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AIA® Document B109® – 2020

Standard Form of Agreement Between Owner and Architect for a Multi-Family Residential or Mixed Use Residential Project

AGREEMENT made as of the «15th» day of «October » in the year «2026»
(In words, indicate day, month, and year.)

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

Housing Authority of the City of Reno
1525 East Ninth Street
Reno, NV 89512

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

JKAE
777 South Center Street, Suite 104
Reno, NV 89501

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

Reno Avenue Development

Reno Avenue
440 Reno Avenue
Reno, NV 89509

The Owner and Architect agree as follows.

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

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

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ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.
(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project:
(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed. The Owner's program description or documentation should include information regarding building configuration; number, type, mix, and average size of units; required parking spaces; amenities; commercial and other non-residential use requirements; and any intended zoning ordinance and building code classifications.) ***Refer to Exhibit A***

Reno Avenue will consist of 42 one- and two-bedroom apartment units in three residential buildings and 42 parking spaces. Located within a historic neighborhood, the project will be thoughtfully designed to respect and complement the architectural character of the surrounding area while introducing new, high-quality housing opportunities. The building will be finished primarily with a brick façade, stucco, and planked siding.

The unit mix is as follows: Unit Type	No. (#)	Percent (%)	Square Feet (SF)
1-bed / 1-bath	18	43%	623
2-bed / 1-bath	24	57%	842
Total	42	100%	31,422

§ 1.1.2 The Project's physical characteristics:
(Identify or describe pertinent information about the Project's physical characteristics, such as existing site-conditions reports; surveys, including boundaries, topographic, and existing utilities; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)

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Project site located at 440 Reno Avenue, Reno, Nevada, APN 011-262-30. Existing site information, surveys, geotechnical information, utility information, and other physical characteristics of the Project are as identified in Exhibit A.

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 7.1:
(Provide total and, if known, a line item breakdown.)

To be established by Owner in coordination with CMAR

§ 1.1.4 Funding source:
The Housing Authority intends to utilize funding from the U.S. Department of Housing and Urban Development's (HUD) HOME Investment Partnerships Program (HOME), the National Housing Trust Fund (HTF), Low Income Housing Tax Credits from the Nevada Housing Division, AHP Funds, and Project-Based Voucher (PBV) assistance in connection with the project.

Federal and non-federal funding sources as identified by Owner. Project shall comply with all applicable federal funding requirements, including Build America, Buy America Act requirements to the extent applicable to Project funding.

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

.1 Design phase milestone dates, if any:
City of Reno permit approval not later than May 2027.

.2 Construction commencement date:
Not later than June 1st, 2027

.3 Substantial Completion date or dates:
Not later than 15 months after starting construction.

.4 Other milestone dates:

§ 1.1.6 The Owner intends the following procurement and delivery method for the Project:
(Identify method such as competitive bid or negotiated contract.)

Construction Manager at Risk (CMAR), utilizing a negotiated Guaranteed Maximum Price (GMP)

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

N/A

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

Energy Star Certification in accordance with applicable Project funding and Owner requirements.

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

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§ 1.1.9 The Owner identifies the following representative in accordance with Section 6.4:
(List name, address, and other contact information.)

Hilary Lopez Ph.D.
Executive Director
1525 East Ninth Street
Reno, Nevada 89512
Email Address: hlopez@renoha.org

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

Nestor Garcia
Director of Development
1525 East Ninth Street
Reno, Nevada 89512
Email Address: ngarcia@renoha.org

JD Klippenstein
Deputy Executive Director
1525 East Ninth Street
Reno, Nevada 89512
Email Address: jklippenstein@renoha.org

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

.1 Cost Consultant: CMAR

.2 Scheduling Consultant: CMAR

.3 Geotechnical Engineer: Certerra

.4 Civil Engineer: JKAE

.5 Other, if any: DC Engineering LTD.

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

Kristy VanZant
JKAE, 777 South Center Street, Suite 104
Reno, NV 89501
kvanzant@jkaedesign.com

§ 1.1.13 The Architect shall retain the following consultants under Basic Services:
(List name, legal status, address, and other contact information.)

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- Architecture: JKAE
- Civil Engineering: JKAE
- Structural Engineering: JKAE
- Mechanical and Plumbing: SGF Engineering
- Electrical Engineering: Jensen Engineering, Inc.
- Landscape: LA Studio

§ 1.1.14 Additional Required Consultants
The following Consultants are required for this Project type and shall be retained by the Party designated below. If neither the Owner nor the Architect is designated below, the parties agree that the Owner shall be responsible for providing the Consultant. For consultants indicated below as the Architect's responsibility, the Owner shall compensate the Architect as provided in Section 12.4.

Additional Required Consultants	**Responsibility** *(Architect or Owner)*
§ 1.1.14.1 Accessibility Consultant	Architect
§ 1.1.14.2 Building Envelope Consultant	N/A
§ 1.1.14.3 Acoustical Consultant	N/A
§ 1.1.14.4 Security Consultant	N/A
§ 1.1.14.5 Life Safety Consultant	N/A
§ 1.1.14.6 Other Required Consultants, list below	N/A
Home Energy Connection	Owner
Wise Consulting and Training	Owner

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

Completed under separate agreement.

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall appropriately adjust the Architect's services, schedule for the Architect's services, and the Architect's compensation. The Owner shall adjust the Owner's budget for the Cost of the Work and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 The parties shall agree upon written protocols governing the transmission and use of, and reliance on, Instruments of Service or any other information or documentation in digital form.

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to written protocols governing the use of, and reliance on, the information contained in the model shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide professional services as set forth in this Agreement. The Architect represents that it is properly licensed in the jurisdiction where the Project is located to provide the services required by this Agreement, or shall cause such services to be performed by appropriately licensed design professionals.

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

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§ 2.3 The Owner represents that the Project shall not include a residential condominium. The Architect shall provide services based on the Owner's representation of the intended use and ownership of the Project.

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

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

§ 2.6 The Architect shall maintain the following insurance until termination of this Agreement. If any of the requirements set forth below are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect as set forth in Section 12.12.

§ 2.6.1 Commercial General Liability with policy limits of two million ($ 2,000,000) for each occurrence and four million ($ 4,000,000) in the aggregate for bodily injury and property damage.

TBD

Certificates of insurance should be attached as Exhibit C – For JKAE

§ 2.6.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of one million($1,000,000) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

TBD

§ 2.6.3 The Architect may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 2.6.1 and 2.6.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 2.6.4 Workers' Compensation at statutory limits.

TBD

§ 2.6.5 Employers Liability with policy limits of one million ($ 1,000,000) each accident, one million ($ 1,000,000) each employee, and one million ($ 1,000,000) policy limit.

TBD

§ 2.6.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of one million ($ 1,000,000) per claim and two million ($ 2,000,000) in the aggregate.

TBD

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

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

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ARTICLE 3 PRE-DESIGN SERVICES

§ 3.1 The Architect's Pre-Design Services consist of those services described in this Article 3 and are for the purpose of assisting the Owner in determining the viability of the Project and developing Pre-Design options for the Project.

§ 3.2 The Architect shall review laws, statutes, regulations and codes of authorities having jurisdiction over the development of the Project and shall assist the Owner in submitting applications for entitlements for development to authorities having jurisdiction.

§ 3.3 The Architect shall attend a maximum of twelve (12) meetings with regulatory entities and users or community groups. Attendance at meetings in excess of that number shall be compensated as set forth in Section 12.1.1.

§ 3.4 The Architect shall consider information provided by the Owner and the Owner's consultants in the proposed development of the Project.

§ 3.5 The Architect shall meet with the Owner and the Owner's Cost Consultant to discuss revisions, if any, required in the Owner's program in order to develop the Project within the parameters of the Owner's budget.

§ 3.6 The Architect shall develop preliminary studies illustrating site and building development concepts based on the Owner's program and shall present Pre-Design options for development of the Project for the Owner's review.

§ 3.7 The Architect shall prepare illustrations of the Project arrangement, massing and design to assist the Owner in submitting applications for entitlements for development to authorities having jurisdiction.

ARTICLE 4 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 4.1 The Architect's Basic Services shall commence upon receipt of a written notice to proceed from the Owner. The Architect's Basic Services consist of those described in this Article 4 and include usual and customary structural, mechanical, and electrical engineering services. Services not set forth in Article 3 or Article 4 are Supplemental or Additional Services.

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

§ 4.1.2 The Architect shall coordinate its services with those services provided by the Owner, the Owner's consultants, and contractors providing design services. The Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of, services and information furnished by the Owner, the Owner's consultants, and contractors providing design services. 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.

§ 4.1.3 As soon as practicable after receipt of a written notice to proceed from the Owner, the Architect shall submit, for the Owner and the Scheduling Consultant's approval, a schedule for the performance of the Architect's services. The schedule shall include design phase milestone dates, as well as the anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. Once approved by the Owner and Scheduling Consultant, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. The Architect shall not be bound to any changes in the schedule affecting its services without the Architect's written approval, which approval shall not be unreasonably withheld. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 4.1.4 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.

§ 4.1.5 The Architect shall not be responsible for an Owner's directive or substitution, or an Owner's acceptance of non-conforming Work, made or given without the Architect's written approval.

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

§ 4.1.7 The Architect shall investigate accessibility requirements applicable in the jurisdiction in which the Project is located.

§ 4.1.8 The Architect shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.

§ 4.2 Schematic Design Phase Services

§ 4.2.1 Based upon the Pre-Design option for the Project, developed as part of the Architect's Pre-Design services and selected by the Owner, the Architect shall review the program and other information furnished by the Owner, and shall review laws, codes, and regulations as applicable to the Architect's services.

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

§ 4.2.3 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. The Architect shall reach an understanding with the Owner regarding the requirements of the Project.

§ 4.2.4 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, including unit types, layouts, sizes, mix and number of unit types, and the other elements of the Project program.

§ 4.2.5 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 building plans, sections and elevations; and may include some combination of study models, perspective sketches, or digital representations. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.

§ 4.2.5.1 The Architect shall consider sustainable design alternatives, such as material choices and building orientation, together with other considerations based on program and aesthetics, in developing a design that is consistent with the Owner's program, schedule and budget for the Cost of the Work. The Owner may obtain more advanced sustainable design services as a Supplemental Service under Section 5.1.1.

§ 4.2.5.2 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 program, schedule, and budget for the Cost of the Work.

§ 4.2.6 The Architect shall submit the Schematic Design Documents to the Owner and the Cost Consultant. The Architect shall meet with the Cost Consultant to review the Schematic Design Documents.

§ 4.2.7 Upon receipt of the Cost Consultant's estimate at the conclusion of the Schematic Design Phase, the Architect shall take action as required under Section 7.4, and request the Owner's approval of the Schematic Design Documents. If revisions to the Schematic Design Documents are required to comply with the Owner's budget for the Cost of the Work at the conclusion of the Schematic Design Phase, the Architect shall incorporate the required revisions in the Design Development Phase.

§ 4.3 Design Development Phase Services

§ 4.3.1 Based on the Owner's approval of the Schematic Design Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare

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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 other appropriate elements, including unit mix and unit types, common spaces, and amenities. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels.

§ 4.3.2 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 shall meet with the Cost Consultant to review the Design Development Documents.

§ 4.3.3 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 7.5 and 7.6 and request the Owner's approval of the Design Development Documents.

§ 4.3.4 In addition to preparing the Design Development Documents, the Architect shall prepare a list of critical building systems, elements, and components that require the preparation of visual and performance mock-ups. During the Construction Phase, visual mock-ups shall be reviewed for approval by the Owner and Architect and performance mock-ups shall be tested in accordance with the standards set forth in the Construction Documents.

§ 4.4 Construction Documents Phase Services

§ 4.4.1 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 illustrate and describe the further development of the approved Design Development Documents and shall consist of Drawings and Specifications setting forth in detail the quality levels and performance criteria of materials and systems and other requirements for the construction of the Work. The Owner and Architect acknowledge that, in order to perform the Work the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 4.6.4.

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

§ 4.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) procurement information that describes the time, place, and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, 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.

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

§ 4.4.5 Upon receipt of the Cost Consultant's estimate at the conclusion of the Construction Documents Phase, the Architect shall take action as required under Section 7.7 and request the Owner's approval of the Construction Documents.

§ 4.5 Procurement Phase Services

§ 4.5.1 General

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 assist the Owner in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and, (4) awarding and preparing contracts for construction.

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§ 4.5.2 Competitive Bidding

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

§ 4.5.2.2 The Architect shall assist the Owner in bidding the Project by:

- **.1** facilitating the distribution of Bidding Documents to prospective bidders;
- **.2** organizing and conducting a pre-bid conference for prospective bidders;
- **.3** preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents to prospective bidders in the form of addenda; and,
- **.4** organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

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

§ 4.5.3 Negotiated Proposals

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

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

- **.1** facilitating the distribution of Proposal Documents to prospective contractors and requesting their return upon completion of the negotiation process;
- **.2** organizing and participating in selection interviews with prospective contractors;
- **.3** preparing responses to questions from prospective contractors and providing clarifications and interpretations of the Proposal Documents to the prospective contractors in the form of addenda; and,
- **.4** participating in negotiations with prospective contractors, and subsequently preparing a summary report of the negotiation results, as directed by the Owner.

§ 4.5.3.3 If the Proposal Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Additional Service, consider requests for substitutions and prepare and distribute addenda identifying approved substitutions to all prospective contractors.

§ 4.6 Construction Phase Services

§ 4.6.1 General

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

§ 4.6.1.2 The Architect 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. 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 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.

§ 4.6.1.3 Subject to Section 5.2 and except as provided in Section 4.6.6.5, 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.

§ 4.6.2 Evaluations of the Work

§ 4.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 5.2.3, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On

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the basis of the site visits, the Architect shall keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work.

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

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

§ 4.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of, and reasonably inferable from, the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and 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.

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

§ 4.6.3 Certificates for Payment to Contractor

§ 4.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. The Architect's certification for payment shall constitute a representation to the Owner, based on the Architect's evaluation of the Work as provided in Section 4.6.2 and on the data comprising the Contractor's Application for Payment, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to (1) an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) results of subsequent tests and inspections, (3) correction of minor deviations from the Contract Documents prior to completion, and (4) specific qualifications expressed by the Architect.

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

§ 4.6.3.3 The Architect shall maintain a record of the Applications and Certificates for Payment.

§ 4.6.4 Submittals

§ 4.6.4.1 The Architect shall review the Contractor's submittal schedule and shall not unreasonably delay or withhold approval of the schedule. The Architect's action in reviewing submittals shall be taken in accordance with the approved submittal schedule or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time, in the Architect's professional judgment, to permit adequate review.

§ 4.6.4.2 The Architect shall review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is

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not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.6.4.3 If the Contract Documents specifically require the Contractor to provide professional design services or certifications by a design professional related to systems, materials, or equipment, the Architect shall specify the appropriate performance and design criteria that such services must satisfy. The Architect shall review and take appropriate action on Shop Drawings and other submittals related to the Work designed or certified by the Contractor's design professional, provided the submittals bear such professional's seal and signature when submitted to the Architect. The Architect's review shall be for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. The Architect shall be entitled to rely upon, and shall not be responsible for, the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals.

§ 4.6.4.4 Subject to Section 5.2, the Architect shall review and respond to requests for information about the Contract Documents. The Architect shall set forth, in the Contract Documents, the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information.

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

§ 4.6.5 Changes in the Work

§ 4.6.5.1 The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 5.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

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

§ 4.6.6 Project Completion

§ 4.6.6.1 The Architect shall:

- **.1** conduct inspections to determine the date or dates of Substantial Completion and the date of final completion;
- **.2** issue Certificates of Substantial Completion;
- **.3** forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract Documents and received from the Contractor; and,
- **.4** issue a final Certificate for Payment based upon a final inspection indicating that, to the best of the Architect's knowledge, information, and belief, the Work complies with the requirements of the Contract Documents.

§ 4.6.6.2 The Architect's observations 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.

§ 4.6.6.3 When Substantial Completion has been achieved, 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.

§ 4.6.6.4 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)

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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.

§ 4.6.6.5 Upon request of the Owner, and prior to the expiration of one year from the date of Substantial Completion, the Architect shall, without additional compensation, conduct a meeting with the Owner to review the facility operations and performance.

ARTICLE 5 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 5.1 Supplemental Services

§ 5.1.1 The services listed below are not included in Pre-Design Services or Basic Services but may be required for the Project. The Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 12.4. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project.

(Designate the Architect's Supplemental Services and the Owner's Supplemental Services required for the Project by indicating whether the Architect or Owner shall be responsible for providing the identified Supplemental Service. Insert a description of the Supplemental Services in Section 5.1.2 below or attach the description of services as an exhibit to this Agreement.)

Supplemental Services	Responsibility *(Architect, Owner, or not provided)*
§ 5.1.1.1 Programming	
§ 5.1.1.2 Multiple preliminary designs beyond Article 4 Schematic Design requirements	
§ 5.1.1.3 Measured drawings	
§ 5.1.1.4 Existing facilities surveys	
§ 5.1.1.5 Site evaluation and planning	
§ 5.1.1.6 Building Information Model management responsibilities	
§ 5.1.1.7 Development of Building Information Models for post construction use	
§ 5.1.1.8 Landscape design	Architect
§ 5.1.1.9 Exterior maintenance consulting	
§ 5.1.1.10 Architectural interior design	
§ 5.1.1.11 Value analysis	Owner / CMAR
§ 5.1.1.12 On-site project representation	
§ 5.1.1.13 Conformed documents for construction	Architect
§ 5.1.1.14 As-designed record drawings	
§ 5.1.1.15 As-constructed record drawings	Architect
§ 5.1.1.16 Post occupancy evaluation	
§ 5.1.1.17 Facility support services	
§ 5.1.1.18 Tenant-related services	
§ 5.1.1.19 Architect's coordination of the Owner's consultants	
§ 5.1.1.20 Telecommunications/data design	
§ 5.1.1.21 Security evaluation and planning	Architect
§ 5.1.1.22 Commissioning	
§ 5.1.1.23 Sustainable Project Services pursuant to Section 5.1.3	

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§ 5.1.1.24 Historic preservation	
§ 5.1.1.25 Furniture, furnishings, and equipment design	
§ 5.1.1.26 Design of leasing/sales center or model units	
§ 5.1.1.27 Other services provided by specialty Consultants	
§ 5.1.1.28 Other Supplemental Services	

§ 5.1.2 Description of Supplemental Services

§ 5.1.2.1 A description of each Supplemental Service identified in Section 5.1.1 as the Architect's responsibility is provided below.

(Describe in detail the Architect's Supplemental Services identified in Section 5.1.1 or, if set forth in an exhibit, identify the exhibit. The AIA publishes a number of Standard Form of Architect's Services documents that can be included as an exhibit to describe the Architect's Supplemental Services.)

- Conformed construction documents: Incorporate addenda and plan review comments into a "For Construction" conformed set.
- As-Constructed Record drawings: Incorporate construction revisions including Architect's Supplemental Instructions, Change Orders, and Construction Change Directives into a final drawing set. The Record drawings will also include the revisions from the Contractor's as-built set.

§ 5.1.2.2 A description of each Supplemental Service identified in Section 5.1.1 as the Owner's responsibility is provided below.

(Describe in detail the Owner's Supplemental Services identified in Section 5.1.1 or, if set forth in an exhibit, identify the exhibit.)

« »

§ 5.1.3 If the Owner identified a Sustainable Objective in Article 1, the Architect shall provide, as a Supplemental Service, the Sustainability Services required in AIA Document E204™–2017, Sustainable Projects Exhibit, attached to this Agreement. The Owner shall compensate the Architect as provided in Section 12.4.

§ 5.2 Architect's Additional Services

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to the fault of the Architect, any Additional Services provided in accordance with this Section 5.2 shall entitle the Architect to compensation pursuant to Section 12.4 and an appropriate adjustment in the Architect's schedule.

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

.1 Services necessitated by a change in the Initial Information, previous instructions or approvals given by the Owner, or a material change in the Project including size, quality, complexity, the Owner's schedule or budget for Cost of the Work, or procurement or delivery method, or bid packages in addition to those listed in Section 1.1.7;

.2 Changing or editing previously prepared Instruments of Service required to secure necessary entitlements to develop the Project;

.3 Services necessitated by enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;

.4 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the building permit, or (b) contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;

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.5 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;

.6 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner authorized recipients;

.7 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;

.8 Preparation for, and attendance at, a public presentation, meeting or hearing beyond those required under Section 3.3;

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

.10 Evaluation of the qualifications of entities providing bids or proposals;

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

.12 Assistance to the Initial Decision Maker, if other than the Architect.

§ 5.2.2 To avoid delay in the Construction Phase, the Architect shall provide the following Additional Services, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need. If, upon receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Architect of the Owner's determination. The Owner shall compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice:

.1 Reviewing a Contractor's submittal out of sequence from the submittal schedule approved by the Architect;

.2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;

.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; or,

.5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom.

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

.1 «three» («3») reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor

.2 «one» («monthly») visits to the site by the Architect during construction

.3 «two» («2») observations 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 «two» («2») observations for any portion of the Work to determine final completion

§ 5.2.4 Except for services required under Section 4.6.6.5 and those services that do not exceed the limits set forth in Section 5.2.3, Construction Phase Services provided more than 60 days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and Contractor, whichever is earlier, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

§ 5.2.5 If the Architect's Basic and Supplemental Services covered by this Agreement have not been completed within « twenty-four » (« 24 ») months of the date of receipt of a written notice to proceed from the Owner, through no fault of the Architect, extension of the Architect's Basic and Supplemental Services beyond that time shall be compensated as Additional Services.

ARTICLE 6 OWNER'S RESPONSIBILITIES

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

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§ 6.2 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.

§ 6.3 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 7.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. The Owner shall furnish the services of a Cost Consultant that shall be responsible for preparing all estimates of the Cost of the Work. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect. The Owner and the Architect shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 6.3.1 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.

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

§ 6.5 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 other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

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

§ 6.7 The Owner shall provide the Consultants designated as the Owners' responsibility in Section 1.1.14, and the Supplemental Services designated as the Owner's responsibility in Section 5.1.1.

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

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

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

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

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

§ 6.13 The Owner shall include the Architect in all communications with the Contractor that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect.

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

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

§ 6.16 The Owner shall confirm that the commercial general liability coverage provided by the Contractor does not contain exclusions for residential construction or a mold-related claims exclusion.

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

ARTICLE 7 COST OF THE WORK

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

§ 7.2 The Owner's budget for the Cost of the Work is provided in Initial Information, and shall be adjusted throughout the Project as required under Sections 6.3 and 7.4. Evaluations of the Owner's budget for the Cost of the Work represent the Architect's judgment as a design professional.

§ 7.3 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 services. The Architect shall prepare, as an Additional Service, revisions to the Drawings, Specifications or other documents required due to the Cost Consultant's inaccuracies or incompleteness in preparing cost estimates, or due to market conditions the Architect could not reasonably anticipate. The Architect may review the Cost Consultant's estimates solely for the Architect's guidance in completion of its services, however, the Architect shall report to the Owner any material inaccuracies and inconsistencies noted during any such review.

§ 7.4 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, shall make appropriate recommendations to the Owner to adjust the Project's size, quality or budget for the Cost of the Work, and the Owner shall cooperate with the Architect in making such adjustments.

§ 7.5 If the estimate of the Cost of the Work at the conclusion of the Design Development Phase exceeds the Owner's budget for the Cost of the Work, the Owner shall

- **.1** give written approval of an increase in the budget for the Cost of the Work;
- **.2** terminate in accordance with Section 10.5;
- **.3** in consultation with the Architect, revise the Project program, scope, or quality as required to reduce the Cost of the Work; or
- **.4** implement any other mutually acceptable alternative.

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§ 7.6 If the Owner chooses to proceed under Section 7.5.3, the Architect, without additional compensation, shall incorporate the revisions in the Construction Documents Phase as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Design Development Phase Services, or the budget as adjusted under Section 7.5.1. The Architect's revisions in the Construction Documents Phase shall be the limit of the Architect's responsibility under this Article 7.

§ 7.7 After incorporation of modifications under Section 7.6, 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.

ARTICLE 8 COPYRIGHTS AND LICENSES

§ 8.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 8.2 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.

§ 8.3 The Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums due pursuant to Article 10 and Article 12. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this Section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 10.4, the license granted in this Section 8.3 shall terminate.

§ 8.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 8.3.1. The terms of this Section 8.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 10.4.

§ 8.4 Except for the licenses granted in this Article 8, 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.

§ 8.5 Except as otherwise stated in Section 8.3, the provisions of this Article 8 shall survive the termination of this Agreement.

ARTICLE 9 CLAIMS AND DISPUTES

§ 9.1 General

§ 9.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 9.1.1.

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

§ 9.1.3 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 obligation to indemnify and hold the Owner and the Owner's officers and employees harmless does not include a duty to defend. The Architect's duty to indemnify the Owner and the Owner's officers and employees under this Section 9.1.3 shall be limited to the lesser of (1) the stated amount of the professional liability insurance coverage required of the Architect under this Agreement or (2) the amount stated in Section 9.1.6.

§ 9.1.4 The Owner shall indemnify and hold the Architect, its officers, employees and consultants harmless from and against damages, losses and judgments arising from claims by third parties, including reasonable attorneys' fees and expenses recoverable under applicable law, (1) arising from the breach of the representation under Section 2.3 or (2) caused by the negligent acts or omissions of the Owner, the Contractor or the employees, consultants or subcontractors of either of them.

§ 9.1.5 The Architect and Owner waive consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 10.7.

§ 9.1.6 In no event shall the aggregate liability of the Architect, its officers, employees, and consultants arising under, or relating to, this Agreement exceed:
$854,940

« »

§ 9.1.7 If the Owner authorizes deviations, recorded or unrecorded, from the Instruments of Service prepared by the Architect or its consultants, the Owner shall indemnify and hold harmless the Architect, the Architect's consultants and agents and employees of any of them from and against claims, damages, losses and expenses, including but not limited to attorneys' fees, arising out of or resulting in whole or in part from such deviations.

§ 9.2 Mediation

§ 9.2.1 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. 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.

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

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§ 9.2.3 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 9.2.4 If the parties do not resolve a dispute through mediation pursuant to this Section 9.2, the method of binding dispute resolution shall be the following:
(Check the appropriate box.)

[« »] Arbitration pursuant to Section 9.3 of this Agreement

[« »] Litigation in a court of competent jurisdiction

[« X »] Other: *(Specify)*

« Litigation governed by Nevada law, with jurisdiction in the Second Judicial District Court of Nevada. »

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

§ 9.3 Arbitration

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

§ 9.3.1.1 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.

§ 9.3.2 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.

§ 9.3.3 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.

§ 9.3.4 Consolidation or Joinder

§ 9.3.4.1 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).

§ 9.3.4.2 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.

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§ 9.3.4.3 The Owner and Architect grant to any person or entity made a party to an arbitration conducted under this Section 9.3, whether by joinder or consolidation, the same rights of joinder and consolidation as the Owner and Architect under this Agreement.

§ 9.4 The provisions of this Article 9 shall survive the termination of this Agreement.

ARTICLE 10 TERMINATION OR SUSPENSION

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

§ 10.2 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 the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 10.3 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.

§ 10.4 Either party may terminate this Agreement upon not less than seven days' written notice should the other party fail substantially to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination.

§ 10.5 The Owner may terminate this Agreement upon not less than seven days' written notice to the Architect for the Owner's convenience and without cause.

§ 10.6 If the Owner terminates this Agreement for its convenience pursuant to Section 10.5, or the Architect terminates this Agreement pursuant to Section 10.3, the Owner shall compensate the Architect for services performed prior to termination, Reimbursable Expenses incurred, and costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements.

§ 10.7 In addition to any amounts paid under Section 10.6, if the Owner terminates this Agreement for its convenience pursuant to Section 10.5, or the Architect terminates this Agreement pursuant to Section 10.3, the Owner shall pay to the Architect the following fees:
(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)

.1 Termination Fee:

No fee.

.2 Licensing Fee if the Owner intends to continue using the Architect's Instruments of Service:

No fee, but Owner shall sign a release of liability.

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

§ 10.9 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 8 and Section 10.7.

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ARTICLE 11 MISCELLANEOUS PROVISIONS

§ 11.1 This Agreement shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 9.3.

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

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

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

§ 11.5 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.

§ 11.6 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.

§ 11.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect's promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect's materials shall not include the Owner's confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 11.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 10.4.

§ 11.8 If the Architect or Owner receives information specifically designated as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 11.8.1. This Section 11.8 shall survive the termination of the Agreement.

§ 11.8.1 The receiving party may disclose "confidential" or "business proprietary" information after 7 days' notice to the other party, when required by law, arbitrator's order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 11.8.

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

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ARTICLE 12 COMPENSATION

§ 12.1 For the Architect's Pre-Design Services described under Article 3, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation.)

« N/A

§ 12.1.1 For attendance at meetings in excess of the number specified in Section 3.3, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation.)

$750 per meeting.

§ 12.2 For the Architect's Basic Services described under Article 4, the Owner shall compensate the Architect as follows:

.1 Stipulated Sum
(Insert amount)

« **$854,940** »

.2 Percentage Basis
(Insert percentage value)

« » (« ») % of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 12.8.

.3 Other
(Describe the method of compensation)

« »

§ 12.3 If the Owner's written notice to proceed required by Section 4.1 is not received within six (6) months of the date of this Agreement, the Architect's Stipulated Sum for Basic and Supplemental Services and the time schedules shall be equitably adjusted.

§ 12.4 For Consultants designated as the Architect's responsibility in Section 1.1.14, the Architect's Supplemental Services designated in Section 5.1, and for any Sustainability Services required pursuant to Section 5.1.3, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation. If necessary, list specific services to which particular methods of compensation apply.)

« »

§ 12.5 For Additional Services that may arise during the course of the Project, including those under Section 5.2, the Owner shall compensate the Architect as follows:
(Insert amount of, or basis for, compensation.)

« Compensation will be based on Scope of Additional Services »

§ 12.6 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Sections 12.4 or 12.5, shall be the amount invoiced to the Architect plus « ten » percent (« 10 » %), or as follows:
(Insert amount of, or basis for computing, Architect's consultants' compensation for Supplemental or Additional Services.)

« »

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§ 12.7 When compensation for Basic Services is based on a stipulated sum or a percentage basis, the proportion of compensation for each phase of services shall be as follows:
(*Basic Services does not include compensation for Pre-Design Services and schematic design*)

Design Development	« $151,959 »	percent (	« 17.8 »	%)
Construction Documents	« $297,757 »	percent (	« 34.8 »	%)
Agency Review	« $101,306 »	percent (	« 11.9 »	%)
Bidding / Negotiations	« $50,653 »	percent (	« 5.9 »	
Construction Administration	« $253,265 »	percent (	« 29.6 »	%)
Total Basic Services 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.

§ 12.8 When compensation identified in Section 12.2 is on a percentage basis, progress payments for each phase of Basic Services shall be calculated by multiplying the percentages identified in this Article by the Owner's most recent budget for the Cost of the Work. Compensation paid in previous progress payments shall not be adjusted based on subsequent updates to the Owner's budget for the Cost of the Work.

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

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

« Attach with Exhibit B »

Employee or Category	Rate ($0.00)

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

.1 Transportation and authorized out-of-town travel and subsistence;
.2 Long distance services, dedicated data and communication services, teleconferences, Project web sites, and extranets;
.3 Permitting and other fees required by authorities having jurisdiction over the Project;
.4 Printing, reproductions, plots, and standard form documents;
.5 Postage, handling and delivery;
.6 Expense of overtime work requiring higher than regular rates, if authorized in advance by the Owner;
.7 Renderings, physical models, mock-ups, professional photography, and presentation materials requested by the Owner or required for the Project;
.8 If required by the Owner, and with the Owner's prior written approval, the Architect's consultants' expenses of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits in excess of that normally maintained by the Architect's consultants;
.9 All taxes levied on professional services and on reimbursable expenses;
.10 Site office expenses;
.11 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and,
.12 Other similar Project-related expenditures.

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§ 12.11.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus ten percent (10 %) of the expenses incurred.

§ 12.12 Architect's Insurance. If the types and limits of coverage required in Section 2.6 are in addition to the types and limits the Architect normally maintains, the Owner shall pay the Architect for the additional costs incurred by the Architect for the additional coverages as set forth below:
(Insert the additional coverages the Architect is required to obtain in order to satisfy the requirements set forth in Section 2.6, and for which the Owner shall reimburse the Architect.)
None

§ 12.13 Payments to the Architect
§ 12.13.1 Initial Payments
§ 12.13.1.1 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.

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

§ 12.13.2 Progress Payments
§ 12.13.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid « forty-five » (« 45 ») 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.
(Insert rate of monthly or annual interest agreed upon.)

« 1.5 » % « Per Month »

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

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

ARTICLE 13 SPECIAL TERMS AND CONDITIONS

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

« »

ARTICLE 14 SCOPE OF THE AGREEMENT

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

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

.1 AIA Document B109™–2020, Standard Form of Agreement Between Owner and Architect

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

[**NA**] AIA Document E204™–2017, Sustainable Projects Exhibit, dated as indicated below:
(Insert the date of the E204-2017 incorporated into this agreement.)

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« »

[X] Other Exhibits incorporated into this Agreement:
(Clearly identify any other exhibits incorporated into this Agreement, including any exhibits and scopes of services identified as exhibits in Section 5.1.2.)

Exhibit A – JKAE Proposal
Exhibit B – Hourly Rate Schedules
Exhibit C – Certificate of Insurance

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

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

OWNER *(Signature)*	**ARCHITECT** *(Signature)*
Hilary Lopez, Ph.D., Executive Director	Chris Vicencio, Partner, NV Architect #7836
(Printed name and title)	*(Printed name, title, and license number, if required)*

DRAFT

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