

DRAFT AIA® Document B101™ - 2017

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the « 24th » day of « February » in the year « 2020 »
(In words, indicate day, month and year.)

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

«Webb County, a political subdivision of the State of Texas»« »
«1000 Houston Street, Third Floor »
«Laredo, Texas 78040 »
« »

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

« Juan Homero Sanchez Architect, Inc. »« »
« 6909 Springfield Ave., #107 »
« Laredo, TX 78041 »
« »

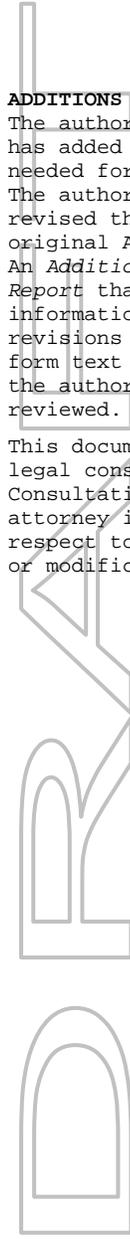
for the following Project:
(Name, location and detailed description)

«Constable Precinct 4 Administration Building Expansion RFQ 2020-003 »
«8501 San Dario»
« Laredo, Texas 78045»

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.



ELECTRONIC COPYING of any portion of this AIA® Document to another electronic file is prohibited and constitutes a violation of copyright laws as set forth in the footer of this document.

TABLE OF ARTICLES

1	INITIAL INFORMATION
2	ARCHITECT'S RESPONSIBILITIES
3	SCOPE OF ARCHITECT'S BASIC SERVICES
4	SUPPLEMENTAL AND ADDITIONAL SERVICES
5	OWNER'S RESPONSIBILITIES
6	COST OF THE WORK
7	COPYRIGHTS AND LICENSES
8	CLAIMS AND DISPUTES
9	TERMINATION OR SUSPENSION
10	MISCELLANEOUS PROVISIONS
11	COMPENSATION
12	SPECIAL TERMS AND CONDITIONS
13	SCOPE OF THE AGREEMENT

ARTICLE 1 INITIAL INFORMATION

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

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

§ 1.1.1 The Owner's 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 expansion of the existing J.P. Precinct 4 building by adding additional square footage (up to 3,500 sq. ft.) or the maximum square footage allowable depending on budget limitations (Cost of the Work) and in accordance with City of Laredo Building Codes. To the extent allowable within budgetary limitations the addition shall include administrative offices, conference room, employee lounge/break room and restrooms for both men and women to include ADA compliance requirements where applicable. The common areas may include an outside covered area/entry, lobby, reception area, desk and work area for receptionist and rooms for storage with shelving. Additionally and if within the budget facility may include an evidence room and holding cells, a K-9 area and an outdoor section with a shaded structure with a concrete slab, and an indoor K-9 room. Other support spaces such as data room, mechanical and custodial rooms should be included as overall design of building structure. »

§ 1.1.2 The Project's physical characteristics:

(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)

« The current record information of the facility is to be provided by Webb County. Information to include the following: As-Built plans of existing conditions or Construction Documents of Existing Conditions, Geotechnical

reports with foundation recommendations, site boundary survey including existing structure perimeters and paved surfaces, site topographical survey, on-site utilities information & legal description. »

§ 1.1.3 The Owner's budget for the Cost of the Work, as defined in Section 6.1:
(Provide total and, if known, a line item breakdown.)

« TWO HUNDRED FIFTY-FIVE THOUSAND DOLLARS (\$255,000.00) »

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

.1 Design phase milestone dates, if any:

« Complete plans, specs and bid package by May 26, 2020. »

.2 Construction commencement date:

« To be determined. »

.3 Substantial Completion date or dates:

« To be determined. »

.4 Other milestone dates:

« To be determined. »

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

«Design-Bid-Build or Competitive Sealed Proposal. »

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

« n/a »

§ 1.1.6.1 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.

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

«James Flores »
« Director »
« Webb County Economic Development Department »
« 1308 San Agustin »
« Laredo, Texas 78040 »
« (956) 523-4605 »

§ 1.1.8 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.)

« »

§ 1.1.9 The Owner shall retain the following consultants and contractors:

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

.1 Geotechnical Engineer:

«To be determined by Owner »« »

« »

« »

« »

« »

.2 Civil Engineer:

«To be determined by Owner »« »

« »

« »

« »

« »

.3 Other, if any:

(List any other consultants and contractors retained by the Owner.)

« »

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

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

« Juan Homero Sanchez, AIA »

« »

« »

« »

« »

« »

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

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

§ 1.1.11.1 Consultants retained under Basic Services:

.1 Structural Engineer:

« Synergy Structural Engineering »« »

« 1119 Flores Ave. »

« Laredo, Texas 78040 »

« »

« »

.2 Mechanical Engineer:

« Trinity MEP Engineering »« »

« 3533 Moreland Dr. »

« Weslaco, Texas 78596 »

« »

« »

3 Electrical Engineer:

« Trinity MEP Engineering »« »

« 3533 Moreland Dr. »

« Weslaco, Texas 78596 »

« »

« »

§ 1.1.11.2 Consultants retained under Supplemental Services:

« None »

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

« Exhibit A »

§ 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 protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.3.1 Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document G202™-2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 ARCHITECT'S 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 be responsible for the performance of all I services provided under this Agreement whether such services are provided directly by Architect or by any consultant hired by Architect. The Architect shall perform its services under this Agreement in accordance with the standard of professional skill and care expected of architectural firms practicing in the geographic area in which the Project is located and experienced in the design and construction of projects similar in scope and size to the Project (the "Standard of Care"). The Architect shall cause its consultants to perform their services in accordance with the standards of professional skill and care expected of consultants practicing the same professions in the geographic area in which the Project is located and experienced in the performance of such professional services.. The Architect shall perform its services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

Owner shall be entitled to be a third party beneficiary under all agreements entered into by Architect with any consultants, including, without limitation, the structural engineer, and other consultants provided by Architect. Architect shall cause a provision to such effect to be included in each agreement between Architect and its consultants; provided, however, that the Owner shall not be entitled to exercise any third-party beneficiary rights prior to the completion of the Project or the termination of the Agreement, whichever first occurs.

§ 2.3 The Architect shall identify a representative authorized to act on behalf of the Architect with respect to the Project. The Architect 's authorized representative is Juan Homero Sanchez, AIA.

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

§ 2.5 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 11.9.

§ 2.5.1 Commercial General Liability with policy limits of not less than « One Million Dollars » (\$ «1,000,000.00 ») for each occurrence and « One Million Dollars » (\$ «1,000,000.00 ») in the aggregate for bodily injury and property damage. RE: Exhibit B

§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than « One Million Dollars » (\$ «1,000,000.00 ») 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. RE: Exhibit C

§ 2.5.3 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 2.5.1 and 2.5.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 2.5.4 Workers' Compensation at statutory limits. RE: Exhibit D

§ 2.5.5 Employers' Liability with policy limits not less than « One Million Dollars » (« \$1,000,000.00 ») each accident, « One Million Dollars » (« \$1,000,000.00 ») each employee, and « One Million Dollars » (« \$1,000,000.00 ») policy limit. RE: Exhibit B

§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than « One Million Dollars » (« \$1,000,000.00 ») per claim and « One Million Dollars » (« \$1,000,000.00 ») in the aggregate. RE: Exhibit E

§ 2.5.7 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.

§ 2.5.8 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5.

§ 2.6 To the fullest extent permitted by law, the Architect shall indemnify and hold harmless the Owner, Lender, Owner's employees, affiliates, officers, and directors (but specifically excluding the General Contractor) ("Indemnified Parties") from and against claims, damages, losses and expense, including but not limited to reasonable attorneys' fees and costs of defense, (collectively, "Claims") arising out of or resulting from the performance of the Architect 's Services, including loss of use therefrom, to the extent said Claims are caused by either (1) the negligent acts or omissions, willful misconduct or strict liability of the Architect and/or its employees or (2) the negligent acts or omissions of Architect's consultants under contract or anyone else for whose act Architect is legally liable. Such obligation shall not be construed to negate, abridge, or reduce other rights or obligations of indemnity and defense which the Indemnified Parties may have as

Additional Insureds under Architect's policies of insurance, if any. The Architect's indemnification obligation shall include defending and, as appropriate, promptly discharging any liens for services filed by any person or entity under contract with the Architect who claim to have furnished materials, equipment, or services to the Architect on the Project for which the person or entity has not been paid, so long as such non-payment was not caused by Owner's wrongful failure of payment to Architect for the materials, equipment, or services made the subject of the lien for services.

§2.6.1 To the fullest extent permitted by law, in claims against any Indemnified Party under this paragraph 2.6 for the bodily injury or death of any employee of the Architect, a subconsultant or anyone directly or indirectly employed by them or anyone for whose acts they may be liable, Architect shall defend, indemnify, and hold harmless the Indemnified Parties, including, but not limited to, reasonable attorneys' fees, even if Owner or another Indemnified Party is, or is alleged to be, concurrently negligent or at fault. This indemnification obligation under paragraph 2.6 shall not be limited by a limitation on amount or type of damages, compensation or benefits payable by or for the Architect or subconsultant under workers' compensation acts, disability benefit acts or other employee benefit acts, nor shall the same be limited by the types of limits of insurance carried or to be carried by the Architect or any subconsultant pursuant to this Agreement or otherwise. Architect shall cause this provision to be included in all contracts with subconsultants. This indemnity obligation shall not apply to an Indemnified Party's sole negligence or willful misconduct.

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

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

§ 3.1.1 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.

§ 3.1.2 The Architect shall coordinate its services with those services provided by the Owner and the Owner's consultants. 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 and the Owner's consultants, except as to any such services or information containing errors, omissions or inconsistencies as to which the Architect has actual knowledge at the time Architect is performing the relevant 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. The Owner shall require its consultants to cooperate and coordinate their services with those services provided by the Architect. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission or inconsistency in such services or information.

§ 3.1.3 Architect also shall be responsible for the coordination of all drawings and design documents incorporated into Architect's design which are prepared by Owner's consultants and peer review comments and revisions from Owner's consultants, including, without limitation, the consultants described in Section 3.1.2; provided, however, that Architect shall not be responsible for the accuracy of the drawings or specifications submitted by the Owner's consultants, except (i) for the failure of the improvements and systems designed by such consultants to fit into Architect's design resulting from Architect's failure to recognize such failure based on a violation of its standard of care or (ii) to the extent that Architect discovers errors in such drawings or specifications and fails to promptly report such errors to Owner. Upon the discovery of such failure or errors by Architect, Architect shall provide Owner with prompt written notice thereof so that Owner can cause its consultants to correct such errors.

While time is of the essence in this Agreement, the parties agree that the specific timing of the services provided hereunder is subject to the Standard of Care and the orderly progress of the work and that adjustments may accordingly be made to the schedule to accommodate the Standard of Care and orderly progress of the work. Where adjustments are made to certain elements of the schedule, the Architect shall endeavor to minimize the impact of these adjustments upon subsequent phases or milestones and to work towards regaining compliance with such subsequent phases within the original schedule. Upon execution of this Agreement, Architect shall prepare and deliver to Owner within seven (7) days thereafter, for the Owner's review and approval, a comprehensive schedule which shall include, without limitation, the performance of the Architect's services and those of the Consultants, the

anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information, which shall be attached to this Agreement as an exhibit ("Schedule").

The Schedule shall indicate periods of elapsed time allowed each task, Owner approvals, dates when specific information is required by the Architect from the Owner, and anticipated approval periods required for public authorities having jurisdiction over the Project. Once submitted by the Architect, the Architect and its Consultants will be bound by the Schedule and will not deviate from it without prior written authorization by the Owner or where dictated by the exercise of Standard of Care. Whether or not deviations from the schedule have been authorized by the Owner, the Architect shall update this schedule as necessary to reflect Owner-approved changes, changes due to the actions of other parties (not attributable to Architect's oversight or negligence), or unavoidable deviations and to indicate the probable impact of those deviations on the performance of the Architect's services and the Project.

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

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

§ 3.1.6 The Architect shall, at appropriate times, contact the governmental authorities required to approve the Construction Documents and the entities providing utility services to the Project in order to maintain conformance with the Schedule as to the extent consistent with the Standard of Care. In designing the Project, the Architect shall respond and conform to applicable design requirements imposed by such governmental authorities and by such entities providing utility services.

§ 3.1.7 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.

§ 3.1.8 Owner shall have the right to disapprove any portion of the Architect's work on the Project, including, but not limited to, Schematic Design Phase, Design Development Phase, Construction Documents Phase, or Construction Phase work, and any other design work or documents, on any reasonable basis, including, but not limited to, aesthetics, or because in the Owner's opinion, the construction cost of such design is likely to render such work or the Project infeasible. In the event that any phase of the Architect's work is not approved by the Owner, the Architect shall proceed, when requested by the Owner, with revisions to the design work or documents prepared for that phase to attempt to satisfy Owner's objections. Should there be substantial revisions to the original program after the approval of design development drawings, which changes materially increase the scope of design services to be furnished hereunder, Architect shall so notify Owner in writing and receive approval from Owner, before proceeding with revisions necessitated by such changes. No payment, of any nature whatsoever, will be made to Architect, for additional work as an Additional Service without such written approval by Owner.

§ 3.2 Schematic Design Phase Services

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

§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, 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, in writing, of (1) any inconsistencies discovered in the information, and (2) other information or consulting services that may be reasonably needed for the Project.

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

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

§ 3.2.5 Based on the Owner's approval of the preliminary design, the Architect 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.

§ 3.2.5.1 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 4.1.1.

The Architect will not specify, use or allow to be used, and will use the Standard of Care to ensure that others do not specify, use or allow to be used, any of the following in connection with the Project:

- .1 any substances generally known at the time of specification to be deleterious to health and safety or to the durability of the Project in the particular circumstances in which they are used; and/or
- .2 other substances not in accordance with current law, ordinances, rules or regulations.

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

§ 3.2.6 The Architect shall submit to the Owner an estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.2.7 Consistent with its Standard of Care, Architect shall be responsible for the accuracy and coordination of all drawings and design documents relating to Architect's design and used on the Project, regardless of whether such drawings and documents are prepared or performed by Architect, or by Architect's consultants, including, without limitation, the drawings and specifications prepared by the Civil Engineer, Structural Engineer, Mechanical, Electrical and Plumbing Engineer, and Landscape Architect. Consistent with its Standard of Care, Architect shall be responsible for coordination and internal checking of all drawings and for the accuracy of all dimensional and layout information contained in the drawings and specifications prepared by Architect's consultants, as fully as if each drawing were prepared by Architect.

§ 3.2.8 The Architect shall submit the Schematic Design Documents to the Owner, and request the Owner's approval.

§ 3.3 Design Development Phase Services

§ 3.3.1 Based on the Owner's approval of the Schematic Design documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Design Development Documents for the Owner's approval. The Design Development Documents shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and other appropriate elements. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish, in general, their quality levels. The Design Development Documents shall comply, as and to the extent consistent with the Standard of Care, with those laws, statutes, ordinances, codes, orders, rules and regulations applicable to the Architect's services hereunder. The Architect will report in writing to the Owner the nature and magnitude of any material deviations between the Design Development Documents and the Owner approved Schematic Design Documents, and any other Owner-provided information or programs. Material deviations consist of deviations that, in scope or collective substance, affect the quality of materials on the Project, the cost of the work, or the schedule or that otherwise impact the Owner's established program.

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

§ 3.3.3 The Architect shall submit the Design Development Documents to the Owner, advise the Owner of any adjustments to the estimate of the Cost of the Work, and request the Owner's approval.

§ 3.4 Construction Documents Phase Services

§ 3.4.1 Based on the Owner's approval of the Design Development Documents, and on the Owner's authorization of any adjustments in the Project requirements and the budget for the Cost of the Work, the Architect shall prepare Construction Documents for the Owner's approval. The Construction Documents shall 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 3.6.4.

§ 3.4.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents. The Construction Documents shall comply, as and to the extent consistent with the Standard of Care, with those laws, statutes, ordinances, codes, orders, rules and regulations applicable to the Architect's services hereunder. The Architect will report in writing to the Owner the nature and magnitude of any material deviations between the Contract Documents prepared by the Architect and the Owner-approved Design Development Documents and the Owner-provided information or programs. Material deviations consist of deviations that, in scope or collective substance, affect the quality of materials on the project, the cost of the work, or the schedule or that otherwise impact the Owner's established program.

§ 3.4.3 Drawings and Specifications or other Construction Documents submitted to Owner for approval or to any contractors for bidding or negotiation shall be complete, accurate and in compliance with the prevailing interpretation of all applicable codes necessary to obtain a building permit, and any ordinances, statutes, regulations and laws, as amended and any state accessibility laws, rules and regulations and any applicable life safety codes or equivalent codes (collectively, "Governmental Requirements") and any changes therein of which Architect obtains actual knowledge prior to completion of the final design of the Project, applicable codes necessary to obtain a building permit, the major use special permit, ordinances, statutes, regulations and laws (including, without limitation, a reasonable interpretation of the Americans With Disability Act). If, after the date of this Contract, modifications to the Drawings or Specifications are required because of any change in the Governmental Requirements, Architect shall make the required modifications, but the cost of such modifications shall be considered an Additional Service, except as otherwise provided below. Notwithstanding the foregoing provisions of this Section 3.4.3, if the Architect has actual knowledge of a proposed change in Governmental Requirements that would take effect during the term of this Agreement, the Architect will be responsible for any required modifications in the Drawings, Specifications and other documents at the cost of the Architect.

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

§ 3.4.5 Architect also will coordinate with the various city agencies and, in a timely manner, make plan checks required adjustments necessary to Architect's contract documents so that they will satisfy the requirements for issuance of a building permit. Any plan check or required adjustments relating to the drawings prepared by any of the Owner's Consultants shall be made by the Owner's permit expeditors and delivered to Architect for resubmission to various city agencies.

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

§ 3.5 Procurement Phase Services

§ 3.5.1 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.

§ 3.5.2 Competitive Bidding

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

§ 3.5.2.2 The 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 the prospective bidders in the form of addenda; and,
- .4 assisting the County Purchasing Agent in conducting the opening of the bids, analyzing and subsequently documenting the bid results as requested.

§ 3.5.2.3 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.

§ 3.5.3 Negotiated Proposals

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

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

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

§ 3.5.3.3 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.

§ 3.6 Construction Phase Services

§ 3.6.1 General

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

§ 3.6.1.2 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.

§ 3.6.1.3 Subject to Section 4.2 and except as provided in Section 3.6.6.5, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the expiration date of the Contractor's obligation to correct the Work and the Architect issues the final Certificate for Payment.

§ 3.6.2 Evaluations of the Work

§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.2.3, to become 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 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.

§ 3.6.2.1.1 Notwithstanding any other provisions of this Agreement to the contrary, in addition to the Basic Services as defined in Article 3, the following shall also be considered Basic Services:

- . 1 The Architect shall work closely with the Owner and shall provide such materials and assistance as may be necessary or desirable in connection with presentation before, submissions to, or meetings with any federal, state or local governmental authorities having jurisdiction over the Project, in connection with typical and customary review of the Project by such governmental authorities.
- . 2 The Architect shall be available to attend meetings and/or participate in telephone calls with the Owner, the Contractor and/or their agents and representatives as required to ensure the successful design and construction of the Project.
- . 3 The Architect shall provide those services in connection with typical and customary Change Orders and Construction Change Directives as are reasonably required by field conditions and to accommodate the fit and installation of specified materials in the actual construction so long as actual construction of the Project is consistent with the intent of the Construction Documents. Review and processing of Change Orders. Owner- or Contractor-initiated changes that require substantial additional review, coordination or re-drawing by Architect may be classified as an Additional Service if redrawing or coordination is not the result of Architect's failure to clearly define the intent in reasonable detail in accordance with the standard of care. Such Additional Services must be approved by Owner in writing as set forth herein.
- . 4 The cost of any and all computer aided design and drafting equipment time necessary in connection with the performance of the Architect's services hereunder is included within Basic Services.
- . 5 Communicating with Contractor during construction for clarification of Drawings, Specifications and any other Construction Document prepared by Architect.
- . 6 Issuance of ASIs (Architect's Supplemental Instructions), ASDs (Architect's Supplemental Drawings) and responses to Requests For Information ("RFIs") as needed for clarification. Upon receipt of an RFI, the Architect agrees to respond within seven (7) calendar days, subject to the need for more time to reply as is needed to allow a complete response in a professional manner and consistent with the Standard of Care.

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

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

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

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

§ 3.6.2.6 The Architect agrees to answer in a professional manner all Requests for Information ("RFI's") that are submitted by any member of the Project team. The Architect agrees, consistent with the Standard of Care, to endeavor to maintain an average response time on Requests for Information of seven (7) calendar days from the date of the initial receipt of an RFI until that RFI is returned.

§ 3.6.2.7 Notwithstanding anything contained in this Agreement to the contrary expressed elsewhere in this Agreement, no architectural services made necessary, in whole or in part, by any fault or omission of the Architect to perform its duties, responsibilities or obligations under this Agreement, shall be compensated as an Additional Service under this Agreement.

§ 3.6.2.8 The Architect shall endeavor to incorporate a requirement within the Plans and Specifications that the Contractor and all subcontractors accurately and completely mark the sepia's of the working drawings, if applicable, and/or deep current markups on the large and full-scale detail drawings and the specifications to show field changes thereon and to describe in sufficient detail any deviation so as to evidence the "as built" construction of the Improvements. The Architect shall review such Drawings and Specifications and promptly notify the Owner, the Contractor and the applicable subcontractor of any deficiencies observed by the Architect.

§ 3.6.3 Certificates for Payment to Contractor

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

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

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

§ 3.6.4 Submittals

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

§ 3.6.4.2 The Architect shall review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data and Samples for the purposes of checking that the construction affected by and represented by such submittals is in compliance with the requirements of the Contract Documents, including, without limitation, the design concept expressed in the Contract Documents. Architect shall be responsible for determining what aspects of the Work shall be the subject of shop drawings and submittals. The Architect's action shall be taken with such reasonable promptness as to cause no delay in the Work or in the construction of Owner or of separate contractors, while allowing sufficient time to permit adequate review. Architect shall promptly report to Owner if the Architect becomes aware that construction is proceeding in the absence of approved shop drawings and submittals. In addition to the Architect's review of such submittals, the Architect shall forward such submittals to the appropriate consultants of Owner for their respective review of such submittals. The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents.

§ 3.6.4.3 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.

§ 3.6.4.4 Subject to Section 4.2, 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 in a timely manner as provided above to not adversely affect the Owner's schedule and as consistent with the Standard of Care. If the timing of any of Architect's responses adversely affect the Owner's schedule, the Architect shall endeavor to minimize the impact upon the Owner's schedule and to work towards regaining compliance with the schedule during subsequent phases. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to requests for information.

§ 3.6.4.5 The Architect shall maintain a record of submittals and copies of submittals supplied by the Contractor in accordance with the requirements of the Contract Documents, copies of which shall be sent to the Owner.

§ 3.6.5 Changes in the Work

§ 3.6.5.1 The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution in accordance with the Contract Documents.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work, which shall be made available or provided to the Owner upon request. The Architect shall independently provide to Owner copies of records relating to material issues that in scope or collective substance affect the quality of materials on the Project, the cost of work, or the schedule or that otherwise impact the Owner's established program..

§ 3.6.6 Project Completion

§ 3.6.6.1 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.

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

§ 3.6.6.3 When Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum and any pending Change Orders or costs 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.

§ 3.6.6.4 As part of the Basic Services provided by Architect, during the tenth (10th) month after the date of Substantial Completion, the Architect shall visit the Project with Owner and Owner's representative to review the Work, and shall within five (5) days thereafter prepare and submit to Owner and Contractor a report indicating outstanding Work to be completed or corrected and warranty issues to be addressed by the Contractor. With the exception of site review and preparation of this report, to the extent that services are required of the Architect for correction or satisfaction of a warranty and such services are requested in writing by the Owner and are not required as a result of the Architect's failure to fully perform his services, such services shall be considered an Additional Service for which the Architect will be reasonably compensated.

§ 3.6.6.5 Upon Substantial Completion, the Architect shall deliver to Owner a Certificate of Substantial Completion executed by Architect or the applicable consultants.

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

§ 4.1 Supplemental Services

§ 4.1.1 The services listed below are included in Basic Services. The Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect's responsibility. Unless otherwise specifically addressed in this Agreement, if neither the Owner nor the Architect is designated, the parties agree that the listed Supplemental Service is not being provided for the Project.

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

Supplemental Services	Responsibility <i>(Architect, Owner, or not provided)</i>
§ 4.1.1.1 Programming	Architect & Owner
§ 4.1.1.2 Multiple preliminary designs	Architect under Schematic Design
§ 4.1.1.3 Measured drawings	Architect under Construction Documents
§ 4.1.1.4 Existing facilities surveys	Owner
§ 4.1.1.5 Site evaluation and planning	Architect
§ 4.1.1.6 Building Information Model management responsibilities	Not Provided
§ 4.1.1.7 Development of Building Information Models for post construction use	Not Provided
§ 4.1.1.8 Civil engineering	Owner
§ 4.1.1.9 Landscape design	Not Provided
§ 4.1.1.10 Architectural interior design	Architect under Construction Documents Finishes
§ 4.1.1.11 Value analysis	Not Provided
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	Not Provided
§ 4.1.1.13 On-site project representation	Owner
§ 4.1.1.14 Conformed documents for construction	Architect
§ 4.1.1.15 As-designed record drawings	Not Provided
§ 4.1.1.16 As-constructed record drawings	Not Provided
§ 4.1.1.17 Post-occupancy evaluation	Not Provided
§ 4.1.1.18 Facility support services	Not Provided
§ 4.1.1.19 Tenant-related services	Not Provided
§ 4.1.1.20 Architect's coordination of the Owner's consultants	Architect
§ 4.1.1.21 Telecommunications/data design	Not Provided

Supplemental Services	Responsibility (Architect, Owner, or not provided)
§ 4.1.1.22 Security evaluation and planning	Not Provided
§ 4.1.1.23 Commissioning	Not Provided
§ 4.1.1.24 Sustainable Project Services pursuant to Section 4.1.3	Not Provided
§ 4.1.1.25 Fast-track design services	Not Provided
§ 4.1.1.26 Multiple bid packages	Not Provided
§ 4.1.1.27 Historic preservation	Not Provided
§ 4.1.1.28 Furniture, furnishings, and equipment design	Owner
§ 4.1.1.29 Other services provided by specialty Consultants	Not Provided
§ 4.1.1.30 Other Supplemental Services	Not Provided

§ 4.1.2 Description of Supplemental Services

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

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

« »

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

(Describe in detail the Owner's Supplemental Services identified in Section 4.1.1 or, if set forth in an exhibit, identify the exhibit.)

« »

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

§ 4.2 Architect's Additional Services

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

§ 4.2.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need, and submit to the Owner a written amendment to this Agreement for the Owner's review, approval and execution setting forth the details of the requested Additional Services.. 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;
- .2 Services necessitated by the enactment or revision of codes, laws, or regulations, including changing or editing previously prepared Instruments of Service;
- .3 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of applicable codes, laws or regulations that are either (a) contrary to specific interpretations by the applicable authorities having jurisdiction made prior to the issuance of the

- building permit, or (b) contrary to requirements of the Instruments of Service when those Instruments of Service were prepared in accordance with the applicable standard of care;
- .4 Services necessitated by the failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 Preparing digital models or other design documentation for transmission to the Owner's consultants and contractors, or to other Owner-authorized recipients;
- .6 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner;
- .7 Preparation for, and attendance at, a public presentation, meeting or hearing;
- .8 Preparation for, and attendance at, a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .9 Evaluation of the qualifications of entities providing bids or proposals;
- .10 Consultation concerning replacement of Work resulting from fire or other cause during construction; or,
- .11 Assistance to the Initial Decision Maker, if other than the Architect.

§ 4.2.2 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 the Owner fails to approve and execute the amendment setting forth the requested Additional Services within five (5) days of its submittal, the Owner shall have no further obligation to compensate the Architect for those services:

- .1 Reviewing a Contractor's submittal out of sequence from the submittal schedule 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.

§ 4.2.3 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 « Six » (« 6 ») visits to the site by the Architect during construction
- .3 « One » (« 1 ») inspections for any portion of the Work to determine whether such portion of the Work is substantially complete in accordance with the requirements of the Contract Documents
- .4 « One » (« 1 ») inspections for any portion of the Work to determine final completion.

§ 4.2.4 Except for services required under Section 3.6.6.5 and those services that do not exceed the limits set forth in Section 4.2.3, Construction Phase Services provided more than 60 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.

§ 4.2.5 If the services covered by this Agreement have not been completed within « Eighteen » (« 18 ») months of the date of this Agreement, through no fault of the Architect, extension of the Architect's services beyond that time shall be compensated as Additional Services if approved in writing by Owner.

§ 4.3.5 Further Basic Services. Notwithstanding anything to the contrary contained in this Agreement, the following constitute "Basic Services" and do not constitute Additional Services or any other nature or services beyond or more extensive than the Basic Services or with respect to which any compensation or other payment is due by Owner to Architect other than the Basic Compensation provided for in Article 11 this Agreement (with respect to each Phase of the services to be rendered by Architect):

- .1 Services rendered by Architect prior to execution of the Agreement with Architect;
- .2 Providing documents for alternative bids that do not require material design changes 111 the drawings, except to the extent necessary due to any negligent act or omission of Architect;
- .3 Preparing reasonable and routine Change Orders or Change Orders resulting from any deficiencies or conflicts in the Construction Documents prepared by Architect;
- .4 Providing Contract Administration services as set forth in Section 3.6 throughout the construction process;
- .5 Attending regular Contractor/ Architect coordination meetings;
- .6 Preparing field orders or Addenda;
- .7 Reviewing submittals (including product and equipment approvals) shop drawings, if any, and substitution requests, from the Contractor in a timely manner;
- .8 Reviewing the Contractor's requests for progress payments, final payment and other proposals;
- .9 Architect and its consultants, subcontractors, agents, employees and officers shall promptly, upon notice or discovery, during any phase of the Project, make necessary revisions or corrections of errors, ambiguities or omissions in the Drawings and Specifications, which result from the violation of (a) this Agreement or (b) Architect's standard of care;
- .10 Providing services made necessary by the default of the Contractor, by major defects or deficiencies in the Work of the Contractor, or by failure of performance of either the Owner or Contractor under the Contract for Construction when rendered in order to rectify "major defects or deficiencies in the Work of the Contractor" to the extent that such "defects or deficiencies" resulted from the Contractor's proper following of the Contract Documents prepared by Architect;
- .11 Notwithstanding anything contained in this Agreement to the contrary expressed elsewhere in this Agreement, no architectural services made necessary, in whole or in part, by any fault or omission of Architect to perform its duties, responsibilities or obligations under this Agreement, shall be compensated as an Additional Service under this Agreement.
- .12 Preparing Change Orders and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the non-material preparation or revision of Instruments of Service; or
- .13 Evaluating substitutions proposed by the Owner or Contractor and making subsequent non-material revisions to Instruments of Service resulting therefrom .

ARTICLE 5 OWNER'S RESPONSIBILITIES

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

Notwithstanding anything to the contrary in this Article 5, the Owner shall be required to furnish any information or services described in this Article 5 only to the extent that such information or service is (1) actually requested by Architect and (2) reasonably required by the scope of the Project or reasonably necessary in order for the Architect to perform its services under this Agreement.

§ 5.2 The Owner shall establish the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1; (2) the Owner's other costs; and, (3) reasonable contingencies related to all of these costs. The Owner shall update the Owner's budget for the Project as necessary throughout the duration of the Project until final completion. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, by more than 25%, excluding the cost of the Cadaver Cooler, 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.

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

§ 5.4 The Architect shall coordinate the services of the consultants retained by the Owner with those services provided by the Architect where and to the extent the services of the Owner's consultants interface with the Architect's design; moreover, such coordination does not imply the Architect's practice of the consultant's specialty.

Upon the Architect's request, the Owner shall furnish copies of the scope of services in the contracts between the Owner and the Owner's consultants. The Owner shall furnish the services of consultants other than those designated in this Agreement, or authorize the Architect to furnish them as an Additional Service, when the Architect requests such services and demonstrates that they are reasonably required by the scope of the Project.

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

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

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

§ 5.8 The Owner shall 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. However, to the extent that those services are required as a result of negligent error, omission, inconsistency, or untimeliness of the performance of the Architect or Architect's Consultants, the cost of such services shall be deducted from the Basic Services Fee subsequently due to the Architect.

§ 5.9 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.

§ 5.10 Except as otherwise provided in this Agreement, or when direct communications have been specially authorized, the Owner shall endeavor to communicate with the Architect's consultants through the Architect about matters arising out of or relating to the Contract Documents. However, nothing in this Agreement shall be construed to prohibit the Owner from communicating directly with any person or entity who is providing materials or services to the Project. If the Owner does have pertinent Project related communications with any person or entity providing materials or services to the Project and the Architect is not a party to such communications, the Owner shall give the Architect prompt written notice of the substance of those communications.

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

§ 5.12 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.

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

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

§ 5.15 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 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect 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, or contingencies for changes in the Work; or other costs that are the responsibility of the Owner.

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

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

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

§ 6.5 If at any time the Architect's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect shall work with the Owner, as part of its Basic Services, to make appropriate adjustments to the design of the Project in order to bring the updated Cost of the Work into a range acceptable to Owner

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

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

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

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1.1 Upon payment, as set forth in this Agreement, for those services Architect has completed, all Drawings, Specifications and other work product ("Work Product") prepared pursuant to this Agreement shall be the joint property of Owner and Architect. Such ownership rights includes, without limitation, any derivative works resulting from the Work Product. In the event the foregoing fails of its essential purpose, Architect hereby grants to Owner a royalty free, perpetual, exclusive license to use the Work Product for all purposes. This Section 7.1.1 shall survive the termination or expiration of the Agreement, for any reason.

§ 7.1.2 Architect acknowledges that pursuant to the assignment hereunder, Owner may utilize such Work Product with respect to the marketing, construction, maintenance, repair, expansion and modification of the Project.

§ 7.2 The Architect warrants that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information for its use on the Project and any other project. If the Owner and Architect intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions. The Architect warrants that it is the original creator of the Work Product.

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

§ 7.4 Upon execution of this Agreement, the Architect agrees to cause the Architect's consultants to allow the same joint ownership of the Work Product outlined above, with respect to such Architect's consultants' instruments of service relating to the Project, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under this Agreement. If the Architect is unable to obtain the assignment of such property rights, at a minimum, the Architect shall obtain a nonexclusive license from the Architect's consultants to Owner to use (including the creation of derivative works) their instruments of service for purposes of constructing, using, maintaining, altering and adding to the Project, both now and in the future. If applicable, the license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and material or equipment suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service for use in performing services or construction related to the Project.

The Owner may not use the Instruments of Service on a future project without retaining the author of the Instruments of Service or the author's permission.

§ 7.5 The Architect shall submit the Architect's Instruments of Service to the Owner in both paper copy and electronic format (CAD and PDF), provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under this Agreement.

§ 7.6 With respect to the transmission of Instruments of Service or any other information or documentation in digital form, the Owner agrees that any such provision of Instruments of Service is solely as a convenience and shall not be deemed a sale. Owner expressly acknowledges that the digital files may deteriorate or be modified, either inadvertently or otherwise, without being detected or without authorization.

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 As between the Owner and Architect, any applicable statute of limitations shall commence to run and any alleged cause of action shall be deemed to have accrued in any and all events as provided by applicable law.

§ 8.1.1.1 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, including, but not limited to, those due to either party's termination of this Agreement.

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

§ 8.1.3 The parties will first attempt in good faith to resolve through negotiation any dispute, claim or controversy arising out of or relating to this Agreement. Either party may initiate negotiations by providing written notice in

letter form to the other party, setting forth the subject of the dispute and the relief requested. From the Architect, the letter shall be titled "Negotiation Letter" and be addressed to James Flores, Director, Webb County Economic Development Department, 1308 San Agustin, Laredo, Texas 78040 to invoke this clause. From the Owner, the letter shall be titled "Negotiation Letter" and be addressed to Juan Homero Sanchez, AIA, 6909 Springfield Ave., #107, Laredo, Texas 78041 to invoke this clause. The recipient of such notice shall respond within fifteen (15) business days with a written statement of its position on, and recommended solution to, the dispute. If the dispute is not resolved by this exchange of correspondence, then representatives of each party with full settlement authority will meet at a mutually agreeable time and place within thirty days of the date of the response in order to exchange relevant information and perspectives, and to attempt to resolve the dispute. If the dispute is not resolved by these negotiations, the dispute shall be submitted to mediation pursuant to the following paragraph.

§ 8.2 Mediation

§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. 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.

§ 8.2.2 The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by direct negotiation and then, if unsuccessful 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.

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

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

Litigation in a court of competent jurisdiction

Other: (Specify)

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

§ 8.2.5 The prevailing party in any legal action or proceeding to enforce any provision of this Agreement shall be awarded all reasonable attorney's fees and costs incurred in good faith in that legal action or proceeding.

§ 8.2.6 WITH RESPECT TO ANY CONTROVERSY SUBJECT TO LITIGATION, OWNER AND ARCHITECT, FOR THEMSELVES AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS, HEREBY (A) AGREE THAT NEITHER OF THEM SHALL SEEK A JURY TRIAL IN ANY LAWSUIT, ACTION, PROCEEDING, COUNTERCLAIM OR OTHER LITIGATION PROCEDURE BASED UPON OR ARISING OUT OF OR OTHERWISE RELATING TO THIS AGREEMENT OR THE DEALINGS OR RELATIONSHIPS BETWEEN AND AMONG ARCHITECT IN CONNECTION THEREWITH, (B) IRREVOCABLY WAIVE ANY AND ALL RIGHTS TO ANY SUCH JURY TRIAL, AND (C) AGREE THAT NEITHER OF THEM SHALL SEEK TO CONSOLIDATE ANY SUCH LAWSUIT, ACTION, PROCEEDING, COUNTERCLAIM OR OTHER LITIGATION PROCEDURE AS TO WHICH A JURY TRIAL HAS BEEN WAIVED WITH ANY OTHER LAWSUIT, ACTION, PROCEEDING, COUNTERCLAIM OR OTHER LITIGATION PROCEDURE AS TO WHICH A JURY TRIAL CANNOT OR HAS NOT BEEN WAIVED. THIS SECTION HAS BEEN FULLY DISCUSSED BY OWNER AND ARCHITECT, EACH OF WHOM HAS BEEN REPRESENTED BY COUNSEL.

THIS SECTION 8.2.6 SHALL NOT BE SUBJECT TO ANY EXCEPTIONS, AND NO SUCH PERSON HAS IN ANY WAY AGREED WITH OR REPRESENTED TO ANY OTHER PERSON THAT THIS SECTION 8.2.6 WILL NOT BE FULLY ENFORCED IN ALL INSTANCES.

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of services under this Agreement. If the Architect elects to suspend services, the Architect shall give twenty-one (21) 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. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for services performed prior to notice of such suspension. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

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

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

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

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

§ 9.7 In addition to any amounts paid under Section 9.6, if the Owner terminates this Agreement for its convenience pursuant to Section 9.5, or the Architect terminates this Agreement pursuant to Section 9.3, the Owner shall pay to the Architect the following fees:

(Set forth below the amount of any termination or licensing fee, or the method for determining any termination or licensing fee.)

.1 Termination Fee:

« 0 »

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

« 0 »

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

§ 9.9 The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 9.7.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A201–2017, General Conditions of the Contract for Construction, except to the extent that the General Conditions would result in services or responsibilities that are in addition to, or inconsistent with, those provided under this Agreement.

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

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

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

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site, specifically including but not limited to asbestos, asbestos products, polychlorinated bi phenyl (PCB), or other potentially toxic substances unless or to the extent Architect caused the introduction of said hazardous material or toxic substance at the Project Site. Additionally, in the event Architect or any party encounters hazardous or toxic materials at the Project site, or should it become known in any way that such materials may be present, Architect may, at its option and without liability for consequential or any other damages, suspend performance of services at the Project Site until Owner retains appropriate specialist consultants or contractors to identify, abate, and/or remove the materials.

§ 10.7 The Architect shall have the right to include photographic or artistic representations of the design of the Project among the Architect’s promotional and professional materials. The Architect shall be given reasonable access to the completed Project to make such representations. However, the Architect’s materials shall not include the Owner’s confidential or proprietary information if the Owner has previously advised the Architect in writing of the specific information considered by the Owner to be confidential or proprietary. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4.

§ 10.8 If the Architect or Owner receives information specifically designated as “confidential” or “business proprietary,” the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except as set forth in Section 10.8.1. This Section 10.8 shall survive the termination of this Agreement.

§ 10.8.1 The receiving party may disclose “confidential” or “business proprietary” information after 7 days’ notice to the other party, when required by law, arbitrator’s order, or court order, including a subpoena or other form of compulsory legal process issued by a court or governmental entity, or to the extent such information is reasonably necessary for the receiving party to defend itself in any dispute. The receiving party may also disclose such information to its employees, consultants, or contractors in order to perform services or work solely and exclusively for the Project, provided those employees, consultants and contractors are subject to the restrictions on the disclosure and use of such information as set forth in this Section 10.8.

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

§ 10.10 Effective Date. Where this Agreement is entered into subsequent to the Architect beginning performance of services, the parties acknowledge and agree that this Agreement is intended to and shall govern all services provided by Architect for the Project, whether initiated or performed prior or subsequent to the execution of this Agreement, that the effective date of this Agreement shall be deemed to be the first date when any such services were so provided by Architect and that this Agreement is intended to and shall supersede and replace all prior agreements whether written or oral.

§ 10.11 WRITTEN NOTICE

All notices required under this Agreement shall be in writing, signed by the party giving same, and shall be deemed properly given only if hand delivered or sent by reputable overnight courier, or by registered or certified U.S. mail, return receipt requested, postage pre-paid and addressed as follows:

If to Owner: Tano E. Tijerina
Webb County Judge
1000 Houston Street, 3rd floor
Laredo, Texas 78040

with a copy to: Mr. James Flores
1308 San Agustin
Laredo, Texas 78040

If to Architect: Juan Homero Sanchez, AIA
Juan Homero Architect, Inc.
6909 Springfield Ave., #107
Laredo, TX 78041

ARTICLE 11 COMPENSATION

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

- .1 Stipulated Sum
(Insert amount)

« THIRTY THOUSAND DOLLARS (\$30,000.00) »

- .2 Percentage Basis
(Insert percentage value)

« » (« ») % of the Owner's budget for the Cost of the Work, as calculated in accordance with Section 11.6.

- .3 Other
(Describe the method of compensation)

« »

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

« »

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

<< >>

§ 11.4 Compensation for Supplemental and Additional Services of the Architect’s consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect plus << 0 >> percent (<< 0 >>%), or as follows: (Insert amount of, or basis for computing, Architect’s consultants’ compensation for Supplemental or Additional Services.)

<< >>

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

Schematic Design	Fifteen Percent	15%	
Design Development Documents	Twenty Percent	20%	
Construction Documents	Forty Percent	40%	
Bid Phase/Contractor Selection	Five Percent	5%	
Contract Administration	Twenty Percent	20%	
	One hundred Percent	100%	

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

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

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

<< >>

Employee or Category	Rate (\$0.00)
Principal Time	\$150.00 an hour
Associate Time	\$125.00 an hour
Cad Time	\$75.00 an hour
Administration Time	\$35.00 and hour

§ 11.8 Compensation for Reimbursable Expenses

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

- .1 Transportation and authorized out-of-town travel and subsistence;
- .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 Refer to Exhibit A for additional compensation for reimbursable services information.

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

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

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

« »

§ 11.10 Payments to the Architect

§ 11.10.1 Initial Payments

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

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

§ 11.10.2 Progress Payments

§ 11.10.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid «Thirty » («30 ») 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.)

AS PER THE PROMT PAYMENT ACT, CHAPTER 2251 GOVERNMENT CODE.

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

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

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

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

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

« »

ARTICLE 13 SCOPE OF THE AGREEMENT

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

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

.1 AIA Document B101™–2017, Standard Form Agreement Between Owner and Architect

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

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

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

« EXHIBIT A: Architectural Services Proposal for a Constable Pct. 4 Building / RFQ 2020 - 003. Dated December 30, 2019.

EXHIBIT B: Commercial Liability Insurance Information

EXHIBIT C: Automobile Liability Insurance Information

EXHIBIT D: Workers Compensation Information

EXHIBIT E: Professional Liability Insurance Information »

.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)

« Tano E. Tijerina, WEBB COUNTY JUDGE »« »

(Printed name and title)

ARCHITECT (Signature)

« Juan Homero Sanchez, AIA »« »

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

ATTEST:

Margie Ramirez Ibarra

Webb County Clerk

Approved as to Form:

Nathan R. Bratton
General Counsel Civil Legal Division*

*The General Counsel, Civil Legal Division's office, may only advise or approve contracts or legal documents on behalf Webb County, its client. It may not advise or approve a contract or legal document on behalf of other parties. Our review of this document was conducted solely from the legal perspective of our client. Our approval of this document was offered solely for the benefit of our client. Other parties should not rely on this approval, and should seek review and approval of their own respective attorney(s).

