONS OF THE WORK

§ 3.6.2.1 The quality of the completed Work is important to the Owner. The Architect shall visit and be at the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.3.3, to become generally familiar with the this Agreement and Section 4.3.3 and not less than once every week while the Work is in progress, to become generally familiar with and to keep the Owner informed about the progress and quality of the portion of the Work completed, and to determine, in general, and for the Owner's benefit and protection, 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. Documents and the Contractor's construction schedule. However, the Architect shall not be required to make exhaustive or continuous on-site observations or any inspections to check the quality or quantity of the Work of the Work unless the nature of the Work or problems with the progress or quality of the Work require such observation and inspection (in which case observation and inspection will be provided as an Additional Service unless necessitated by the fault or negligence of the Architect). On the basis of the site visits, the Architect shall document and keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and shall endeavor to guard the Owner against defects and deficiencies in the Work, and shall report to the Owner (1) known deviations from the Contract Documents and from the most recent construction schedule, and (2) defects and deficiencies observed in the Work.

§ 3.6.2.2 The Architect has the authority to reject shall consult with the Owner concerning the advisability of rejecting Work that does not conform to the Contract Documents. Documents and shall communicate the Owner's decision regarding rejection of Work to the Contractor. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require will recommend to the Owner inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, installed or completed. The Architect's monitoring of such additional testing or inspections is a part of Basic Services. 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, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Architect shall interpret and initially decide matters concerning performance under, and requirements of, the Drawings and Specifications and shall assist the Owner in the interpretation of all other Contract Documents and the Contractor's performance thereunder on written request of either the Owner or Contractor. the Owner. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness. The Architect (or its applicable consultants) shall take the lead role with code agencies in resolving questions, interpretations and conflicts between review and inspection.

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

§ 3.6.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A201-2007, the Architect shall render initial decisions. The Architect shall render recommendations on Claims between the Owner and Contractor as provided in the Contract Documents, only when requested by the Owner.

§ 3.6.2.6 The Architect shall schedule, attend, run, and generate meeting minutes of Project-status meetings with the Owner and the Contractor that will normally occur weekly. The Architect shall secure the attendance of its consultants at these meetings when such attendance may be required to facilitate advancement of the Project. The Architect shall submit to the Owner within two (2) working days of the relevant event copies of all field reports or minutes of meetings held on site to discuss or evaluate the progress of the Work during the Construction Phase.

### § 3.6.3 CERTIFICATES FOR PAYMENT TO CONTRACTOR

§ 3.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall promptly issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on

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the Architect's evaluation of the Work as provided in Section 3.6.2 and of the Contractor's construction schedule and updates 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. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to 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 observations or any 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 material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

**§ 3.6.3.3** The Architect shall maintain a written record of the Applications and Certificates for Payment for Payment for the Owner's benefit.

#### **§ 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. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review.

**§ 3.6.4.2** In accordance with the Architect-approved submittal schedule, the Architect shall review and approve or take other diligently review, attempting to identify inconsistencies or discrepancies between submittals and the requirements of the Contract Documents, and take 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. The Architect shall prepare and continually update a log of all required submittals and shall provide the log when requested by the Owner. The Architect shall not change the Contract Documents, the Contract Sum, or Contract Time through review comments on a submittal, but only through a Change Order or Construction Change Directive signed by the Owner. The Architect's action shall be taken with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor, or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. 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 review or approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, sequences or procedures. The Architect's approval review of a specific item shall not indicate review or approval of an assembly of which the item is a component. The Architect shall not approve substitution requests during bidding or after contract award unless prior written permission from the Owner is obtained.

**§ 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 shop drawings and other submittals related to the Work designed or certified by the design professional retained by the Contractor that bear such professional's seal and signature when submitted to the Architect. The Architect shall be entitled to rely upon the adequacy, accuracy and completeness of the services, certifications and approvals performed or provided by such design professionals.

**§ 3.6.4.4** ~~Subject~~ As part of Basic Services, but subject to the provisions of Section 4.3, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth in the Contract Documents the Documents with such reasonable promptness as to cause no delay in the Work or in the activities of the Owner, Contractor, or separate contractors, while allowing sufficient time in the Architect's professional judgment to permit adequate review. The Contract Documents shall set forth the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the

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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. The Architect shall not change the Contract Documents, the Contract Sum, or Contract Time through an RFI response, but only through a Change Order or Construction Change Directive signed by the Owner. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to requests for information. The Architect shall maintain written records and logs relative to requests for information for the Owner's benefit. The Architect shall submit monthly logs to the Owner tracking all requests for information and the Architect's responses.

**§ 3.6.4.5** The Architect shall review the schedule of submittals furnished by the Contractor and require any changes to that schedule that it determines to be appropriate, maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents, Documents and correlate its record and the submittals with the Contractor's construction schedule. Copies of submittal logs, correlating schedule dates to actual submittal dates, shall be provided to the Owner regularly.

### **§ 3.6.5 CHANGES IN THE WORK**

**§ 3.6.5.1** The Architect may authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to the provisions of Section 4.3, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents. If necessary, the Architect shall prepare, reproduce, and distribute Drawings and Specifications and other necessary supporting documentation and data to describe Work to be added, deleted, or modified. Basic Services shall include providing recommendations concerning proposed Change Orders or Construction Change Directives, and all aspects of the preparation and processing of Change Orders, Construction Change Directives and Proposal Requests and Change Order Proposals resulting from errors, omissions or deficiencies in the Contract Documents prepared by the Architect, at no additional cost to the Owner.

**§ 3.6.5.2** The Architect shall maintain records relative to changes in the Work-written records and logs relative to changes in the Work for the Owner's benefit. These shall include, at a minimum, records relating to approved changes requested by the Contractor. The Architect shall submit monthly logs to the Owner categorizing all Proposal Requests, Construction Change Directives, Change Orders, and Submittals processed. Logs shall include the status of documents and any cross-references and dollar amounts associated with the particular document.

**§ 3.6.5.3** The Architect shall review and promptly respond to requests for changes in the Work, including adjustments to the Contract Sum or Contract Time. If the Architect determines that requested changes in the Work are not materially different from the requirements of the Contract Documents, the Architect may issue an order for a minor change in the Work or recommend to the Owner that the requested change be denied. If the Architect determines that implementation of the requested changes would result in a material change to the Contract that may cause an adjustment in the Contract Time or Contract Sum, the Architect shall make a recommendation to the Owner, who may authorize further investigation of such change. Upon such authorization, and based upon information furnished by the Contractor, if any, the Architect shall review the Contractor's estimate and recommend to the Owner the additional cost and time that might result from such change, including any additional costs attributable to Additional Services of the Architect. With the Owner's approval, the Architect shall incorporate those estimates into a Change Order or other appropriate documentation for the Owner's execution or negotiation with the Contractor.

### **§ 3.6.6 PROJECT COMPLETION**

**§ 3.6.6.1** The Architect shall conduct inspections to determine and its consultants shall conduct reviews regarding the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion; of Final Completion; initially advise only the Owner of those recommended dates; issue Certificates of Substantial Completion with the Owner's consent; receive from the Contractor and forward to the Owner, for the Owner's review and records, written warranties and related close-out documents required by the Contract Documents and assembled by the Contractor; and issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents.

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

§ 3.6.6.3 When the Work is found to be substantially complete, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work. The Architect shall, in conjunction with the Contractor and with the approval of the Owner, issue a Certificate of Substantial Completion. At Substantial Completion, the Architect, in conjunction with the Owner, shall prepare a "punch list" of observed items requiring correction, completion or replacement by the Contractor. As a Basic Service, the Architect shall also review the Contractor's completed as-built prints.

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

§ 3.6.6.5 Upon request of the Owner, and prior to the expiration of one (1) year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations ~~and performance~~ and performance, to review ~~correction-period items~~, and to make appropriate recommendations to the Owner. At the beginning of the final month of the one-year correction period, the Architect shall inspect the Project and report in writing any discrepancies observed. The Architect shall cooperate with the Owner to actively pursue and resolve issues regarding discrepancies or defects in the Work.

§ 3.6.6.6 As a part of Basic Services, the Architect and its consultants shall participate in and provide information to the Owner as needed for the commissioning process, consult and cooperate with the Owner's commissioning agent, and engage in any other services necessary for the commissioning process. The Contractor will be responsible to coordinate the commissioning of all designated systems. Commissioning shall demonstrate that each designated system operates as designed and specified. The Contractor will also be responsible to prepare for Owner approval a checklist of operations and tests to illustrate that each designated system is operational and to measure the performance of such systems.

§ 3.6.6.7 The Architect shall observe the progress of the Work and other requirements in the Contract Documents for achieving Final Completion and shall advise the Owner of that recommended date. The Architect shall issue a final Certificate for Payment, in consultation with the Owner, upon compliance with the requirements of the Contract Documents. The Close-Out Phase under this Agreement commences with the Date of Substantial Completion set by the Owner and ends upon the Owner's Final Acceptance of the Work. The Architect's review shall be conducted with the Owner to check conformance of the Work with the requirements of the Contract Documents and to verify the accuracy and completeness of the list submitted by the Contractor of Work to be completed or corrected. Pursuant to OSPI regulations, the Architect shall review the Project upon Final Completion to determine general compliance with the Contract Documents and to provide a certificate of completion recommending that the Work is completed in compliance with the Contract Documents.

§ 3.6.6.8 The Architect shall review and recommend approval or disapproval of O & M manuals. The Architect shall also further receive and forward to the Owner for the Owner's review and use, all written warranties and related documents required by the Contract Documents and assembled by the Contractor. The Architect shall assist in supplying information, advice and communication with respect to the warranty or correction periods of the Contract for Construction. The Architect and the Owner shall cooperate in reviewing and securing the correction of defective work.

§ 3.6.6.9 As part of its role in the record drawing process, the Architect shall review the Contractor's as-built drawings on a monthly basis during construction, review the Contractor's completed as-built prints and, among other things, check to be certain that the Contractor has shown the locations of any utility lines.

§ 3.6.6.10 The Architect shall assist in supplying information, advice and communication with respect to OSPI requirements.

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**ARTICLE 4 ADDITIONAL SERVICES**

§ 4.1 Additional Services listed below, unless listed as the Architect's responsibility, are not included in Basic Services but may be required for the Project. ~~The Architect shall provide the listed Additional Services only if specifically designated in the table below as the Architect's responsibility.~~ (Services listed below and designated as the Architect's responsibility are Basic Services.) If the "Responsibility" column lists "Owner," "N/A," or "not provided" and the Architect is required by the Owner to perform the service, then it is an Additional Service subject to this Agreement and the Owner shall compensate the Architect as provided in Section 11.2. (Designate the Additional Services the Architect shall provide in the second column of the table below. In the third column indicate whether the service description is located in Section 4.2 or in an attached exhibit. If in an exhibit, identify the exhibit.)

Services	Responsibility (Architect, Owner or Not Provided)	Location of Service Description (Section 4.2 below or in an exhibit attached to this document and identified below)
§ 4.1.1 Programming	Architect under a separate contract	Based on Educational Specifications
<del>§ 4.1.1 Programming (B202™-2009)</del>		
§ 4.1.2 <del>Multiple preliminary</del> Preliminary designs'	Architect, if necessary	
§ 4.1.3 Measured drawings	Architect, if necessary	
§ 4.1.4 Existing facilities surveys and building documentation	Architect if necessary	
§ 4.1.5 Site Evaluation and Planning (B203™-2007)	N/A	
§ 4.1.6 Building Information Modeling (B202™-2008)	Not provided	
§ 4.1.7 Civil engineering	Architect	
§ 4.1.8 Landscape design	Architect	
§ 4.1.9 Architectural Interior Design (B252™-2007) (color coordination)	Architect	
§ 4.1.10 Value Analysis-Analysis/Study (B204™-2007)	Through Owner, with Architect cooperation	
§ 4.1.11 Detailed cost estimating	Architect	
§ 4.1.12 On-site <del>Project Representation-project</del> representation (B207™-2008)	N/A	
§ 4.1.13 Conformed construction documents	Architect	
§ 4.1.14 As-designed record drawings	Architect as Additional Service	
<del>§ 4.1.14 As-Designed Record drawings</del>		
§ 4.1.15 As-constructed record drawings	Architect as Additional Service	
<del>§ 4.1.15 As-Constructed Record drawings</del>		
§ 4.1.16 Post occupancy evaluation	Architect	
§ 4.1.17 Start-up Assistance	Architect to coordinate with Owner and Contractor	
<del>§ 4.1.17 Facility Support Services (B210™-2007)</del>		
§ 4.1.18 Tenant-related services	Not Provided	
§ 4.1.19 Coordination of Owner's consultants	Through Owner, with Architect assistance	
§ 4.1.20 Telecommunications/data design	Architect	
§ 4.1.21 Security Evaluation and Planning	Architect	

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	(B206™–2007)		
§ 4.1.22	Commissioning (B211™–2007)	Owner, with Architect's assistance	
§ 4.1.23	Extensive environmentally responsible design	Not Provided	
§ 4.1.24	LEED® Certification (B214™–2012)	Not Provided	
§ 4.1.25	Historic Preservation (B205™–2007)	N/A	
§ 4.1.26	Furniture, Furnishings, and Equipment Design (B253™–2007)	Architect, for any specialized equipment	
§ 4.1.27	Master Schedule Development and Monitoring	Architect	

§ 4.2 Insert a description of each Additional Service designated in Section 4.1 as the Architect's responsibility, if not further described in an exhibit attached to this document.

[Deleted]

§ 4.3 Additional Services may be provided after execution of this Agreement, without invalidating the Agreement, if mutually agreed in writing by the Owner and Architect. The Architect shall not move forward in rendering such Additional Services without the written permission of the Owner. In the absence of mutual agreement in writing, and subject to Section 4.3.2 below, the Architect shall promptly notify the Owner prior to providing any services requiring an adjustment in the Architect's compensation and shall specify the proposed adjustment. Failure to provide such timely written notice shall be a waiver of any additional compensation for Additional Services. If requested by the Owner in writing, the Architect shall proceed with Additional Services even if the parties have not yet agreed to the change in compensation. If the Owner deems that all or a part of such Additional Services is not required, the Owner shall give prompt written notice to the Architect, and the Architect shall have no obligation to provide, and the Owner shall have no obligation to compensate the Architect for, those services. Except for services required due to the ~~fault~~ fault, negligence, wrongdoing, or responsibility of the Architect, any Additional Services provided in accordance with this Agreement and Section 4.3 shall entitle the Architect to a reasonable adjustment in compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

§ 4.3.1 Upon recognizing the need to perform the following Additional Services, ~~Services not caused by the fault or negligence of the Architect,~~ the Architect shall notify the Owner in writing with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall not proceed to provide the following services until the Architect receives the Owner's written authorization:

- 1 Services necessitated by a substantial change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including, but not limited to, size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method, or bid packages in addition to those listed in Section 1.1.6;
- 2 ~~Services necessitated by the Owner's request for extensive environmentally responsible design alternatives, such as unique system designs, in-depth material research, energy modeling, or LEED® certification;~~ [Deleted];
- 3 Changing or editing previously prepared Instruments of Service necessitated by the unexpected enactment or revision of codes, laws or regulations or official interpretations;
- 4 Services necessitated by decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- 5 ~~Preparing digital data for transmission to the Owner's consultants and contractors, or to other Owner authorized recipients;~~ [Deleted];
- 6 Preparation of design and documentation for alternate bid or proposal ~~requests~~ requests, except for price-protection alternates, proposed by the Owner;
- 7 Preparation for, and attendance at, a public presentation, meeting or ~~hearing~~ hearing (except for milestone updates to the Owner's Board of Directors and one presentation to the Public Hearings Examiner as part of the land use approval process, which are included in the Architect's Basic Services);
- 8 Preparation for, and attendance at a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;

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- .9 Evaluation of the qualifications of bidders or persons providing proposals; ~~[Deleted]~~;
- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or
- .11 Assistance to the Initial Decision Maker, if other than the Architect. ~~[Deleted]~~.

§ 4.3.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If the Owner subsequently determines that all or parts of those services are not required, the Owner shall give prompt written notice to the Architect, and the Owner shall have no further obligation to compensate the Architect for those services:

- .1 ~~Reviewing a Contractor's submittal out of sequence from the submittal schedule agreed to by the Architect;~~
- .2 ~~Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner provided information, Contractor prepared coordination drawings, or prior Project correspondence or documentation;~~
- .3 ~~Preparing Change Orders, and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;~~
- .4 ~~Evaluating an extensive number of Claims as the Initial Decision Maker;~~
- .5 ~~Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom; or~~
- .6 ~~To the extent the Architect's Basic Services are affected, providing Construction Phase Services 60 days after (1) the date of Substantial Completion of the Work or (2) the anticipated date of Substantial Completion identified in Initial Information, whichever is earlier. ~~[Deleted]~~.~~

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

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

§ 4.3.4 ~~If~~ The construction period begins with the commencement of construction and ends at Substantial Completion. To the extent that the construction period is extended more than ninety (90) days beyond the time period identified in the Initial Information, the Architect will be compensated as Additional Services when the Architect's Basic Services are affected thereby unless resulting from the fault or negligence of the Architect. In addition, if the services covered by this Agreement have not been completed within ( — ) months of the date of this Agreement, ninety (90) days of Substantial Completion of construction of the Project, not including the one-year correction period, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services.

## ARTICLE 5 OWNER'S RESPONSIBILITIES

§ 5.1 Unless otherwise provided for under this Agreement, the Owner shall provide information in a timely manner regarding requirements for and limitations on the Project, ~~including which, upon mutual agreement, may include a~~ written program which shall set forth the Owner's objectives, schedule, constraints and criteria, including space requirements and relationships, flexibility, expandability, special equipment, systems and site requirements. Within ~~15 days a reasonable period of time~~ after receipt of a written request from the Architect, the Owner shall furnish the requested information as necessary and relevant for the Architect to evaluate, give notice of or enforce lien rights.

§ 5.2 ~~The Owner shall furnish the services of a Scheduling Consultant that shall be responsible for creating the overall Project schedule. The Owner shall adjust the Project schedule, if necessary, as the Project proceeds. ~~[Deleted]~~~~

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

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

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

**§ 5.5** The Owner 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 necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark. The Architect shall review the information provided by the Owner and timely advise the Owner of any missing information or data that is germane to the Project and necessary from the Owner.

**§ 5.6** The Owner shall furnish services of geotechnical engineers, which may include but are not limited to test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations. The Architect will utilize this information in the Construction Documents and work with the Owner's geotechnical engineers to assist the Owner in determining the scope and scale of the required geotechnical services. The Architect and Architect's consultants will copy the Owner on any correspondence with the Owner's Geotechnical Engineer.

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

**§ 5.8** ~~The Owner shall~~ Unless otherwise provided for under this Agreement, the Owner shall, during construction, 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.~~ Documents and tests for hazardous

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materials. The Architect's review of such tests, inspections and reports shall be included as a part of the Architect's compensation for Basic Services.

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

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

§ 5.11 The Architect shall contemporaneously provide the Owner with copies of all written communications between the Architect and the Contractor concerning the cost, time, sequence, scope, or requirements of the Project. Except as otherwise provided in this Agreement, or when direct communications have been specially authorized, the Owner shall endeavor to communicate with the Contractor and the Architect's consultants through the Architect about matters arising out of or relating to the Contract Documents. The Owner shall endeavor to promptly notify the Architect of any direct communications that may affect the Architect's services.

§ 5.12 Before executing the Contract for Construction, the Owner shall coordinate the Architect shall provide administration of the Contract between the Owner and Contractor as set forth herein and in AIA Document A201-2007, General Conditions of the Contract for Construction, as revised by the Owner. Before the Owner executes the Contract for Construction, the Architect shall review the proposed form of Contract (including General Conditions) and provide comments to the Owner for the purpose of coordinating the Architect's duties and responsibilities set forth in the Contract for Construction with the Architect's services set forth in this Agreement. The 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.

§ 5.13 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.

## **ARTICLE 6 COST OF THE WORK**

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project as designed or specified by the Architect and shall include include, among other things, the contractors' general conditions costs, overhead and profit. The Cost of the Work shall include the cost projected to the time of bid opening of labor and materials to be provided by the Contractor under the Contract for Construction. In addition, a reasonable allowance for contingencies shall be included for market conditions at the time of bidding and for changes in the Work related to design. The Cost of the Work does not include the compensation of the Architect, Architect or the Architect's consultants, the costs of the land, rights-of-way, financing, contingencies for changes in the Work or other costs that are sales tax, financing, Owner contingencies for elective changes in the Work, FF&E, permits, and utility fees, or other costs that are the unrelated to the construction of the Project and the responsibility of the Owner.

§ 6.2 The Owner's budget for the Cost of the Work is provided in Initial Information, the Initial Information and defined below, and may be adjusted throughout the Project as required under Sections 5.3 and 6.4. Project. When the Project requirements have been sufficiently identified, the Architect, through its Cost Consultant or otherwise, shall prepare a preliminary estimate of the Cost of the Work. This estimate shall represent the Architect's judgment as a design professional familiar with the construction industry and should be based on current area, volume or similar conceptual estimating techniques. As the design process progresses through the end of the preparation of the Construction Documents, and no less frequently than with the completion of each design phase, the Architect shall update and refine the preliminary estimate of the Cost of the Work. The Architect shall advise the Owner of any adjustments to previous estimates of the Cost of the Work indicated by changes in Project requirements or general market conditions. If at any time the Architect's estimate of the Cost of the Work exceeds the budget, the Architect shall make appropriate recommendations to the Owner to adjust the Project's size, quality, or budget, and the Owner shall cooperate with the Architect in making such adjustments. Evaluations of the Owner's budget for the Cost of the Work represent the Architect's judgment as a design professional. It is recognized, however, that neither the Architect nor the Owner has control over the cost of labor, materials, or market conditions. The Architect

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acknowledges that cost is of primary concern to the Owner and the Architect will endeavor to design the Project within the MACC.

§ 6.3 The Owner In preparing estimates of the Cost of the Work, the Architect, in consultation with the Owner, shall require the Cost Consultant to include appropriate contingencies for design, bidding or negotiating, price escalation, and market conditions in estimates of the Cost of the Work. The Architect shall ~~be entitled to rely on the accuracy and completeness of estimates of the Cost of the Work the Cost Consultant prepares as the Architect progresses with its Basic Services. The Architect shall prepare, as an Additional Service, prepare as part of Basic Services~~ revisions to the Drawings, Specifications or other documents required due to the Cost Consultant's inaccuracies or incompleteness in preparing cost estimates. The Architect may review the Cost Consultant's estimates ~~solely for the Architect's guidance in completion of its services, however, the Architect and~~ shall report to the Owner any material inaccuracies and inconsistencies noted during any such review.

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

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

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

§ 6.6 If the Owner chooses to proceed under Section 6.5.2, the Architect, without additional compensation, shall incorporate the required modifications in the Construction Documents Phase as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Design Development Phase Services, or the budget as adjusted under Section 6.5.1. The Architect's modification of the Construction Documents shall be the ~~limit of the Architect's responsibility as a Basic Service under this Article 6.~~

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

§ 6.7.1 If the lowest bona fide bid exceeds the budget for the Cost of the Work by more than ten percent (10%), the Owner, at its sole option, shall, without additional compensation to the Architect:

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

§ 6.7.2 If the Owner chooses to proceed under Section 6.7.1.4, the Architect, without additional compensation, shall modify the documents for which the Architect is responsible under this Agreement as necessary to comply with the budget for the Cost of the Work. The modification of such documents shall be the limit of the Architect's responsibility under Section 6.7.1.4.

## ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 Drawings, Specifications, materials, models, renderings, and other documents, including those in electronic form, prepared by the Architect and the Architect's consultants are Instruments of Service. The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its

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use on the Project. If the Owner and Architect intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions. Any information on computer media provided to the Owner and the Contractor is for informational purposes only. Upon request by the Owner, the Architect shall provide electronic copies for the Owner's and Contractor's use at no additional cost. If, for any reason, a conflict occurs between information on the computer media and the stamped, signed documents, the information on the signed, stamped documents shall govern and be considered correct. Any additions or modifications to the information contained on or generated from the electronic media made by anyone other than the Architect may result in adverse consequences, which the Architect cannot predict or control.

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

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

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

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

## **~~ARTICLE 8 CLAIMS AND DISPUTES~~**

### **~~ARTICLE 8 DISPUTE RESOLUTION; CLAIMS AND DISPUTES~~**

#### **~~§ 8.1 GENERAL~~**

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other arising out of or related to this Agreement in accordance with the requirements of this Agreement, the method of binding dispute resolution selected in this Agreement within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. Agreement, and within the period specified by applicable law. Causes of action between the parties to this Agreement pertaining to acts or failures to act shall be deemed to have accrued, and the applicable statutes of limitations shall commence to run, not later than the Owner's discovery provided it is within the time period established by applicable law and not prior to the date of Substantial Completion for acts or failures to act occurring

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prior to Substantial Completion. The Owner and Architect waive all claims and causes of action not commenced in accordance with the time requirements of this Section 8.1.1.

**§ 8.1.2** To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in the revised AIA Document A201-2007, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.

**§ 8.1.3** ~~The Architect shall indemnify and hold the Owner and the Owner's officers and employees harmless from and against damages, losses and judgments arising from claims by third parties, including reasonable attorneys' fees and expenses recoverable under applicable law, but only to the extent they are caused by the negligent acts or omissions of the Architect, its employees and its consultants in the performance of professional services under this Agreement. The Architect's duty to indemnify the Owner under this provision shall be limited to the available proceeds of insurance coverage hereby releases and agrees to indemnify and hold the Owner, its successors and assigns, and the Owner's Board, directors, officers, agents, and employees of each of the foregoing ("Indemnified Parties") harmless, from and against: (1) any and all claims of third parties; and (2) losses, harm, costs, liabilities, damages, and expenses arising or resulting from such claims of third parties ("damages"); to the extent arising out of or in connection with any willful misfeasance or negligence in, or reckless disregard of: (i) the performance of the services by, (ii) the obligations of, or (iii) the acts or omissions of, the Architect or any of its consultants of any tier, their respective successors and assigns, the directors, officers, employees, and agents of each of them, or anyone acting on the Architect's behalf in connection with this Agreement or its performance. The damages covered by this indemnification and hold harmless duty include without limitation reasonable attorneys' fees incurred on such claims and in proving the right to indemnification.~~

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

In claims against any person or entity indemnified under this Section 8.1.3 by an employee of the Architect, any of its consultants of any tier, anyone directly or indirectly employed by them or anyone for whose acts they are liable, the obligations under this Section 8.1.3 shall not be limited by the amount or type of damages, compensation or benefits payable by or for the Architect or a consultant under workers' compensation acts, disability benefit acts or other employee benefit acts. After mutual negotiation of the parties, the Architect expressly waives immunity as to the Owner under Title 51 RCW, "Industrial Insurance."

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

## **§ 8.2 MEDIATION**

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

**§ 8.2.2** The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation which, unless the parties mutually agree otherwise, ~~otherwise or cannot themselves agree to the selection of a mediator within thirty (30) days of the request for mediation,~~ shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, ~~delivered to the other party to the Agreement, and writing and delivered to the other party to the Agreement.~~ If the parties are unable to select a mutually acceptable mediator within thirty (30) days of the request for mediation, the request may be filed with the person or entity administering the mediation. ~~The request may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation mediation or the American Arbitration Association.~~ Mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings. ~~if binding dispute resolution proceedings are initiated before the mediation. A principal of the Architect and the Superintendent or designee of the Owner, both having full authority to settle the Dispute, must attend the mediation session. To the extent there are other parties in interest, such as the Contractor, Subcontractors, suppliers, and/or consultants, their representatives, with full authority to settle all pending Disputes or claims, may also attend the mediation session. Unless the Owner and the Architect mutually agree in writing otherwise, all unresolved claims shall be considered at a single mediation session which shall occur prior to Final Acceptance of the Project by the Owner. Neither party may commence litigation on a Dispute unless the Dispute has been properly raised and considered in the above mediation procedure.~~

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

**§ 8.2.4** If the parties do not resolve a dispute through mediation pursuant to this Section 8.2, the method of binding dispute resolution shall be the following:  
(Check the appropriate box. If the Owner and Architect do not select a method of binding dispute resolution below, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, the dispute will be resolved in a court of competent jurisdiction.)

- Arbitration pursuant to Section 8.3 of this Agreement
- Litigation in a court of competent jurisdiction in Snohomish County
- Other (Specify)

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

### **§ 8.3 ARBITRATION**

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

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

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

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

#### **§ 8.3.4 CONSOLIDATION OR JOINDER**

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

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

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

#### **ARTICLE 9 TERMINATION OR SUSPENSION**

**§ 9.1** If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect properly elects in accordance with the terms of this Agreement to suspend services, the Architect shall give seven (7) days' written notice to the Owner before suspending services. In the event of such a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Architect shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's ~~fees~~ Fee for the remaining services and the time schedules shall be equitably adjusted.

**§ 9.2** If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred ~~in as a result of the interruption and resumption of the Architect's services. The Architect's fees services and only if the~~ Owner suspends the Project for more than thirty (30) consecutive days. The Architect's Fee for the remaining services and the time schedules shall be equitably adjusted.

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

**§ 9.4** Either party may terminate this Agreement upon not less than seven (7) days' written notice should the other party fail substantially ~~or materially~~ to perform in accordance with the terms of this Agreement through no fault of the party initiating ~~the termination; the termination, during which seven-day period the party responding to the notice shall have the right to cure the default. In the event of such termination by the Owner, the Owner shall have the right (but not the obligation) to take over performance of the Architect's services for the Project and prosecute the same to completion, by contract or otherwise, and all finished or unfinished Instruments of Service, including without limitation documents, data, studies, surveys, drawings, maps, models, photographs, and reports, prepared by or for the benefit of the Architect shall, at the option of the Owner, become the Owner's property.~~

**§ 9.5** The Owner may terminate this Agreement ~~or a portion thereof~~ upon not less than seven (7) days' written notice to the Architect for the Owner's convenience and without cause. In that event, the Owner shall be entitled to use and/or assign the rights to use all finished and unfinished Instruments of Service and other materials, and the Owner shall release, indemnify, and hold harmless the Architect from any claims arising from the Owner's

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subsequent use of such documents and other materials, except that the Owner shall not be so obligated to the extent the Architect is solely or concurrently negligent.

§ 9.6 In the event of termination not the fault of the Architect, the Architect shall be compensated only for services satisfactorily performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Section 9.7.

§ 9.7 Termination Expenses are in addition to compensation for the Architect's ~~services and include expenses directly services, are only payable under a termination not for cause, are full compensation for all damages and include expenses directly and indirectly~~ attributable to termination for which the Architect is not otherwise compensated, ~~plus an amount for compensated under this Agreement, including but not limited to the Architect's~~ anticipated profit on the value of the services not performed by ~~the Architect~~ the Architect, as follows:

- .1 Three percent (3%) of the total compensation for the Architect's services earned to date of termination, if termination occurs before or during the Schematic Design Phase, unless termination is due to lack of funding in which case no Termination Expenses are due; or
- .2 Two percent (2%) of the total compensation for the Architect's services earned to date of termination, if termination occurs during the Design Development Phase, unless termination is due to lack of funding in which case no Termination Expenses are due; or
- .3 One percent (1%) of the total compensation for the Architect's services earned to date of termination, if termination occurs during any subsequent phase.

§ 9.8 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in ~~Article 7 and Section 11.9.7.~~

#### ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the ~~law of the place where the Project is located, except that if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 8.3 internal law of the State of Washington, not including its choice-of-law provisions.~~

§ 10.2 Terms in this Agreement shall have the same meaning as those in the revised AIA Document A201-2007, General Conditions of the Contract for Construction.

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

§ 10.4 If the Owner requests the Architect to execute certificates, the proposed language of such certificates shall be submitted to the Architect for review at least ~~44~~ fourteen (14) days prior to the requested dates of execution. If the Owner requests the Architect to execute consents reasonably required to facilitate assignment to a lender, the Architect shall execute all such consents that are consistent with this Agreement, provided the proposed consent is submitted to the Architect for review at least ~~44~~ fourteen (14) days prior to execution. The Architect shall not be required to execute certificates or consents that would require knowledge, services or responsibilities beyond the scope of this Agreement.

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

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

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of

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the specific information considered by the Owner to be confidential or proprietary. The Owner shall endeavor to provide professional credit for the Architect in the Owner's promotional materials for the Project.

**§ 10.8** If the Architect or Owner receives information specifically designated by the other party as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential ~~information~~-information, unless withholding such information would violate the law, create the risk of significant harm to the public or prevent a party from establishing a claim or defense in an adjudicatory proceeding, in which cases the receiving party will disclose only to the extent necessary to comply with the law or alleviate the risk of significant harm. To the extent required by applicable law and as requested by the Owner, the Architect shall comply, and shall assist the Owner in complying, with the Washington Public Records Act, Chapter 42.56 RCW.

**§ 10.9** If for any reason one or more provisions of this Agreement are held to be invalid, void, illegal, or unenforceable, the other provisions of this Agreement shall not be affected and shall continue to maintain their vitality and validity, and this Agreement shall be construed as if the invalid, void, illegal, or unenforceable provision had never been a part of this Agreement.

## ARTICLE 11 COMPENSATION

**§ 11.1** For the Architect's Basic Services described under Article 3-3 and otherwise in this Agreement, the Owner shall compensate the Architect as follows:

*(Insert amount of, or basis for, compensation.)*

**Fee.** Compensation of the Architect shall be the fixed, lump sum amount of Nine Million, Three Hundred and Ninety-One Thousand, Three Hundred and Eighty-Three dollars (\$9,391,383.00), as identified in Attachment A for Basic Services and certain included Additional Services (defined as Basic Services in this Agreement) of the Architect and its consultants during the Project. This basic compensation shall not be changed after bids are opened, even if the accepted bids are less than or exceed the Owner's budget. The Fee to be paid to the Architect is further described in Attachment A, which shall apply only to the extent not inconsistent with the provisions of this Agreement. The Architect's Fee includes the cost of consultants retained by the Architect under Basic Services and Included Additional Services identified in Attachment A.

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

**Alternates.** The Architect will not be compensated for protective alternates, but will be compensated for other alternate bids prepared for the Owner's benefit if requested by the Owner and approved in advance and in writing.

**§ 11.2** For Additional Services designated in Section 4.1, the Owner shall compensate the Architect as follows:  
*(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)*

Certain services of the Architect that are not traditional Basic Services have been preselected by the Owner and included in the Fee as indicated in Attachment A as Included Additional Services.

Services identified on Attachment A as "Optional Services" may or may not be included at the Owner's discretion. Optional Services are only to be provided by the Architect upon the written direction to proceed from the Owner. The Owner shall not be responsible to compensate the Architect for any Optional Services provided without such written direction. Compensation for Optional Services shall be calculated according to Attachment A. The Architect's entitlement to such additional compensation shall be subject to the provisions of this Agreement.

**§ 11.3** For Additional Services that may arise during the course of the Project, including those under Section 4.3, the Owner shall compensate the Architect as follows:

*(Insert amount of, or basis for, compensation.)*

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Compensation for Additional Services that may arise during the course of the Project, including those under Section 4.3, shall be based on the hourly rates set forth in Attachment B, unless otherwise agreed to. The Architect's entitlement to such additional compensation shall be subject to the provisions of this Agreement.

§ 11.4 Compensation for Additional Services of the Architect's consultants when not included in Sections 11.2 or 11.3, shall be ~~the amount invoiced to the Architect plus~~ percent (~~—~~%), or as otherwise stated below:  
one point one percent ( 1.10 %) multiplied by the amount invoiced to the Architect.

§ 11.5 Payments on account of services rendered and for Reimbursable Expenses incurred shall be made monthly upon presentation of the Architect's statement of services and payment on account of services shall total the following percentages of the total Basic Compensation payable in each phase. The Architect shall include documentation with each invoice as reasonably requested by the Owner supporting any compensation for Additional Services. Where compensation for Basic Services is based on a stipulated sum or percentage of the Cost of the Work, ~~sum,~~ the compensation for each phase of services shall be as follows:

Schematic Design Phase	<u>Sixteen</u>	percent (	<u>16</u>	%)
Design Development Phase	<u>Twenty-Three</u>	percent (	<u>23</u>	%)
Construction Documents Phase	<u>Thirty-Four</u>	percent (	<u>34</u>	%)
Bidding or Negotiation Phase	<u>One</u>	percent (	<u>1</u>	%)
Construction Phase	<u>Twenty-Five</u>	percent (	<u>25</u>	%)
<u>Close-Out Phase</u>	<u>One</u>	<u>percent (</u>	<u>1</u>	<u>%)</u>
Total Basic Compensation	one hundred	percent (	100	%)

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

§ 11.6 ~~When compensation is based on a percentage of the Cost of the Work 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, in accordance with the schedule set forth in Section 11.5 based on (1) the lowest bona fide bid or negotiated proposal, or (2) if no such bid or proposal is received, the most recent estimate of the Cost of the Work for such portions of the Project. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced. [Deleted]~~

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants, if any, are set forth below. The rates shall be adjusted not less frequently than annually in accordance with the Architect's and Architect's consultants' normal review practices.  
*(If applicable, attach an exhibit of hourly billing rates or insert them below.)*

Employee or Category	Rate
See Attachment B	

**§ 11.8 COMPENSATION FOR REIMBURSABLE EXPENSES**

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

- ~~.1 Transportation and authorized Pre-authorized~~ out-of-town travel and subsistence;
- ~~.2 Long distance services, dedicated data and communication services, teleconferences, Project Web sites, and Dedicated data and communication services if required at the Project site and with the Owner's approval, teleconferences, Project Web sites, and Project extranets;~~
- .3 Fees paid for securing approval of authorities having jurisdiction over the Project;

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- ~~4~~ Printing, reproductions, plots, standard form documents; Printing and reproductions for all design-review documents required for submittal to the Owner for review (but not reproduction for the office use of the Architect or its consultants), sets required by governmental authorities having jurisdiction over the Project, and Bidding Documents for which the Owner does not pay directly; where possible, the Owner will pay plan-checking and permit fees directly to the applicable agency;
- ~~5~~ Postage, handling and ~~delivery~~; delivery of Instruments of Service (the Owner may pay directly for the reproduction of Bidding Documents);
- ~~6~~ Expense of overtime work requiring higher than regular rates, if authorized in advance and in writing by the Owner;
- ~~7~~ Renderings, models, mock-ups, professional photography, and presentation materials requested by the Owner;
- ~~8~~ Architect's Consultant's expense of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits if the Owner requests such insurance in excess of that normally carried by the Architect's consultants; by the Owner, excluding computer-generated renderings, models and mockups prepared by the Architect's in-house staff during the course of design;
- ~~8~~ [Deleted];
- ~~9~~ All sales but not B & O or income taxes levied on professional services and on reimbursable expenses;
- ~~10~~ Site office ~~expenses~~; expenses when pre-approved by the Owner; and
- ~~11~~ Other similar Project-related ~~expenditures~~; expenditures pre-approved in writing by the Owner.

§ 11.8.2 Attachment B includes the estimated cost of Reimbursable Expenses to be due the Architect. The Architect shall not exceed the estimated cost of such expenses without the Owner's prior written approval. For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus ten percent ( 10 %) of the expenses incurred.

#### **§ 11.9 COMPENSATION FOR USE OF ARCHITECT'S INSTRUMENTS OF SERVICE**

If the Owner terminates the Architect for its convenience under Section 9.5, or the Architect terminates this Agreement under Section 9.3, the Owner shall not be required to pay a licensing fee as compensation for the Owner's continued use of the Architect's Instruments of Service solely for purposes of completing, using and maintaining the Project as follows:

Project.

#### **§ 11.10 PAYMENTS TO THE ARCHITECT**

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

§ 11.10.2 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. ~~Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid~~ ( performed within each phase, and shall not exceed the above percentages of the total Basic Compensation payable in each phase. Payments are due and payable thirty ( 30 ) days from the date of receipt of the Architect's invoice, provided that the Architect's invoice is received by the Owner by the tenth (10th) of the month and provided that the Architect is entitled to payment as provided in this Agreement. The invoice should contain the purchase/contract order number, site location, description of work completed, consultants' acknowledgements of payment through the prior invoice, and any supporting documentation required for payment. By submitting its request for payment, the Architect certifies that all payments due consultants of any tier from the Owner's payment the prior month have been made. No payment request shall include amounts attributable to consultants that the Architect does not intend to pay. The final invoice shall be so designated. Amounts unpaid sixty ( 60 ) 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 below. (Insert rate of monthly or annual interest agreed upon.)

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

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

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

**ARTICLE 12 SPECIAL TERMS AND CONDITIONS**

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

None.

**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 Owner and Architect.

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

- .1 AIA Document B103™-2007, Standard Form Agreement Between Owner and Architect
- ~~.2 AIA Document E201™-2007, Digital Data Protocol Exhibit, if completed, or the following:  
Architect, as revised;~~
- .3 Other documents:  
*(List other documents, if any, including additional scopes of service forming part of the Agreement.)*

Attachment A – A/E Design Fee Summary  
~~Attachment B – Architect's Hourly Rates~~

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

**OWNER**  
**Stanwood-Camano School District**

**ARCHITECT**  
**McGranahan Architects**

\_\_\_\_\_  
*(Signature)*  
\_\_\_\_\_  
Superintendent  
*(Printed name and title)*

\_\_\_\_\_  
*(Signature)*  
\_\_\_\_\_  
*(Printed name and title)*

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**Attachment A**  
**A/E Design Fee Summary**

**OWNER**

**ARCHITECT**

*(Signature)*

*(Signature)*

*(Printed name and title)*

*(Printed name and title)*

<u>Component</u>	<u>Billing Method</u>	<u>Fee</u>	<u>Total on Invoice</u>
<u>Stanwood HS (includes services listed below)</u>			\$ 4,924,859
<u>Architectural</u>	<u>% Comp</u>	\$	
<u>Structural</u>	<u>% Comp</u>	2,662,045	
<u>Mechanical</u>	<u>% Comp</u>	\$	
<u>Electrical</u>	<u>% Comp</u>	815,220	
<u>Classroom AV SHS</u>	<u>% Comp</u>	\$	
<u>Gym/Commons/PAC AV</u>	<u>% Comp</u>	648,678	
<u>Distributed Antenna System SHS</u>	<u>% Comp</u>	\$	
<u>Fire Alarm intelligibility Analysis SHS</u>	<u>% Comp</u>	422,232	
<u>Security Systems SHS</u>	<u>% Comp</u>	\$	
<u>Theater</u>	<u>% Comp</u>	13,200	
<u>Acoustical Engineering</u>	<u>% Comp</u>	\$	
<u>Food Service</u>	<u>% Comp</u>	22,000	
<u>Cost Estimating</u>	<u>% Comp</u>	\$	
		3,300	
		\$	
		7,700	
		\$	
		8,250	
		\$	
		80,080	
		\$	
		57,772	
		\$	
		89,672	
		\$	
		94,710	
<u>Alternative Learning Center (includes services listed below)</u>			\$ 1,092,079
<u>Architectural</u>	<u>% Comp</u>	\$	
<u>Structural</u>	<u>% Comp</u>	603,090	
<u>Mechanical</u>	<u>% Comp</u>	\$	
<u>Electrical</u>	<u>% Comp</u>	147,840	
<u>Classroom AV SHS</u>	<u>% Comp</u>	\$	
<u>Security Systems SHS</u>	<u>% Comp</u>	141,255	
<u>Distributed Antenna System SHS</u>	<u>% Comp</u>	\$	
<u>Fire Alarm intelligibility Analysis SHS</u>	<u>% Comp</u>	98,276	
<u>Acoustical Engineering</u>	<u>% Comp</u>	\$	
<u>Food Service</u>	<u>% Comp</u>	2,750	
<u>Cost Estimating</u>	<u>% Comp</u>	\$	
		2,750	
		\$	
		1,650	

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		\$	
		2,200	
		\$	
		23,089	
		\$	
		30,239	
		\$	
		38,940	
<u>Maintenance and Technology Center (includes services listed below)</u>			\$
			249,559
<u>Architectural</u>	<u>% Comp</u>	\$	
<u>Structural</u>	<u>% Comp</u>	123,318	
<u>Mechanical</u>	<u>% Comp</u>	\$	
<u>Electrical</u>	<u>% Comp</u>	35,420	
<u>Security Systems SHS</u>	<u>% Comp</u>	\$	
<u>Acoustical Engineering</u>	<u>% Comp</u>	29,382	
<u>Cost Estimating</u>	<u>% Comp</u>	\$	
		22,037	
		\$	
		2,200	
		\$	
		15,972	
		\$	
		21,230	
<u>Misc. Buildings (includes Field House, Grandstand, Batting Cages, Green Houses)</u>			\$
			278,632
<u>Architectural</u>	<u>% Comp</u>	\$	
<u>Structural</u>	<u>% Comp</u>	239,431	
<u>Mechanical</u>	<u>% Comp</u>	Incl. in SHS	
<u>Electrical</u>	<u>% Comp</u>	\$	
<u>Acoustical Engineering</u>	<u>% Comp</u>	15,330	
<u>Cost Estimating</u>	<u>% Comp</u>	\$	
		23,871	
		Incl. in SHS	
<u>Site Development (includes services listed below)</u>			\$
			2,313,758
<u>Architectural Site Design</u>	<u>% Comp</u>	\$	
<u>Civil Engineering</u>	<u>% Comp</u>	866,433	
<u>Landscape/Fields</u>	<u>% Comp</u>	\$	
<u>Electrical, including</u>	<u>% Comp</u>	836,000	
<u>Baseball Field Lighting</u>	<u>% Comp</u>	\$	
<u>Cost Estimating</u>	<u>% Comp</u>	597,135	
		Incl. in SHS	
		\$	
		14,190	
		Incl. in SHS	
<u>Included Additional Services (will be invoiced as individual line items)</u>			
<u>Conditional Use Permit/SEPA</u>	<u>% Comp</u>	\$	
<u>Storm Drainage Report</u>	<u>% Comp</u>		15,350
<u>NPDES &amp; SWPPP</u>	<u>% Comp</u>	\$	
<u>Temporary Facilities / Phasing</u>	<u>Hourly NTE</u>		33,000
<u>ELCCA SHS</u>	<u>% Comp</u>	\$	
<u>ELCCA ALC</u>	<u>% Comp</u>		6,600
<u>VE Participation</u>	<u>Hourly NTE</u>	\$	
<u>Constructability Review</u>	<u>Hourly NTE</u>		130,400
<u>Commissioning Support - Design</u>	<u>Hourly NTE</u>	\$	

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<u>Commissioning Support - CA</u>	<u>Hourly NTE</u>		<u>27,840</u>
<u>WSSP SHS</u>	<u>Hourly NTE</u>		<u>\$</u>
<u>WSSP ALC</u>	<u>Hourly NTE</u>		<u>17,120</u>
<u>Demolition Documents</u>	<u>Hourly NTE</u>		<u>\$</u>
<u>FF&amp;E Coordination SHS</u>	<u>Hourly NTE</u>		<u>44,120</u>
<u>FF&amp;E Coordination ALC</u>	<u>Hourly NTE</u>		<u>\$</u>
<u>FF&amp;E Coordination MTC</u>	<u>Hourly NTE</u>		<u>38,070</u>
<u>Early Site Bid/Construction Phase</u>	<u>Hourly NTE</u>		<u>\$</u>
			<u>10,640</u>
			<u>\$</u>
			<u>9,790</u>
			<u>\$</u>
			<u>20,750</u>
			<u>\$</u>
			<u>11,180</u>
			<u>\$</u>
			<u>6,860</u>
			<u>\$</u>
			<u>30,320</u>
			<u>\$</u>
			<u>13,940</u>
			<u>\$</u>
			<u>13,940</u>
			<u>\$</u>
			<u>102,575</u>

\$  
Total Basic and Included Additional Services: 9,391,383

Optional Services (only to be invoiced after written approval)

<u>Record Documents SHS</u>			<u>\$</u>
<u>Record Documents ALC</u>			<u>38,309</u>
<u>Record Documents MTC</u>			<u>\$</u>
<u>Enhanced CA</u>			<u>13,932</u>
			<u>\$</u>
			<u>7,205</u>
			<u>\$</u>
			<u>317,240</u>

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**Attachment B**  
**Architect's Hourly Rates**

**2017 Schedule of Hourly Billing Rates**

<u>Principal</u>	<u>\$210.00</u>
<u>Principal for Interiors</u>	<u>\$170.00</u>
<u>Senior Project Manager</u>	<u>\$160.00</u>
<u>Senior Project Architect</u>	<u>\$145.00</u>
<u>Project Manager</u>	<u>\$145.00</u>
<u>Construction Administrator</u>	<u>\$150.00</u>
<u>Senior Project Designer</u>	<u>\$130.00</u>
<u>Project Architect</u>	<u>\$135.00</u>
<u>Project Designer</u>	<u>\$100.00</u>
<u>Interior Designer</u>	<u>\$95.00</u>
<u>Intern Architect</u>	<u>\$95.00</u>
<u>Revit Draftsman</u>	<u>\$75.00</u>
<u>Graphic Designer</u>	<u>\$110.00</u>
<u>Officer Manager</u>	<u>\$95.00</u>
<u>Administrative Support</u>	<u>\$70.00</u>
<u>Travel</u>	<u>\$.54/mile</u>
<u>Reimbursable Expenses</u>	<u>Cost + 10%</u>

\*These rates may be adjusted during the calendar year.

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## **Certification of Document's Authenticity**

**AIA® Document D401™ – 2003**

I, Perkins Coie LLP, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with this certification at 11:34:13 on 06/15/2017 under Order No. 0721800632\_1 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B103™ – 2007, Standard Form of Agreement Between Owner and Architect for a Large or Complex Project, as published by the AIA in its software, other than changes shown in the attached final document by underscoring added text and striking over deleted text.

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*(Signed)*

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*(Title)*

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*(Dated)*