



AIA® Document B101® – 2017

Standard Form of Agreement Between Owner and Architect

AGREEMENT made as of the _____ day of _____ in the year 2025.
(In words, indicate day, month and year.)

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

Gunnison Valley Transit Authority
P.O. Box 1911
507 Maroon Avenue
Crested Butte, Colorado 81224
Attn: Scott Truex, Executive Director

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

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

Design, engineering and construction of an Enhanced Bus Stop Facility with offices, public restrooms, passenger seating area and related bus and other vehicle parking and associated site improvements at 301 W. Tomichi Avenue in Gunnison, Colorado.

The Owner and Architect hereby 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. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

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

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ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.1 and the attached Exhibits. All Services (as defined herein, below) performed by Architect and all designs developed pursuant thereto shall conform to the requirements of the Agreement and attached Exhibits (collectively the "Agreement"), with Owner approved changes, and all (a) applicable federal, state and local laws, codes, ordinances and regulations ("Applicable Laws") in accordance with the Standard of Care (defined herein, below), and (b) all Project site requirements directed by Owner. In the event that there is any conflict or ambiguity between this Agreement and the Exhibits to this Agreement, then the terms and conditions of this Agreement shall govern. The Architect shall notify the Owner in writing in the event of such conflict.

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

§ 1.1.1 The Owner's program for the Project:

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

The Owner's program consists of the follows:

Full architectural and MEP, civil, structural, environmental and geotechnical engineering services for the design, engineering and construction of the Enhanced Bus Stop Facility with offices, public restrooms, passenger waiting area and related bus and other vehicle parking and associated site improvements.

§ 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 Enhanced Bus Stop Facility will include offices of approximately 1200 square feet (stick frame or pre-fab) and may be 1 or 2 stories, to include in-floor heat, two (2) public restrooms (2 stalls each), passenger waiting area, and office space for three (3) employees. Site is located at 301 N. Tomichi Avenue in Gunnison, Colorado and consists of approximately ____ square feet.

§ 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.)

The Architect's Services shall be provided in conjunction with the services of a general contractor ("Contractor") to be selected later by Owner through a RFQ/RFP process after Architect's design for the Project has been completed. The delivery method of the Project will be schematic, design development and construction phase documents with a Guaranteed Maximum Price (defined below) at 100% Complete Construction Documents (defined below). The provisions of this Section 1.1.3 shall be interpreted consistently with Section 6.4 and each Subsection thereof, provided, however, that in the event of any conflict between the terms and provisions of this Section 1.1.3 and the terms and provisions of Section 6.4 and each Subsection thereof, the terms and provisions of Section 6.4 and each Subsection thereof, as applicable, shall govern and control.

The Owner's approved budget for the Project consists of the Cost of the Work and Contractor's Fee ("budget" or "approved budget") and is initially established at [\$1,250,000.00] and may be refined in accordance with this Agreement by Owner and the Architect. The contract sum ("Contract Sum") for the Contractor's Work on the Project shall be based on the Contractor's Cost of the Work plus its Fee, with a guaranteed maximum price (the "Guaranteed Maximum Price") to be established in the contract for construction of the Project, modified AIA Document 104-2019 Standard Abbreviated Form of Agreement between Owner and Contractor where the Basis of Payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price ("Construction Contract") between Owner and Contractor. Capitalized terms used herein but not defined herein shall have the meanings given them in the Construction Contract, as modified by such parties, as and when the context so requires.

§ 1.1.3.1 Architect, with input from the Owner, will develop a program (the "Program") for the Project that will establish performance requirements, building square footage, design requirements, project goals and objectives and other specific elements to be incorporated into the Project and will include all required functional programming. Upon Owner's written approval of the Program, Architect shall commence work on the schematic design documents for the Project. Upon Architect's completion of what it believes, in its professional judgment consistent with the Standard of Care (hereinafter defined), are 100% complete Schematic Design Documents (approximately 30% complete Construction Documents) (the "30% Complete Design"), the Architect shall prepare a high level preliminary opinion of probable cost for the Project (the "Preliminary OPC") for Owner's review and approval. Material, equipment and labor costs in such Preliminary OPC will be based on historical cost per square foot data using system studies, area, volume and/or similar conceptual estimating techniques.

Following completion of the Preliminary OPC, Owner's review and approval of the same and provided such Preliminary OPC is trending within the Owner's approved budget for the Project, the Architect will proceed to prepare the Design Development Phase Documents for the Project. Upon Architect's completion of what it believes in its professional judgment, consistent with the Standard of Care, are 100% Complete Design Development Phase Documents (approximately 60% Complete Construction Documents) (the "60% Complete Design"), the Architect will generate a secondary opinion of probable cost (the "Secondary OPC"). Material, equipment and labor costs in such Secondary OPC will be based on historical cost per square foot data using system studies, area, volume and/or similar conceptual estimating techniques. The Secondary OPC will be submitted by Architect to Owner for Owner's review and approval.

Following Architect's completion of the Secondary OPC and provided the same is trending within the Preliminary OPC and the Owner's approved budget for the Project and has been approved by Owner, the Architect will proceed to work on the Construction Documents to the point at which Architect, in its professional judgment consistent with the Standard of Care, believes the Construction Documents are 90% complete (the "90% Complete Design"), at which time the Architect shall generate a third opinion of probable cost of the Project (the "Third OPC"; together with the Preliminary OPC and Secondary OPC, the "OPCs" and each individually an "OPC") for the Owner's review and approval. If the Third OPC is trending within the prior OPCs and Owner's approved budget for the Project and provided Owner approves the same, the Architect shall complete the Construction Documents to one hundred percent

completion (the "100% Complete Construction Documents") Completion of the 100% Complete Construction Documents may be referred to as the 100% Complete Design (together with the 30% Complete Design, 60% Complete Design and 90% Complete Design, the "Completed Design Phases" and each individually a "Completed Design" or "Completed Design Phase")

Following Architect's completion of the fully permitted 100% Complete Construction Documents and provided construction of the Project based on such 100% Completed Construction Documents remains within the Owner's approved budget for the Project and the OPCs, the Architect shall prepare the Request for Qualifications and Request for Proposal Package (the "RFQ/RFP Package") for Owner's review and approval and distribution to prospective general contractors for solicitation of bids for the Work identified and as described in the fully permitted 100% Complete Construction Documents. The Construction Contract will include a contract sum ("Contract Sum") based on the Cost of the Work plus the Contractor's Fee with a guaranteed maximum price (the "GMP" or "Guaranteed Maximum Price").

The GMP for the entire Project shall be undertaken in accordance with Section 6.4 and each Subsection thereof. The Guaranteed Maximum Price is subject to adjustments made pursuant to Change Orders approved by the Owner in accordance with the other terms and conditions of this Agreement.]

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

.1 Design phase milestone dates, if any:

See **Exhibit B** attached hereto and incorporated herein by this reference (the "Schedule") for Architect's schedule for delivery of services.

.2 Construction commencement date:

[_____][TBD]

.3 Substantial Completion date or dates:

[_____][TBD]

.4 Other milestone dates:

See Design Delivery Schedule

§ 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.)

Competitive bid

§ 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.*)

Gunnison Valley Transit Authority
P.O. Box 1911
507 Maroon Avenue
Crested Butte, Colorado 81224
Attn: Scott Truex, Executive Director

§ 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

.2

.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.*)

§ 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 (hereinafter defined):

.1 Structural Engineer:

Init.

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User Notes:

(892495954)

.2 Mechanical Engineer:

.3 Electrical Engineer:

.4 Plumbing:

.5 Civil Engineer:

.6 Environmental Engineer:

.7 Site Survey:

.8 Geotechnical/Soils:

See Responsibility Matrix, attached hereto as **Exhibit C** and incorporated herein by this reference, for a further description of consultants to be retained by Owner and Architect.

§ 1.1.11.2 Consultants retained under Additional Services:

N/A

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

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that the Initial Information may materially change and, in that event, the Owner and the Architect shall work together in good faith to determine what adjustments, if any, should be made to 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.

§1.2.1 In the event Contractor makes a claim for an increase in Contract Sum for the Project following its establishment and acceptance by Owner by reason of a claimed change in scope, Owner shall submit such claim to Architect and the Architect shall, as part of its Basic Services hereunder, render to Owner its analysis and interpretation of Contractor's claim for an increase in the Contract Sum for the Project and set forth recommendations as to maintaining the Contract Sum for the Project. If, after Owner's analysis of the Contractor's claim for an increase in the Contract Sum for the Project and Architect's interpretation of such claim, the Owner determines that the Contractor's claim for an increase in such Contract Sum is appropriate due to a change in scope caused by the Architect's acts, errors or omissions, Architect will, as a Basic Service, undertake a redesign of the Work in cooperation with Owner, Contractor and the appropriate subcontractors to bring the Project back within the Owner's approved budget. If the change in scope is due to Owner's changes or Contractor's changes or mistakes, then Architect will undertake a redesign of the Work as an Additional Service.

§1.2.2 The Architect's fee hereunder is not based on the Contract Sum for the Project but rather on the level and scope of the Architect's Basic Services provided by the Architect hereunder and Architect shall only be entitled to an increase in its fee hereunder on the basis that the scope or level of services provided by the Architect hereunder exceeds the scope or level of the services described in the Architect's Basic Services, and then only with the prior written approval of the Owner.

§ 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.

§ 1.3.1 Intentionally Omitted.

ARTICLE 2 ARCHITECT'S RESPONSIBILITIES

§ 2.1 The Architect shall provide professional services as set forth in this Agreement and specified in **Exhibit A** attached hereto (hereinafter referred to as "Services"). To the extent additional Services are properly authorized pursuant to this Agreement, such additional services shall be deemed to be "Additional Services" as set forth in the Agreement, and subject to all provisions hereof regarding performance of Basic Services more fully described in Article 3 herein, below. The term "Services" includes Basic Services and Additional Services. The Architect shall execute the Services described in the Agreement and all Exhibits attached hereto, and reasonably inferable therefrom or a logical extension thereof. 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.

§ 2.1.1 Architect represents that it is a business entity that possesses a level of experience and expertise in design, construction, and contract administration of projects of similar or like size, complexity, and nature as the Project. The Architect further acknowledges that the Owner is relying on the Architect's representation that it possesses sufficient skill, knowledge, experience, and ability to fully perform the Architect's Services and obligations under this Agreement, and that it will assign to this Project similarly qualified individual professional architects, managing those professionals as needed.

§ 2.2 The Architect shall perform its Services consistent with the level of professional skill, diligence and care provided by other fully competent, qualified architect and design professionals experienced in performing similar design services on projects of similar complexity and sophistication, in similar locations, for similar clients, and within a similar time frame ("Standard of Care"). The Architect shall perform its Services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§2.2.1 In the event of any error, omission or inconsistency in the Services provided by or on behalf of the Architect under this Agreement, (a) the Architect shall promptly furnish all professional design services necessary to correct such error, omission or inconsistency at no additional cost to the Owner or adjustment in the time permitted for performance of the Services; and (b) the Architect shall be liable to the Owner for all costs and damages incurred by the Owner on account thereof.

§2.2.2 Architect shall coordinate and align its efforts and the performance of its Services with Contractor and Owner and other consultants working on behalf of the Owner, and shall participate in regular communications and Project meetings to achieve an integrated team approach to the design and development of the Project. Architect shall cooperate with Owner's other contractors, consultants and design professionals with respect to its Services and all work on the Project.

§ 2.2.3 The term "approved" and its derivatives as used in this Agreement in reference to the Owner shall be interpreted to mean either (1) written acceptance, in general concept, by the Owner of a proposal, or (2) written authorization by the Owner to proceed with a particular action, as the case may be. The Owner's review and approval of any and all Instruments of Service or other matters required herein is not for the purposes of determining the adequacy, accuracy and completeness of such Instruments of Service and other matters and in no way shall create any liability or responsibility on the part of the Owner for errors, inconsistencies or omissions in any approved Instruments of Service. The Architect hereby acknowledges and agrees that any such approval by the Owner is made in reliance on the Architect's professional skill, judgment and recommendations, without any independent investigation, review or evaluation by the Owner. In no event shall any approval by the Owner relieve the Architect of any responsibility or liability under this Agreement unless such approval is made by Owner against Architect's written advice.

§ 2.3 The Architect shall identify, in writing to Owner, a representative authorized to act on behalf of the Architect with respect to the Project. Once identified, the designated representative shall not be changed without the Owner's written authorization, except in the event of the death, disability, or termination of employment of such designated representative.

§ 2.3.1 The Architect shall coordinate with Owner all personnel assigned to and sub-consultants to be engaged on the Project and seek Owner's approval of such assignments and engagements. The Architect agrees that the key personnel in Architect's firm who shall be associated with the Services and perform in the capacity described are set forth in **Exhibit D** ("Key Personnel"). The Architect acknowledges and agrees that the services provided by Key Personnel shall be deemed personal services and that the designation and dedication of such Key Personnel and the availability of all Key Personnel to work on the Project is a material inducement to the Owner entering into this Agreement. The Architect shall not change any of the Key Personnel without prior written approval by Owner, unless said personnel cease to be employed by Architect. In either case, Owner shall be allowed to interview and approve replacement personnel. If any designated Key Personnel fails to perform to the satisfaction of the Owner, then, upon written notice, the Architect shall immediately remove that person from the Project. Architect shall within seven (7) days provide a permanent replacement person acceptable to the Owner.

§ 2.4 Except with the Owner's knowledge and written 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, at its sole cost and expense, for the duration of this Agreement 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 Insurance with limits of not less than One Million Dollars (\$1,000,000.00) for each occurrence, Two Million Dollars (\$2,000,000.00) General Aggregate and Two Million Dollars (\$2,000,000.00) Products-Completed Operations Aggregate with a sublimit of \$50,000 for any one fire.

§ 2.5.2 Insurance covering "any auto" or all owned, non-owned, and hired automobiles. Such insurance shall provide coverage not less than that of a standard Insurance Services Office (ISO) Business Auto Coverage policy with limits not less than listed below. Contractual Liability, if not provided in the policy form, is to be provided by endorsement. One Million Dollar (\$1,000,000) Combined Single Limit each occurrence for Bodily Injury and Property Damage.

§ 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.

§ 2.5.5 Employers' Liability with policy limits of not less than One Million Dollars (\$1,000,000) Each Accident for Bodily Injury, One Million Dollars (\$1,000,000) Policy Limit Bodily Injury by Disease; One Million Dollars (\$1,000,000) Each Employee for Bodily Injury by Disease.

§ 2.5.6 Professional Liability insurance coverage in an amount not less than Two Million Dollars (\$2,000,000) per claim, Three Million Dollars (\$3,000,000) in the aggregate. If such insurance is written on a claims made basis, the Architect and its Consultants shall maintain the insurance for the minimum period of the State of Colorado's applicable statutes of limitation and/or repose after Substantial Completion of the entire Work and have a retroactive date prior to the effective date of this Agreement or the Consultant's consulting agreement with Architect, as applicable.

§ 2.5.7 Architect shall maintain fidelity and crime insurance including third party client coverage, covering all employees of Architect or its affiliates who handle or have access to funds, with limits of liability of no less than what is required in Section 2.5.1 above, including third party coverage and with deductible of not greater than \$100,000 unless approved by the Owner in writing, in advance.

§ 2.5.8 Architect shall maintain cyber risk insurance with limits of liability no less than what is required in Section 2.5.1 above. Such insurance must cover first and third party losses/liability, where applicable, for data breaches, disclosure of personal information, credit monitoring, data breach response costs, reputational loss, business interruption, business income loss and dependent business income loss, data/network restoration costs, theft of proprietary corporate assets, funds transfer fraud, social engineering, and cyber extortion (ransomware), as well as costs, attorney's fees, fines, settlements, and judgments resulting from legal or regulatory proceedings.

§ 2.5.9 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.

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

§ 2.5.11 The Architect shall require that any and all of its consultants engaged or employed by the Architect carry and maintain similar insurance with appropriate levels of coverage given the scope of services of such sub-consultants unless otherwise agreed to in writing by Architect and Owner. The Architect and Architect's consultants shall submit proof of such insurance to the Owner in the form of Certificates of Insurance and original endorsements showing applicable coverage, all of which shall be in force prior to commencement of its and their Services hereunder, at the

anniversary date(s) of the first submittal, and at any time when a material change in coverage, carriers, or underwriters occurs. The maintenance in full current force and effect of such coverages shall be a condition precedent to the Owner's obligation to pay under this Agreement. The insurance policies shall incorporate a provision requiring written notice to the Owner at least thirty (30) days prior to any cancellation, nonrenewal, or material modification of the policies.

§ 2.5.12 All such insurance coverages required of Architect under this Agreement shall be issued by companies authorized to do business in the State of Colorado with an A.M. best rating of A-IX or better.

§ 2.5.13 The policies of insurance for Commercial General Liability and Automobile Liability shall name the Owner, its offices, directors, and employees as additional insureds or loss payees, as their interest may appear, shall state that these coverages are primary as respects the additional insured and shall contain a waiver of subrogation endorsement in favor of the Owner, its offices, directors and employees.

§ 2.5.14 The limits of liability required herein shall be considered the minimum limits acceptable to the Owner and in no way should they be construed to limit the liability of the Architect unless otherwise expressly provided herein.

ARTICLE 3 SCOPE OF ARCHITECT'S BASIC SERVICES

§ 3.1 The Architect's "Basic Services" consist of and are defined as those described in this Article 3 and **Exhibit A** hereto and include all professional services necessary for the complete design, engineering and documentation of the Project, including usual and customary structural, civil, mechanical, electrical, plumbing, environmental, and geotechnical engineering services and all other services set forth in this Agreement which are not specifically designated as Additional Services in Article 4 below. The Architect agrees that the compensation for Basic Services set forth in Section 11.1 below constitutes sufficient consideration for the provision of all professional services (including all fees and expenses of Architect's consulting structural, mechanical, electrical, plumbing, environmental, geotechnical and civil engineers and all other consultants) necessary to properly design and engineer the Project and prepare the documents that are necessary for construction, the only exceptions to this being (i) the cost of those services that are provided by third parties and that are expressly designated herein as being the "Owner's responsibility" or are "Owner-provided" and (ii) the cost of those engineering or consulting services that become necessary as a result of a change in Project scope affecting the Architect and that are the subject of a written agreement between the Owner and the Architect. Services not set forth in this Article 3 or in Part I of **Exhibit A** hereto are Additional Services. In the event of any conflict between this Article 3 and **Exhibit A** hereto, the terms and provision of **Exhibit A** shall govern and control.

§ 3.1.1 The Architect shall manage the Architect's Services and the services of its Consultants, 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 its Consultants and by the Owner, the Owner's consultants and the Contractor. 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. 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 Architect shall be responsible for coordination and internal checking of all drawings and for the accuracy of all dimensional and layout information contained therein, as fully as if each drawing were prepared by the Architect. The Architect shall coordinate its Services with its Consultants (as defined below) and the consultants retained by the Owner and the Project's Contractor so as to ensure that the Architect's design for the Project is free from overlaps, inconsistencies, gaps or interferences and is fully integrated with and into the design of Owner's consultants and the consultants of others, including the Projects' Contractor. The Owner shall direct its consultants to coordinate services with the Architect.

The Architect's duty to coordinate shall include a review of the services and documentation of the Owner's consultants for general consistency with the Services and documents of the Architect, the Architect's consultants and other consultants retained by the Owner or the Project's contractor. The Architect shall notify the Owner of the Owner's consultants in writing of any noncompliance or inconsistency discovered within three (3) days of discovery. The Architect shall be responsible for the completeness and accuracy of all drawings and specifications submitted to or through the Architect and for their compliance with Applicable Laws and the requirements of all applicable industry

accreditation organizations. Construction Documents may be prepared in media compatible with the Owner's requirements. Elements of the design which are depicted in the plan view are required to be drawn in CAD medium.

3.1.2.1 The Architect's duty to coordinate shall include a review and documentation of the Owner's consultants for general consistency with the Services and documents of the Architect, the Architect's consultants and other consultants retained by the Owner and the Project's Contractor. The Architect shall notify the Owner or the Owner's consultants in writing of any noncompliance or inconsistency discovered within three (3) days following discovery of the same. Architect will promptly advise Owner and the Project Contractor of any inconsistencies, errors or omissions observed by Architect in documents prepared by others, will be responsible for the completeness and accuracy of all drawings and specifications submitted to or through the Architect and for their compliance with Applicable Laws and the requirements of all applicable industry accreditation organizations. The Architect shall at all times remains liable for the acts, errors and omissions of all Consultants at any tier retained by or through Architect for the Project, including any defective or incomplete design or engineering produced or prepared by such Architect-retained Consultants.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's Services. The Schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The Schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project, design activities, document preparation, coordination efforts with other consultants and documentation and printing. The Schedule sets forth the dates on which the Architect plans to complete the schematic design phase, design development phase, construction document phase, and the bidding or negotiations phase. The Architect shall monitor the Schedule for conformance and shall promptly advise the Owner of any delay or potential delays to the approved Schedule. Once approved by the Owner, time limits established by the Schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the Schedule, if necessary, as the Project proceeds until the commencement of construction.

§ 3.1.4 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 as 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 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.

§ 3.2 Schematic Design Phase Services

§ 3.2.1 The Architect shall review the program and other information furnished by the Owner, and shall review Applicable Laws 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 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 written 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. Architect will meet with Owner as necessary to present and review the material, including any cost estimate prepared by Owner's cost estimator or general contractor.

§ 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 an Additional Service under Section 4.2

§ 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 assist the Owner in preparing an estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.2.7 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.

§ 3.3.2 The Architect shall assist the Owner in updating 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 in accordance with the Schedule, advise the Owner of any potential adjustments to the estimate of the Cost of the Work, take any actions required under Section 6.5, 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 Construction Documents shall describe and reflect the work necessary to permit and construct the Project. The Owner and Architect acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.4.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents. If necessary and as a Basic Service, the Architect and/or Architect's consultants shall attend all meetings with governmental authorities as required to obtain appropriate permits.

§ 3.4.3 During the development of the Construction Documents, the Architect shall assist the Owner in the development and preparation of (1) procurement information that describes the time, place, and conditions of bidding,

including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; and (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions). The Architect shall also compile a project manual that includes the Conditions of the Contract for Construction and Specifications, and may include bidding requirements to the subcontractors and sample forms.

§ 3.4.4 The Architect shall consult with and advise the Owner in Owner's efforts to update the estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner in accordance with the Schedule, provide input to and advise the Owner of any adjustments to the estimate of the Cost of the Work, take any action required under Section 6.4 and each Subsection thereof, and request the Owner's approval.

§ 3.4.6 Construction Documents will include all details reasonably necessary (including those reasonably inferable therefrom or a logical extension thereof) to allow an experienced general contractor to bid and construct all components of the Work, and shall include any and all specifications necessary to establish the quality of the supplies and materials to be employed and systems required.

§ 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 fully permitted 100% Complete Construction Documents, the Architect shall (1) prepare and distribute the RFQ/RFP Package to prospective general contractors, (2) obtain either competitive bids or negotiated proposals from prospective contractors, subcontractors and suppliers of all tiers; (3) confirm, in consultation with Owner, responsiveness of bids or proposals; (4) assist Owner in determining the successful bids or proposals, if any; and, (5) assist Owner in 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 procuring the reproduction of Bidding Documents for distribution to the selected Contractor, who will distribute to prospective bidders;
- .2 distributing the Bidding Documents to prospective bidders, requesting their return upon completion of the bidding process, and maintaining a log of distribution and retrieval and of the amounts of deposits, if any, received from and returned to prospective bidders;
- .3 organizing and conducting a pre-bid conference for prospective bidders;
- .4 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,
- .5 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

§ 3.5.2.3 If the Bidding Documents permit substitutions, upon the Owner's written authorization, the Architect shall, as an Basic 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 A104-2017, Standard Abbreviated Form of Agreement Between Owner and Contractor, as modified by Owner and Contractor, all modifications to which shall automatically modify the corresponding provisions of this Agreement unless otherwise agreed in writing by the Owner and the Architect. The Architect shall cooperate fully with Contractor and shall not interfere with or hinder Contractor's performance of its work. Architect shall timely and properly respond to Contractor's inquiries and requests for information.

§ 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 have no power, authority, right, or obligation to supervise, direct or control the activities of any contractor or subcontractor, or the Contractor, their agents, servants or employees. The Architect shall be responsible for the Architect's and its employees' and Consultants' at all tiers' acts or omissions, but shall not be responsible for the acts or omissions of the Contractor or of any Subcontractors or other persons or entities not under Architect's control performing any portion 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 date the Architect issues the final Certificate for Payment. Notwithstanding the foregoing Architect shall, as a part of its Basic Services hereunder conduct six (6) month and eleven (11) month warranty walk-throughs of the Project for purposes of observing the Project's operations and assisting Owner in evaluating any defective Work that may need correction by the Project's Contractor during such Contractor's one (1) year correction period required under the Construction Contract for the Project.

§ 3.6.1.4 During construction, Architect will promptly review and respond to written requests for information and material, product and equipment submittals from the Contractor. Architect will not approve the substitution of specified materials, products or equipment without prior written approval of the Owner. Architect will periodically visit the Project during construction of the Work and advise Owner of the progress and quality of Work completed. During such site visits, Architect will, consistent with the Standard of Care, identify any readily observable deficiencies in the Work, and otherwise determine if the Work is being performed in a manner consistent with the Construction Documents and in compliance with Applicable Laws. Architect will notify Owner and Contractor of any known deviations from the approved schedule for completion of the Work.

§ 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 observe and to become familiar with the progress and quality of the portion of the Work completed, and to determine if the Work is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. On the basis of the Architect's observations at site visits, the Architect shall keep the Owner fully informed about the progress and quality of the portion of the Work completed, and promptly report in writing to the Owner and Contractor (i) known deviations from the Contract Documents, (ii) known deviations from the most recent construction schedule submitted by the Contractor, and (iii) defects and deficiencies observed in the Work. In the event that the deviations, defects or deficiencies observed may have any future impact on the construction schedule or cost, the Architect shall also notify the Owner and Contractor in writing immediately of such deviations, defects, or deficiencies.

§ 3.6.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents and shall immediately provide the Owner and Contractor written notice of all such occurrences. Whenever the Architect

considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work. The Architect shall submit a written report to the Owner within forty-eight (48) hours following the Architect's taking any action under this Section 3.6.2.2. If costs are associated with the Architect's direction related to this Section 3.6.2.2, the Architect must first receive written approval from the Owner prior to taking any action (in addition to just making observations) under this Section 3.6.2.2.

§ 3.6.2.3 The Architect shall promptly interpret and advise on 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 within three (3) business days following its receipt of such invoice.

§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of, and reasonably inferable from or a logical extension of, 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.

§ 3.6.2.5 The Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents. Any decisions made related to cost, schedule and/or quality shall be in cooperation with the Owner and shall not be binding upon Owner absent Owner's written consent.

§ 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. Architect shall review and confirm the amounts due Contractor and issue the certificates for payment within seven (7) calendar days after submission by Contractor of each of its Owner-approved applications for payment. Architect shall be responsible to Owner for any claims or extra costs asserted by Contractor against Owner for Architect's failure to process applications for payment in a timely manner. Architect shall defend and hold Owner harmless from any such claims for failure to process applications for payment in a timely manner, including but not limited to any and all attorneys' fees and expenses incurred by Owner in defending such claims. 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 and acceptable to Owner in its reasonable discretion, and (5) adequate documentation backup being provided by the Contractor.

§ 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.

§ 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 (but in

no event later than ten (10) days following receipt) 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, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility, except to the extent the Contractor has requested assistance of the Architect to determine dimensions or quantities because of conflicts between the Contract Documents and existing field conditions or because dimensions or quantities in the Contract Documents contain erroneous, inconsistent, or incomplete information for which clarification is necessary. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques, sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 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 and shall coordinate the work of such design professionals with and into the design developed by the Architect pursuant to this Agreement and the other Contract Documents. 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 the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, but shall, consistent with the Standard of Care, promptly notify the Owner and Contractor of any errors or omissions in such design professionals' work discovered by the Architect and shall be liable to the Owner for any loss or damage incurred by the Owner as a result of such errors or omissions that are discovered by the Architect and not promptly reported to the Owner and Contractor.

§ 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 shall assume and maintain design liability for all drawings and specifications produced or generated by Architect or its Consultants at any level that may be impacted by a request for information. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise within three (3) business days. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information. All supplemental drawings and specifications will be clouded for clarity and ease of recognition. Under no circumstances shall the Contractor, Owner or Owner's Representative, if any, take on or otherwise be responsible for the design liability for the accuracy or completeness of any requests for information or clarifications.

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

§ 3.6.5 Changes in the Work

§ 3.6.5.1 Subject to Owner's prior written approval, Architect may authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution or rejection in accordance with the Contract Documents. The Architect shall review and respond in writing to Change Order requests within five (5) business days following Architect's receipt of such requests, or sooner if feasible.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work. Such records shall be made available to the Owner upon request at no additional cost or expense to the Owner.

§ 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 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. The Architect and its Consultants shall prepare a separate punch list of incomplete items that are not included in the Contractor's list.

§ 3.6.6.3 Subject to Owner's approval, when Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; (3) temporary and final certificates of occupancy issued by the applicable governmental agency having jurisdiction over the Project and the Work; and (4) any other documentation required of the Contractor under the Contract Documents.

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

ARTICLE 4 ADDITIONAL SERVICES

§ 4.1 Intentionally Omitted.

(Paragraphs deleted)

(Table deleted)

(Paragraphs deleted)

§ 4.2 Architect's Additional Services

The Architect may provide Additional Services after execution of this Agreement without invalidating the Agreement. Except for services required due to 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. The Architect shall include the cost of these Additional Services and schedule impact, if any. The Architect shall not proceed to provide the following Additional Services unless and until the Architect receives the Owner's written authorization:

- .1 Services necessitated by a material 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 that have a direct financial impact on the Architect's Services but only to the extent any of the foregoing changes are not required in whole or in part as a result of the Architect's negligence or failure to perform and are not a logical extension of or reasonably inferable from the Initial Information or Owner's program for the Project;
- .2 Services necessitated by the enactment or revision of Applicable Laws, including changing or editing previously prepared Instruments of Service;
- .3 Changing or editing previously prepared Instruments of Service necessitated by official interpretations of Applicable Laws not in force at the start of design or 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 decisions of the Owner not rendered in a timely manner or any other failure of performance on the part of the Owner or the Owner's consultants or contractors;
- .5 Intentionally omitted.
- .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

(Paragraphs deleted)

Intentionally Omitted.

§ 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 [TBD (TBD)] visits to the site by the Architect during construction
- .3 Three (3) 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 Three (3) inspections for any portion of the Work to determine final completion.

§ 4.2.4 Except for Services required under Section 3.6.6.5, those Services that do not exceed the limits set forth in Section 4.2.3, and the six (6) and eleven (11) month warranty walkthrough of the Project (which shall be completed by Architect as part of its Basic Services hereunder), Construction Phase Services provided more than ninety (90) days after the date of Substantial Completion of the Work shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

§ 4.2.5 Intentionally Omitted

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.

§ 5.2 The Owner, with the Architect's input, 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, with the Architect's input, 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, the Owner shall notify the Architect.

§ 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 To the extent available, the Owner shall furnish surveys to describe physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed

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

§ 5.5 Intentionally Omitted.

§ 5.6 Intentionally Omitted.

§ 5.7 Intentionally Omitted.

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

§ 5.9 If additional Owner-provided information regarding the Project (other than that which is listed in this Article) is needed for complete performance of the Architect's Services, the Architect shall notify the Owner in writing as to exactly what additional information is needed and the Architect's basis for that opinion.

§ 5.10 The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests; however, if the need for such Services is the result of the Architect's errors, omissions or nonperformance under this Agreement the cost of the Services shall be the Architect's responsibility.

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

§ 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 and shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to Architect's Services. Communications by and with the Architect's consultants shall be through the Architect. Architect may communicate directly with the others involved with the Project for the purpose of sharing information, but Architect may only receive authorization with respect to the Services directly from Owner or Owner's designated representative.

§ 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 To the extent Architect actually becomes aware of an inaccuracy in the information provided by the Owner, Architect will promptly notify Owner. Owner makes no representations or warranties, express or implied, to Architect or its Consultants as to the accuracy, completeness or correctness of any reports, plans, specifications, documents and other information provided by Owner to Architect, and Owner hereby disclaims all such representations and warranties, including, but not limited to, any and all express or implied representations and warranties of merchantability, suitability, fitness for a particular purpose and compliance with Applicable Law with regard to any reports, plans and other information provided by Owner to Architect.

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

§ 5.16 Within fifteen (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 as determined by Owner, 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; compensation for any Project consultants, 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 may be adjusted throughout the Project as required under Sections 5.2 and 6.4. Evaluations of (i) the Owner's budget for the Cost of the Work; (ii) the Preliminary OPC; (iii) Secondary OPC; and (iv) Third OPC, each prepared by Architect, represent the Architect's judgment as a design professional. The Architect recognizes that its design directly impacts the Cost of the Work and therefore must be prepared to revise construction documents, at no additional cost or expense to the Owner, to allow the Contract Sum to align with the Owner's budget for the Project at the time the GMP is established by Owner and Contractor for the Project.

§ 6.3 In preparing evaluations of estimates of the Cost of Work, the Architect shall be permitted to take into account contingencies for design, bidding, and price escalation; to recommend what materials, equipment, component systems, and types of construction should 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 recommended to adjust the estimated Cost of the Work to meet the Owner's budget. The Architect's evaluation 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 as a Basic Service of the Architect.

§ 6.4 As described in Section 1.1.3, hereof, in order for the Owner to determine if the Project can be constructed for the Owner's approved budget, upon the Architect's achieving what it believes, using its professional skill and judgment and consistent with the Standard of Care, based on the Program requirements and Initial Information, is the 30% Completed Design, 60% Completed Design or 90% Completed Design, as applicable, for the Project, the Architect shall undertake a cost trending analysis of each such Completed Design Phase. Such analysis shall be completed in a mutually agreeable time following Architect's submission of such Completed Design to the Owner, during which time Architect may continue working on the next phase of design in order that the next Completed Design Phase for the Project is timely submitted to the Owner in accordance with the Schedule established on **Exhibit B** hereto.

(Paragraphs deleted)

§ 6.4.1 If following completion of Architect's cost trending analysis at each of the milestones as described in Section 6.4 above, Architect and Owner determine that each Completed Design is trending within the Owner's approved budget and at each of the milestones and the applicable OPCs previously established for the Project by Architect, the Architect shall commence and diligently complete within the Architect's Schedule described on **Exhibit B** hereto the next Completed Design Phase for the Project, which shall coordinate and integrate all necessary design and engineering elements or components of the Architect's Consultants, and be coordinated and integrated with the services of the Owner's separate consultants and any design-build and design-assist subcontractors, if any. Architect and Owner shall fully communicate during the completion of the 100% Complete Construction Documents through meetings and exchange of progress drawings so as to coordinate the Architect's completion of the 100% Complete Construction Documents and so as to maintain the Project within the Owner's approved budget and the OPCs previously established for the Project and minimize, to the extent reasonably possible, any claims for scope increases. Upon completion of the 100% Complete Construction Documents, Architect shall include them in the RFQ/RFP Package prepared by Architect for distribution to and bidding by prospective general contractors. If the results of such bidding and selected Contractor's GMP proposal based thereon indicate that such GMP proposal will remain within the Owner's approved budget and the OPCs previously established for the Project, the Owner and selected Contractor will execute the Construction Contract for construction of the Project incorporating such GMP proposal.

§ 6.4.2 If, following completion of Architect's detailed cost estimates and cost trending analyses, as described in Sections 6.4 and 6.4.1 above, Architect and Owner determine that any Completed Design is exceeding the Owner's approved budget and any OPCs previously established by the Architect for the Project, the Architect shall, as part of

its Basic Services hereunder and at no additional cost or expense to the Owner: (i) render an interpretation of the OPCs and trending analysis for the Project and set forth recommendations to the Owner for maintaining the Owner's approved budget, as modified, if appropriate, for the Project; (ii) attend such meetings with the Owner and other parties as may be necessary, in the Owner's judgment, to reach an agreement as to the manner of maintaining any GMP for the Project within the Owner's approved budget and OPCs previously established for the Project, the Architect understanding and acknowledging that its collaboration, coordination and cooperation in this process is critical to the success of the Project, and (iii) when requested by the Owner, undertake and diligently complete within the Architect's Schedule described on **Exhibit B** hereto a redesign of the Project as may be necessary to bring the Cost of the Work back within the Owner's approved budget and the OPCs previously established for the Project, except for scope increases not caused by Architect's failure to comply with the Owner's approved budget and OPCs previously established for the Project. It is the Owner's intent that the process contained in this Section 6.4.2 shall not delay the Project and the Architect shall use all necessary resources and means to stay within the Architect's Schedule to bring the Cost of the Work for the Project back within the Owner's approved budget and any OPCs previously established for the Project.

§ 6.4.3 Notwithstanding anything to the contrary contained herein, Owner may terminate this Agreement upon notice to the Architect in the event an OPC for the Project established by Architect exceeds any OPC previously generated by Architect for the Project or the Owner's approved budget for the Project, and Owner, in its sole discretion, is not satisfied with the redesign alternatives available to it. In the event of such termination: (i) Architect shall be compensated for the portion of Architect's Service's performed to the date of termination, together with Reimbursable Expenses then due and documented out-of-pocket expenses incurred in closure of the Project files, but the Architect shall not be entitled to compensation for work not performed or for incidental, direct or actual damages, exemplary or punitive damages, or lost profits or other consequential or special damages resulting from or related to such unperformed Work, all of which the Architect hereby expressly waives. Such compensation shall be Architect's sole remedy for termination of the Agreement; and (ii) Architect, upon request of the Owner, shall assign to Owner any subcontracts specified by Owner and grant and assign to Owner any licenses required or necessary to use the Instruments of Service to complete the Project. The provisions of the immediately preceding sentence shall be included in all subcontracts entered into by Architect with its Consultants.

ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 Plans, drawings, specifications, reports, documents and related materials prepared by the Architect and any other products of the Architect's work (collectively, "Instruments of Service") are Instruments of Service. The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 7.2 Upon payment of all amounts due to Architect, the Architect shall assign to the Owner, without reservation, all copyrights to all project-related documents, models, photographs, and other expression created by the Architect. Among those documents are certain "Instruments of Service," including the design drawings and the drawings and specifications that are included in the Contract Documents not including Architect's pre-existing intellectual property. Also, the Owner's obligation to pay the Architect is expressly conditioned upon the Architect's obtaining a valid written comprehensive assignment of copyrights from the Architect's consultants in terms identical to those that obligate the Architect to the Owner as expressed in this subparagraph, which copyrights the Architect, in turn, hereby assigns to the Owner. The Owner, in return, hereby grants the Architect a nonexclusive license to reproduce the documents for purposes relating directly to the Architect's performance of this Project, for the Architect's archival records, and for the Architect's reproduction of drawings and photographs in the Architect's marketing materials. No other project-related documents may be reproduced for any other purpose without the express written permission of the Owner. No other copyrights are included in this grant of nonexclusive license to the Architect. This nonexclusive license shall terminate automatically and immediately upon the occurrence of either a breach of this Agreement by the Architect or the commission by the Architect of a tort or a crime potentially affecting the Owner or the Project. This nonexclusive license is granted to the Architect alone and shall not be assigned by the Architect to any other person or entity. Other provisions of this Agreement notwithstanding, this nonexclusive license shall terminate automatically upon an Architect's assignment of this nonexclusive license to another or Architect's attempt to do so without Owner's prior written consent. However, nothing in this paragraph shall be construed to preclude the Architect from, in turn, assigning to Architect's consultants a nonexclusive license coextensive with the Architect's applying to the documents originally created by that consultant.

§ 7.3 Prior to transfer and assignment of the ownership (including copyrights) of the Instruments of Service to Owner in accordance with Section 7.2 hereof, the Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing Services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising from such uses; provided, however, that the foregoing shall not limit Architect's liability for its own negligence or willful misconduct or for errors or omissions contained in the Instruments of Service, except to the extent such liability directly arises from: (a) any modification of the Instruments of Service by Owner or any third party (including other design professionals) acting at the request of Owner or (b) the negligence of Owner or any third party (including other design professionals) acting at the request of Owner in using or interpreting such Instruments of Service or any request for information concerning such Instruments of Service. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

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

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

ARTICLE 8 CLAIMS AND DISPUTES

§ 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by Applicable Law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in modified AIA Document A104–2017 Standard Abbreviated Form of agreement between Owner and Contractor. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect waives consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This waiver is applicable, without limitation, to all consequential damages due to Owner's termination of this Agreement.

§ 8.1.4 The Architect agrees to the fullest extent permitted by law to indemnify and hold harmless Owner, its officers, directors, agents, and employees (collectively "Related Parties") from and against all third party judgments, liabilities, damages, losses, and expenses, including attorneys' fees and costs, suffered or incurred by Owner and/or any Related Party to the extent caused by or arising out of any of the following: (i) any breach of Architect's obligations under this Agreement, and/or (ii) any negligent errors, omissions, or acts in connection with the performance of the Architect's Services and duties contemplated by this Agreement to be performed by the Architect or any of its Consultants, whether such errors, omissions, or acts are committed by Architect or any Consultants retained by the Architect, or any

other agents or employees of Architect or such Consultants or any other parties engaged by Architect in order to discharge its duties hereunder. The indemnification and hold harmless provisions set forth in this Section 8.1.4 shall not preclude or in any manner limit the other rights or remedies Owner may have under this Agreement, at law or in equity against Architect. This indemnity shall survive termination of this Agreement. The amount recoverable by Owner in any event shall not in any way be limited by the amount of insurance required as set forth in this Agreement.

§ 8.2 Mediation

§ 8.2.1 Informal Dispute Resolution. At the written request of either the Owner or the Architect, and as a condition precedent to either mediation or litigation, the parties will attempt to resolve any dispute arising under or relating to this Agreement through the informal means described in this Section. Each party will appoint a senior management representative who does not devote substantially all of his or her time to performance of this Agreement. The representatives will furnish to each other all non-privileged information with respect to the dispute that the parties believe to be appropriate and germane. The representatives will use commercially reasonable efforts to resolve the dispute without the necessity of any formal proceeding. Formal proceedings for the resolution of the dispute may not be commenced until the earlier of: (i) the designated representatives conclude that resolution through continued negotiation does not appear likely; or (ii) thirty (30) days have passed since the initial request to negotiate the dispute was made; provided, however, that a party may file earlier to avoid the expiration of any applicable limitations period, to preserve mechanic's lien rights, or to apply for interim or equitable relief. Either party may then file for mediation at any time after such date, subject to the terms of Section 8.2.2.

§ 8.2.2 Either party may, within thirty (30) days following the date of Informal Dispute Resolution as required in Section 8.2.1 above, file a Demand for Mediation with the other party. The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation which, unless the parties mutually agree otherwise, shall be administered by the Judicial Arbiter Group in Gunnison, Colorado in accordance with the American Arbitration Association's Construction Industry Mediation Procedures in effect on the date of the Agreement. A Demand for Mediation shall be made in writing, delivered to the other party to the Agreement. The Demand for Mediation may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of sixty (60) days from the date of filing, unless stayed for a longer period by agreement of the parties or court order

§ 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. Such mediation shall be held for a period not to exceed one (1) day unless otherwise agreed in writing by the parties. 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
(Paragraphs deleted)*

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

Arbitration pursuant to Section 8.3 of this Agreement

Litigation in a court of competent jurisdiction

Other *(Specify)*

(Paragraph deleted)

§ 8.3 LITIGATION

§ 8.3.1 Litigation. This Agreement, and all matters interpreting it and arising under it shall be enforced in, and all parties do now submit to, the exclusive jurisdiction and venue of the Superior Court of Gunnison County, Colorado, in the event of any litigation concerning this Agreement, and regardless of where this Agreement may be executed. Each party consents to and agrees to file a general appearance in the event that it receives service of process.

(Paragraph deleted)

§ 8.3.2 Jury Trial Waiver. To the fullest extent permitted by law, Owner and Architect specifically waive any right to a trial by jury in any court with respect to any contractual, tortious or statutory claim, counterclaim or cross-claim against the other arising out of or connected in any way to the Project or the Contract Documents. The complex commercial and professional aspects of the Agreement make a jury determination neither desirable nor appropriate. Architect shall include this provision in all agreements with its Consultants.

§ 8.3.3 Attorneys Fees. In the event that either party brings legal action to enforce any provision of this Agreement, the prevailing party shall be awarded all of its reasonable costs and expenses, including attorney's fees, incurred by such party in connection with such action, including all attorneys' fees and costs of any associated appeal.

(Paragraphs deleted)

ARTICLE 9 TERMINATION OR SUSPENSION

§ 9.1 If the Owner fails to make payments to the Architect in accordance with this Agreement, such failure shall be considered substantial nonperformance and cause for termination or, at the Architect's option, cause for suspension of performance of Services under this Agreement. If the Architect elects to terminate or suspend services, the Architect shall give fifteen (15) days' written notice to the Owner before terminating this Agreement or suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's Services. The Architect's fees for the remaining Services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for Services performed prior to notice of such suspension, except to the extent Owner disputes payment for such Services in good faith. When the Project is resumed, the Architect shall be compensated for reasonable and verifiable expenses incurred (at cost) in the interruption and resumption of the Architect's Services. The Architect's fees for the remaining Services and the time schedules shall be equitably adjusted, except when suspension was necessitated by the acts, errors or omissions of Architect or its Consultants at any tier or anyone one else for whom Architect is legally responsible.

§ 9.3 If the Owner suspends the Project for more than one hundred (120 consecutive calendar 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 The Owner may terminate this Agreement upon seven (7) days' written notice should the Architect materially breach the Agreement or fail to perform in accordance with the terms of this Agreement. If the Owner terminates this Agreement for cause, then Architect is not entitled to any further compensation, if any, until the Services are fully completed by Owner and all costs and damages incurred by Owner as a result of the Architect's breach and the termination are fully reimbursed and paid.

§ 9.5 The Owner may terminate this Agreement upon not less than seven (7) 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 properly performed prior to termination, Reimbursable Expenses then due, and costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements. In no event shall Architect be entitled to payment of fees or other compensation on Services not performed or for lost profits or other consequential or special damages resulting from such terminations for convenience.

§ 9.7

(Paragraphs deleted)

Intentionally Omitted.

§ 9.8 Except as otherwise expressly provided herein (including, without limitation, Section 12.1 hereof), 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.

ARTICLE 10 MISCELLANEOUS PROVISIONS

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules.

§ 10.2 The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. The Architect shall not assign or delegate any rights, duties or obligations under this Agreement without the written consent of the Owner, which consent may be withheld in Owner's sole discretion. The Owner shall have the right, without Architect's consent, to 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, in each case first arising or accruing after such lender's election to assume this Agreement. The Owner shall have the further right to assign this Agreement to any affiliate, subsidiary, or parent company of Owner without Architect's consent. Except as otherwise specifically set forth herein, the Owner shall not assign this Agreement without the written consent of the Architect, which consent shall not be unreasonably withheld, conditioned, or delayed.

§ 10.3 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 five (5) 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 five (5) 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.

§ 10.4 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.

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

§ 10.6 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 10.6.1. This Section 10.6 shall survive the termination of this Agreement.

§ 10.6.1 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 10.6.

§ 10.7 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.

§ 10.8 The Architect's Services will include the services of the consultants identified in Section 1.1.11 of this Agreement and on **Exhibit E** hereto (the "Architect's Consultants"). However, acceptance of Architect's Consultants or approval of new or changed Consultants shall not impose any liability on the Owner for the sufficiency of the Consultant's services nor diminish the Architect's responsibility for the work product, acts and conduct of the Consultants and Architect shall be and at all times remain liable for the acts, errors and omissions of its Consultants at

all tiers. Each agreement of the Architect with any Consultant shall be in writing, shall be executed within thirty (30) days of the date of this Agreement, shall be assignable to the Owner without the consent of the Consultant, and shall specifically make the Owner an express third party beneficiary thereof. Each of the Consultant agreements shall also require each Consultant to discharge for the benefit of the Owner all of those responsibilities with respect to the work of such Consultant that the Architect agrees to discharge hereunder toward the Owner, including without limitation, the provisions of indemnification of the Owner, maintaining of insurance in the amounts and coverages required by this, compliance of the Consultant's work with Applicable Laws, project management and collaboration software system, and ownership of documents. Each of the Consultants shall be contractually obligated to perform during each phase of the Architect's Services those services with respect to such phase, including, without limitation, such Consultants providing construction contract administration services of the same nature and extent required of the Architect as to their respective specialty during the Construction Contract Administration Phase. The Architect shall cause each Consultant to be available during Construction Contract Administration for purposes of rendering interpretations and clarifications regarding the portion of the Construction Documents prepared by such Consultant, as a part of the compensation for the Architect's Services.

(Paragraph deleted)

§ 10.9 Whenever the singular number is used in this Agreement and when required by the context, the same shall include the plural and vice versa and the masculine gender shall include the feminine and neuter genders and vice versa.

§ 10.10 Any notice or communication (which shall include, but not be limited to, a consent, an approval, a progress report, a statement or a demand) provided to a party hereto under this Agreement shall be in writing and shall be deemed given: (i) upon delivery, if by hand; (ii) after one (1) business day, if sent by United Parcel Service, Federal Express, or such other recognized express mail or air courier. All Notices hereunder shall be given as follows:

If to the Owner: Gunnison Valley Transit Authority
P.O. Box 1911
507 Maroon Avenue
Crested Butte, Colorado 81224
Attn: Scott Truex, Executive Director

With a copy to: Polsinelli P.C.
1401 Lawrence Street, Suite 2300
Denver, Colorado 80202
Attn: Paul V. Franke

If to the Architect:

With a copy to:

§ 10.11. The article and section headings contained in this Agreement are solely for the purpose of reference, are not part of the agreement of the parties and shall not in any way affect the meaning or interpretation of this Agreement.

§ 10.12 Any failure of any of the parties to comply with any obligation, covenant, agreement or condition herein may be waived by the party or parties entitled to the benefits thereof only by a written instrument signed by the party granting such waiver, but such waiver or failure to insist upon strict compliance with such obligation, covenant,

agreement or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure of the same or any other obligation, covenant, agreement or condition.

§ 10.13 This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original and all of which counterparts, taken together, shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page of this document by facsimile or other generally accepted electronic means (i.e., PDF signature) shall be effective as delivery of a manually executed counterpart of this document.

§ 10.14 The Architect and the Owner agree that all Services, if any, performed by the Architect in connection with the Project prior to the execution of this Agreement are subject to the provisions of this Agreement.

§ 10.15 This Agreement and the Exhibits contain the entire understanding between the parties hereto with respect to the subject matter hereof. All previous contracts or agreements between Architect and Owner are hereby superseded by the terms of this Agreement and in the event of a conflict between the terms and provisions of a previous contract or agreement and the terms and provisions of this Agreement, the terms and provisions of this Agreement shall prevail or govern. Except as otherwise expressly stated herein, in the event of a conflict between the provisions of any Exhibit and this Agreement, this Agreement shall govern.

§ 10.16 The Architect is performing the Services under this Agreement as an independent contractor and not as an employee, agent, partner, or joint venturer with the Owner. It is understood and agreed that the Architect and its Consultants, together with their agents, servants, and employees, is at all times acting as an independent contractor, and that neither has any express or implied authority to assume or create any obligation or responsibility on behalf of, or in the name of, the other party. The Architect shall satisfy all tax and other governmentally-imposed responsibilities with regard to its own personnel, including, but not limited to, payment of social security taxes, workers' compensation, self-employment taxes, and all other payroll taxes.

§ 10.17 To facilitate the execution of the Project, the Owner and other parties performing work and services in connection with the Project shall, as requested by the Owner, have access to electronic files or, at the Owner's option, CAD files. The Owner recognizes that the CAD files are furnished for the convenience of the Owner and they do not supersede or replace information contained on the record hard copies of the documents as issued by the Architect.

§ 10.18 All matters that relate to the termination or expiration of the Agreement, that relate to ownership of Instruments of Service, as well as all rights and obligations of the parties hereto that may by their nature be expected to survive any termination or expiration of this Agreement, such as, but not limited to, requirements for insurance, Architect's duty to indemnify, and Architect's liability for defective design or other negligent or intentionally wrongful acts, errors or omissions of the Architect and its Consultants at any time shall, in each case, survive any termination or expiration of the Agreement and shall be given full force and effect notwithstanding any termination or expiration of the Agreement, but such survival shall not operate to extend any applicable statute of limitations or repose.

§ 10.19 Inasmuch as Architect is an independent contractor, it is understood and agreed that Owner is not responsible for verification of the work authorization of the Architect, the Architect's employees and/or any of Architect's Consultants at any tier that are retained by Architect to perform Services in relation to this Agreement. Architect represents, warrants and covenants to and for the benefit of Owner that Architect, its employees and Architect's Consultants at any tier and their employees are each authorized to work and are not acting, and will not act at any time during the term of this Agreement, in violation of (a) the Immigration Reform and Control Act of 1986 and/or any amendments and regulations existing thereunder; (b) the immigration laws of any country in which the work under this Agreement is to be performed; and/or (c) the requirements of any other Applicable Laws prohibiting or regulating the employment undocumented workers. Architect shall defend, indemnify and hold Owner harmless against any and against any and all fines, penalties, costs, attorneys' fees and/or other outlays which are incurred because of Architect's or its Consultants' (at any tier) breach of this Section.

§ 10.20 In connection with the performance of Services under this Agreement, the Architect agrees not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation, against any person otherwise qualified on the basis of race, color, religion, national origin, gender, gender variance, age, military status, sexual

orientation, marital status or physical or mental disability; and further agrees to insert the foregoing provision in all agreements with its Consultants.

§ 10.21 Neither party to this Agreement shall use the name of the other party in any advertising, marketing or promotional materials without the express written consent of the other party.

§ 10.22 Time is of the essence in the performance of all of the Architect's and its Consultants' covenants, obligations, terms, conditions and other provisions under this Agreement and all of the other exhibits, schedules, addenda and attachments to this Agreement.

§ 10.23 The Owner and the Architect agree that this Agreement and all exhibits and attachments thereto shall not be subject to any rule of contract interpretation or construction requiring that, in the event of ambiguity, the same be construed against the drafting party, and the parties hereto hereby waive the benefit of any such rule of contract interpretation or construction.

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*)

.2 Intentionally Omitted
(*Insert percentage value*)

(*Paragraph deleted*)

.3 Intentionally Omitted
(*Describe the method of compensation*)

§ 11.2 Intentionally Omitted.

§ 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 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 with no mark-up.

(*Insert amount of, or basis for computing, Architect's consultants' compensation for 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:

Programming Phase	percent (%)
Schematic Design Phase	percent (%)
Design Development Phase	percent (%)
Construction Documents	percent (%)

Phase	percent (%)	percent (%)
Procurement Phase		
Construction Phase		
Total Basic Compensation	one hundred	percent (100 %)

§ 11.6 Intentionally Omitted

§ 11.6.1 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 on **Exhibit F** attached hereto and incorporated herein by this reference. 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.)

See **Exhibit F** hereto.

Employee or Category	Rate (\$0.00)

§ 11.8 Compensation for Reimbursable Expenses

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

- .1 Local 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 or 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 or the Architect's Consultants;
- .9 All taxes levied on professional services and on reimbursable expenses;
- .10 Site office expenses;
- .11 Registration fees and any other fees charged by the Certifying Authority or by other entities as necessary to achieve the Sustainable Objective; and,
- .12 Other similar Project-related expenditures.

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses actually incurred by the Architect and the Architect's Consultants, with no mark-up. The approved budget for such Reimbursable Expenses is \$ _____, and in no event shall such Reimbursable Expenses exceed \$ _____ -without written authorization from Owner prior to such Reimbursable Expenses being incurred. If Architect fails to obtain Owner's written approval in advance of incurring such Reimbursable Expenses, then Owner shall have no obligation to make payment to Architect for such Reimbursable Expenses. Architect shall provide Owner with written notice when the total Reimbursable Expenses incurred total \$ _____.

§ 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 Intentionally Omitted.

(Paragraph deleted)

§ 11.10.2 Progress Payments

§ 11.10.2.1 Unless otherwise agreed, payments for Services shall be made monthly in proportion to Services performed. Payment of undisputed amounts are due and payable within thirty (30) days following Owner's receipt of an Owner-approved-invoice from the Architect. In the event that Owner fails to make payment when due and owing to Architect, Architect shall provide Owner with written notice and a ten (10) day cure period before Architect may exercise any other rights provided in this Agreement. The Architect shall submit an invoice on or about the twentieth (20th) day of the month, for Services performed during the prior month. The Architect shall submit with each invoice a current, itemized cumulative statement of amounts invoiced, amounts received, reimbursable expenses invoiced and received, all other funds sought and received by the Architect, and remaining contract billing limits. All invoices shall be sequentially numbered with a unique identification number for the Project. When the Owner specifies that a payment is to be applied in satisfaction of a certain invoice or portion of an invoice, the Architect shall apply the payment to the account as specified and shall indicate that specific application on subsequent monthly statements. Amounts not properly paid when due after the expiration of any applicable cure period 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.)

The lesser of six percent (6%) per annum or the rate allowed pursuant to applicable law.

§ 11.10.2.2 The Owner may 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 if 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 Additional Services, and Services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.

The Architect hereby waives all rights to payment by the Owner for otherwise reimbursable expenses when (a) the expense was incurred more than ninety (90) days before the date on which the Owner receives the invoice from the Architect initially requesting reimbursement for that expense; or (b) the first invoice for that expense is not accompanied by detailed documentation indicating the Project-related nature of the expense; or (c) that evidence is produced in a form that is inconsistent with the form of the invoice.

§11.10.3 Invoices

- .1 The Architect will provide with each invoice copies of receipts for Reimbursable Expenses. Each invoice for Reimbursable Expenses will provide descriptions of the expenses incurred.
- .2 Each invoice for fees will provide detailed descriptions of Services performed as Basic Services and Additional Services on an hourly rate basis and percentage of completion of Services performed on a lump sum basis including cumulative totals. Time shall be billed in not more than tenth (10th) of an hour increments.
- .3 If requested by the Owner, the Architect's invoice shall include a current architect's lien waiver (conditional and unconditional) in the form reasonably satisfactory to Owner and a duly executed and acknowledged sworn statement indicating all consultants with whom the Architect has entered into a contract, the amount of such contract, and the amount requested for such progress payment. At Owner's sole election, Owner may also require executed lien waivers (both conditional and unconditional) from any or all of Architect's Consultants, all of which shall be in form and content reasonably satisfactory to Owner.
- .4 Invoices for reimbursable expenses received more than ninety (90) days after the date on which such expenses were incurred by Architect will not be reimbursed by Owner.

§11.10.4 PAYMENT OF CONSULTANTS

The Architect agrees to promptly pay any and all sums due and owing to the Consultants for their work in connection with the Project when payment is made by the Owner, subject to the terms and conditions of the Architects' Agreements with its Consultants. In the event any mechanics' lien is filed by an Architect's Consultant against Owner or the Project in any circumstance in which Owner has paid Architect for the Services of such Consultant covered in such mechanics lien filing, the Architect shall indemnify, defend and hold the Owner harmless from and against any and all claims, including but not limited to mechanics' liens, filed or asserted by or on behalf of any of the Architect's Consultants, with respect to nonpayment of fees. At the Owner's request, the Architect will provide documentation of payments by the Architect to Consultants. Owner may also pay Architect's Consultants directly or require dual signature checks in the event of the filing of any such mechanic's lien. In the event any mechanics' lien is filed by an Architect's Consultant against the Owner or the Project in any circumstance in which Owner has paid for the Services of such Consultant covered in such mechanics' lien filing, the Architect shall either furnish the Owner a bond sufficient to discharge such lien or deposit in an escrow approved by the Owner and the Architect a sum sufficient to discharge the lien. Architect shall have the right and opportunity, in cooperation with the Owner, to contest the validity of any such mechanics' lien so long as during the pendency of any such contest, the Architect shall effectively stay or prevent any official or judicial sale of any of the real property or improvements comprising the Project or the property of which it is a part, upon execution or otherwise, and so long as the Architect pays any final judgment enforcing any such mechanics' lien and thereafter procures, within a reasonable time, the record satisfaction thereof; provided that if the Owner's lender(s) shall require release of such lien from the Project as a condition to further disbursement of loan proceeds, the Architect shall cause such lien to be effectively released from the Project as a condition to its right to contest such lien. In the event the Architect should fail to provide a bond or cash escrow as provided above, the Architect shall be obligated to pay and/or refund to the Owner all monies that the Owner may pay in discharging any such lien including all costs and reasonable attorneys' fees incurred by the Owner in settling, defending against, appealing or in any manner dealing with such lien. In the event a mechanics' lien claim is filed against the Owner or the Project for any Services of the Architect for which the Owner has previously made payment, the Owner shall have the further right to withhold from payments due or to become due to Architect an amount equal to one hundred fifty percent (150%) of the amount of the mechanics' lien claim until the same is released.

ARTICLE 12 SPECIAL TERMS AND CONDITIONS

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

§ 12.1 Owner's Right to Inspect and Audit.

§ 12.1.1 The Owner may inspect, and audit at any time, up to four (4) years after the completion of this Agreement, amounts paid to the Architect for Basic Services, Additional Services or Reimbursable Expenses under this Agreement and may reject any or all such Basic Services, Additional Services or Reimbursable Expenses if they are not in accordance with requirements of this Agreement. Such audits may be conducted by the Owner on a monthly or more frequent basis. The failure of the Owner's representative to inspect or reject any such request for Basic Services, Additional Services or Reimbursable Expenses shall not be construed as an acceptance of such expenses by the Owner.

§ 12.1.2 The Architect shall maintain accurate and complete records for all Basic Services, Additional Services and Reimbursable Expenses incurred in connection with each work assignment, including but not limited to timesheets, invoices, consultant records, and insurance records. Said records shall be maintained in conformance with generally accepted accounting principles and procedures. The Owner reserves the right at any time and from time to time for a period of four (4) years following the Final Completion of the Project, on a quarterly or more frequent basis as required by Applicable Law, to inspect, copy and audit said records, on the Architect's and its Consultants premises, during the Architect's and its Consultants business hours. The terms of this subsection shall appear in all of the Architect's subcontracts. The Owner will give the Architect and its Consultants at least five (5) business days' advance notice of any pending audit.

§ 12.1.4 The Architect and its Consultants shall make available knowledgeable personnel for interviews by the auditor and the Architect and its Consultants must make available reasonable work space for the auditor on their premises.

§ 12.1.5 The Architect and its Consultants shall provide the Owner with copies of records in computer-readable format as well as hard copy.

§ 12.1.6 The Owner may interview any of the Architect's current or former employees during the audit.

§ 12.1.7 Following an inspection or audit requiring corrective action, the Owner shall provide the Architect with a written description of the corrections required by the Owner and the date by which such corrections must be made. The Architect must advise the Owner when the corrections are made in order for the Owner to re-inspect the corrected work.

§ 12.2 Reduction in Scope of Project and Early Termination. Architect acknowledges that the Architect's Services to be provided by Architect and its Consultants are based on calculations and specifications requiring the design and construction of the Project, as more fully described above. Notwithstanding anything to the contrary contained herein or in any of the other documents or agreements executed in connection herewith, including, without limitation, any of the Contract Documents, if the Owner for any reason or no reason desires to reduce the scope of the Project and in connection with such reduction in scope provides Architect with a written request to provide it with an estimate of the cost to re-design the same to Owner's reduced scope, Architect agrees to provide Owner with a written proposal setting forth in detail the cost to undertake such re-design. Such proposal shall be provided to Owner no later than ten (10) days following Owner's written request therefor. If Owner and Architect reach agreement on the cost to re-design the Project and Owner and Contractor have reached agreement on a new Guaranteed Maximum Price for the reduced Project, Owner and Architect shall undertake to execute a new Standard Form of Agreement between Owner and Architect AIA Form B101, 2017 Edition on terms and conditions mutually acceptable to Owner and Architect. In the event Owner is not satisfied, in its sole and absolute discretion, with Architect's proposal to re-design the Project, the Contractor's revised Guaranteed Maximum Price, any other aspect of such Project or the documents and agreements to be executed, delivered and/or produced in connection therewith, or Owner for whatever reason otherwise elects not to proceed with the Project, Owner shall have the absolute and unconditional right to immediately terminate this Agreement and the Contract Documents. In such event, Architect shall only be compensated for the portion of the Architect's Services performed to the date of termination, together with Reimbursable Expenses then due and payable and documented out-of-pocket expenses incurred in closure of the Project files, but the Architect shall not be entitled to compensation for work not performed or for incidental, direct or actual damages, exemplary or punitive damages, or lost profits or other consequential or special damages resulting from or related to such unperformed Work, all of which the Architect hereby expressly waives. In the event of any termination pursuant to the Agreement, any compensation paid pursuant to this Section shall be deemed a final and complete settlement of all amounts owed to Architect and shall be Architect's sole and exclusive remedy for termination of the Agreement. Any termination of the Agreement pursuant to this Section shall be deemed a termination for convenience in accordance with Section 9.5 hereof, subject, however, to the limitations set forth in this Section.

§ 12.3 TABOR REQUIREMENTS THE PARTIES ACKNOWLEDGE THAT APPROPRIATION OF MONEYS BY THE OWNER IS A GOVERNMENTAL FUNCTION TO WHICH THE OWNER CANNOT CONTRACTUALLY COMMIT IN ADVANCE AND THAT THIS AGREEMENT DOES NOT CONSTITUTE: (I) A MULTIPLE FISCAL YEAR DIRECT OR INDIRECT DEBT OR FINANCIAL OBLIGATION (II) AN OBLIGATION PAYABLE IN ANY FISCAL YEAR BEYOND THE FISCAL YEAR FOR WHICH FUNDS ARE LAWFULLY APPROPRIATED; OR (III) AN OBLIGATION CREATING A PLEDGE OF OR A LIEN ON TAX OR GENERAL REVENUES. IN THE EVENT THAT THE OWNER DOES NOT APPROVE AN APPROPRIATION OF FUNDS AT ANY TIME DURING THE TERM OF THIS AGREEMENT FOR ANY PAYMENT DUE OR TO BECOME DUE FOR A FISCAL YEAR DURING THE TERM HEREOF, OWNER SHALL HAVE THE RIGHT TO TERMINATE THIS AGREEMENT ON THE LAST DAY OF THE FISCAL PERIOD FOR WHICH SUFFICIENT APPROPRIATIONS WERE RECEIVED, WITHOUT PENALTY OR EXPENSE. OWNER MAY TERMINATE THIS AGREEMENT BY GIVING NOTICE IN WRITING THAT (A) FUNDS HAVE NOT BE APPROPRIATED FOR THE FISCAL PERIOD, AND (B) OWNER HAS EXHAUSTED ALL FUNDS LEGALLY AVAILABLE FOR THE PAYMENT. IN SUCH EVENT SUCH TERMINATION SHALL BE DEEMED A TERMINATION FOR CONVENIENCE PURSUANT TO ARTICLE 9 HEREOF FOR WHICH NO FURTHER SUMS SHALL BE DUE OR PAYABLE TO DESIGN-BUILDER, ANYTHING CONTAINED IN THIS AGREEMENT OR THE OTHER CONTRACT DOCUMENTS TO THE CONTRARY NOTWITHSTANDING.

12.4 AGREEMENT SUBJECT TO CDOT GRANT FUNDING REQUIREMENTS. Architect has been advised by Owner that funding for the Project is being obtained, in part, from grant funding from the Colorado Department of Transportation ("CDOT") in furtherance of the Statewide Transit Plan Administered by CDOT. Such grant funding

(estimated in the amount of approximately \$1,000,000.00 (the "CDOT Grant Funding")) imposes various contractual, legal and other requirements on Owner, as the grantee and recipient of the CDOT Grant Funding, as well as Owner's contractors, architects, engineers, consultants, vendors and other Project participants receiving the proceeds of such CDOT Grant Funding, including Architect. Accordingly, Architect hereby agrees that, notwithstanding anything to the contrary contained in this Agreement or the other Contract Documents: (i) Architect shall at all times comply with, perform, observe, and be bound all terms, covenants and conditions of the CDOT Grant Funding applicable to it, including, without limitation, those set forth in the Grant Agreement between Owner and CDOT for the CDOT Grant Funding attached hereto as **Exhibit G** and incorporated herein by this reference (the "CDOT Grant Agreement") and Architect shall assume toward Owner all the covenants, obligations and responsibilities that Owner, by the CDOT Grant Agreement, assumes toward CDOT; (ii) CDOT shall be a third party beneficiary of all of Owner's rights, remedies, benefits and privileges under this Agreement; and (iii) in the event of any conflict between this Agreement and the CDOT Grant Agreement, the terms and provisions of CDOT Grant Agreement shall govern and control the respective rights, duties and obligations of the parties hereto. The terms of this Section 12.4 shall survive the termination of this Agreement and/or Substantial Completion of the Work.

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 of Agreement Between Owner and Architect
- .2

(Paragraphs deleted)

Exhibits:

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

(Paragraph deleted)

- 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	Scope of Services
Exhibit B	Schedule
Exhibit C	Responsibility Matrix
Exhibit D	Architect's Key Personnel
Exhibit E	Architect's Consultants
Exhibit F	Hourly Rate schedule
Exhibit G	CDOT Grant Agreement

- .4 Other documents:

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

OWNER:

GUNNISON VALLEY TRANSIT AUTHORITY

By: _____
Title: _____

ARCHITECT:

By: _____
Title: _____

Exhibit A

Scope of Services

This Exhibit A is attached to and forms an integral part of the Standard Form of Agreement between Owner and Architect, AIA Form B101-2017 (the "Agreement"), dated _____, 2025, between Gunnison Valley Transit Authority ("Owner") and _____ ("Architect"). Capitalized terms used herein but not defined herein shall have the meanings given them in the Agreement.

Basic Services. The scope of Basic Services required of the Architect for the entire Project includes, but is not limited to, the following Services:

Full professional design services are required with all related engineering disciplines and must comply with all obligations and requirements of the governing jurisdictions of the site. These services include, but are not limited, to the following:

1. Full Architectural Services (Program Verification, Concept Design, Schematic Design, Design Development, Construction Documents, Contractor Selection, Bidding and Award and Construction Administration and Close-out)
2. Interior Design
3. Structural Engineering
4. Mechanical and Plumbing
5. Civil Engineering
6. Site Survey
7. Environmental
8. Geotechnical
9. Landscape Architecture
10. Entitlement
11. Fire Protection Engineering
12. Electrical, Lighting & Fire Alarm Engineering
13. Signage and Wayfinding Design
14. Cost Estimating (coordination with Owner)

15. Low Voltage Systems

16. Coordination with User Groups, Owner, and Owners Consultants and Vendors

17. Security

Coordination: Coordination meetings with Owner, other consultants, vendors, and user groups shall be a continuing work item for the Architect from contract execution through programing and conceptual design, schematic design, design development, construction documents, and contractor selection through the construction administration and warranty phase.

Immediately upon execution of the Agreement, the Architect will work to finalize the program/concept with Owner. Once the Architect has confirmed and validated the program plan and concept design, the Owner will release the Architect to move into Schematic Design.

CPM Schedule: Within 1 weeks of receipt of an executed contract, the Architect shall prepare a preliminary integrated Project Design Schedule. This schedule shall show all design phases, identify critical milestone dates, lead time for budget updates and cost trending analysis, including dues dates for the Architect's Preliminary, Secondary and Third Opinions of Probable Cost, Architect and Owner's Consultants' involvement and document coordination, Owner review and approval for each design phase and pricing exercise, print timelines and issue dates to the Owner and potential contractors to whom the RFQ/RFP package will be distributed.

Design Evolution:

Architect will design the Project in accordance with the terms and conditions of the Agreement, including, without limitation, Sections 1.1.3 and 6.4 and Article 3 thereof.. As the design evolves through the completion (Construction Documents), OPCS will be provided by the Architect in accordance with the Agreement to ensure that the Project does not exceed the Owner's approved budget including adequate contingency. Modifications of the drawings and specifications to keep the Project aligned with the budget will be made by Architect throughout design, if required, at no additional cost to the Owner, in accordance with the Agreement and other Contract Documents.

The Architect will work with the Owner to be certain that as the design evolves the Project remains within the Owner's approved budget for the same and within all OPCS generated by Architect during the course of its design and engineering for the Project and in accordance with the Agreement and other Contract Documents, in each case while maintaining the Owner's stated Project goals including schedule, quality, and performance.

The Architect will be expected to provide drawings files using 2024 CAD design software or newer, unless otherwise determined by the Owner.

Project Initiation:

To initiate the work, key members of the Architect's design team will meet with Owner staff for a project kick-off meeting to review the scope of work, schedule, and to refine project details. Owner values the importance of ongoing value-added communication and expects well-established and maintained lines of communication throughout the project. At the kick-off

meeting, the Architect will:

- A. Clarify project objectives, priorities, and deliverables.
- B. Identify and discuss critical local or regional issues.
- C. Develop a schedule for meetings.
- D. Identify project contacts and establish interface protocols between the Architect team, Owner, and any other parties that will be involved in the design process.
- E. Discuss data/mapping needs and other resources.
- F. Review the work plan with associated milestones.
- G. Develop a stakeholder and community outreach plan, including objectives, format, and participants.

Design Development Documents:

Architect will prepare design development documents for the approved concept, to include the following.

- A. **Geotechnical and Site Survey.** Architect shall provide site survey and geotechnical services that include:
 1. Geotechnical Investigation and Report. Architect will obtain test borings in the area of proposed construction. Test borings should be taken in the location of the building and additional borings should be taken at other structural elements and/or retaining wall locations.
 2. A survey including boundary and topographic elements will be provided for Owner's site.
 3. Additional survey will include the adjacent street, Right of Way, and sidewalk adjacent to the site and shall include survey for anticipated roadway/intersection improvements. All mapping will include contours, site features, roads, structures, existing overhead traffic signals, existing signal equipment, and above and underground utilities.
 4. A hazardous material review of the site will be performed.
- B. **Design Development Plans.** In accordance with Sections 1.1.3 and 6.4 of Agreement, Architect shall provide design and engineering documents to a 30 percent, a 60 percent and a 90 percent design completion level, that must be approved at each stage by Owner and the City of Gunnison. This includes the following tasks:
 1. Owner's review of operations and support of permit requests.
 2. Signage and Pavement Marking Layout. Signage and pavement marking plans will be produced for the site and adjacent street network including the proposed site layout, intersection/signal modifications, bus pull-offs, and driveway modifications to the site.
 3. Site specific wayfinding signage should be included both inside and outside of structure.
 4. Erosion and Sediment Control. Provide disturbance limits and identify locations of silt fence, catch basin inserts, and other best management practices (BMP).
 5. Civil Site Plans. Provide Layout Sheet, Grading and Drainage Sheet, General Notes Sheet, and Details Sheet to a 30% design level in full compliance with the

Gunnison County's land development standards in preparation for a Building Permit. These plans will include construction on-site and the interface with adjacent street and pedestrian elements to the site.

6. Drainage, Hydrology, and Hydraulics Calculations. Provide initial calculations and documentation for required water quality devices, detention, site drainage structures, and interface to the existing drainage network at site outfall points.
7. Required Water Quality. BMP, detention, site drainage, and outfall points will be shown on the Grading & Drainage Sheet.
8. Utility Coordination and Relocation Plans. Provide waterline and sanitary sewer service line locations and ties to existing adjacent utilities. Provide relocation plans for utilities discovered on-site that conflict with anticipated grading and/or structures.
9. Facility/Architectural Plans. Provide architectural plans and elevations with overall dimensions and material callouts for the desired facility to a 30% completion level.
10. Communications Layout - The design of site communications will implement current Owner standard components with connections using Owner's communications protocol.
11. Architect shall implement Owner's standards and designs for any branding or advertising required for the site.
12. Lighting Layouts. Areas of low lighting will be identified and appropriate lighting fixtures designed to fit the community context.
13. Landscaping Layouts. The appropriate level of landscaping for the size of facility, budget, and community context will be provided.
14. Opinions of probable costs at the intervals and in accordance with the requirements of the Agreement and other Contract Documents.
15. Draft specifications.

Prepare the RFQ/RFP Package, including Development of Bid and Final Construction Documents

Architect, with Owner's input, will prepare the RFQ/RFP Package to general contractors for construction of the Project, such RFQ/RFP Package to include bidding documents that incorporate Owner's comments to a set of 100% complete bid ready and permittable drawings, specifications, and cost estimates.

- A. Architectural. Final floor plans, building sections, wall sections, and details.
- B. Structural. Final foundation and framing plans, sections, and details. Site wall design will be performed in conjunction with information on the completed Grading and Drainage Plan.
- C. Mechanical\HVAC. Final plumbing plans for restrooms, roof and floor drains. HVAC for the restroom structure will be provided.
- D. Communications Layout. The final design of site communications will be completed using Owner's communications protocol.
- E. Lighting and Electrical. Electrical single line power diagram, building power and lighting plans, site lighting plans, equipment schedules, and details will be provided.

- F. Signage and Pavement Marking Layout. Signage and pavement marking plans will be finalized including construction notes and specifications. Final site-specific wayfinding signage should be included both inside and outside of structures.
- G. Erosion and Sediment Control. Disturbance limits and locations of silt fence, catch basin inserts, and other BMP will be finalized.
- H. The Storm Water Pollution Prevention Plan (SWPPP) for the proposed site will be finalized and a Notice of Intent (NOI) will be submitted.
- I. Civil Site Plans. Provide Layout Sheet, Grading & Drainage Sheet, General Notes Sheet, and Details Sheet to a complete design level in full compliance with the City of Gunnison's land development standards and submitted for a Building Permit. Construction level details notes, and specifications will be added.
- J. Landscape. Final plans and details will be provided.
- K. Drainage, Hydrology, Hydraulics Calculations. Detention and water quality calculations will be finalized for review and approval.
- L. Utility Coordination and Relocation Plans. Construction level details will be added to the utility plans. Permits will be acquired from appropriate utility providers and reviewing agencies.
- M. Architectural renderings will be finalized.
- N. Technical specifications for each discipline and system will be finalized.
- O. Architect shall coordinate with Owner on final front end specifications and requirements.
- P. Architect shall update opinion of probable construction costs/engineers estimates.

Bidding Services:

Full 100% Complete Construction Bid and Permittable Documents shall be prepared to allow Owner to advertise the construction project for competitive bidding. Architect shall provide copies of the bid documents, distribute the documents to interested firms, and collect the plan deposit. A record of firms that obtained the bid documents (plan holders of record) will be maintained by the Architect. Architect shall assist Owner staff in the review of all bids and make a recommendations concerning selection of a contractor for the Project and award of the construction contract for same. Architect shall attend pre-bid meeting(s), prepare and distribute bid addenda to all plan holders of record, and attend the bid opening.

Construction Engineering Assistance/Management and Construction Contract Administration Services/Inspection:

Architect shall provide construction management and contract administration assistance based on the needs of Owner and the complexity of the designed facility. Architect shall be required to maintain accurate records and documentation to be in full compliance with the requirements of the designed facility's funding source requirements, which fall under the State of Colorado. Architect shall have the capabilities to facilitate, manage, and provide oversight for the following tasks:

- A. Preconstruction Meeting
- B. Accurate Records and Documentation of Construction and Materials Required under State of Colorado
- C. Contractor Pay Application Approvals
- D. Weekly/ Biweekly Construction Progress Meetings
- E. Materials Testing / Validation

- F. Limited or Full Time Construction Inspection
- G. Managing Request for Information (RFI)
- H. Manage Change Order Requests
- I. Issue ASIs and PRs
- J. Provide detailed coordination with the Owner's other consultants and vendors and perform other services as required by Owner to complete the construction Project
- K. Facilitate and Coordinate Substantial Completion and Final Walkthrough
- L. Preparation of Punch List based on Substantial Completion Walkthrough
- M. Provide and /or Manage the Production of Accurate As-Builts/Record Drawings
- N. Oversee the Collection of Close Out Documentation
- O. Issue Certifications of Substantial Completion and Certifications of Final Completion



Exhibit B

Design Schedule

Exhibit C

Responsibility Matrix

SERVICE TO BE PROVIDED AND CONSULTANT NAME:	SOLE SOURCED TO ARCHITECT	ARCHITECT HIRES CONSULTANT BASED ON QUALIFIED BIDS	OWNER WILL HIRE DIRECTLY	OWNER WILL EITHER COMPLETE WITH ITS FORCES AND/OR RETAIN OUTSIDE VENDOR WITH EQUIPMENT	DESIGN-BUILT SUB-CONTRACTOR	PART OF ARCHITECT'S BASIC SERVICES
Interior Design:						
Casework: Architect						
Irrigation Design:						
Hardware: Architect						
LEED: Architect						
Specialty Lighting: Architect						
Special Systems:						
Fire Protection Design:						
Site and Bldg Signage and Wayfinding: Architect						
IT (Cable, Satellite Systems, Computers, In-Wall and Above Ceiling Cabling, Printers, Telephones, PVX, Computer Hardware, TVs:						
Security & Safety:						
Building Code Consulting:						
Equipment						
Building Operations & Maintenance: Parking Control						
Phase I Environmental						
Contractor:			X			
Site Survey:						
Low Voltage Systems:						
Geotechnical / Soils:						
Information Technology:						
Parking:						
Traffic:						

All such consultants and contractors shall be mutually acceptable to the Owner and Architect.



Exhibit D

Architect's Key Personnel

Exhibit E

Architect's Consultants

Exhibit F

Hourly Rate Schedule



Exhibit G

CDOT Grant Agreement

Additions and Deletions Report for

AIA® Document B101® – 2017

This Additions and Deletions Report, as defined on page 1 of the associated document, reproduces below all text the author has added to the standard form AIA document in order to complete it, as well as any text the author may have added to or deleted from the original AIA text. Added text is shown underlined. Deleted text is indicated with a horizontal line through the original AIA text.

Note: This Additions and Deletions Report is provided for information purposes only and is not incorporated into or constitute any part of the associated AIA document. This Additions and Deletions Report and its associated document were generated simultaneously by AIA software at 11:39:06 ET on 01/13/2026.

PAGE 1

AGREEMENT made as of the _____ day of _____ in the year 2025.

...

Gunnison Valley Transit Authority
P.O. Box 1911
507 Maroon Avenue
Crested Butte, Colorado 81224
Attn: Scott Truex, Executive Director

...

...

Design, engineering and construction of an Enhanced Bus Stop Facility with offices, public restrooms, passenger seating area and related bus and other vehicle parking and associated site improvements at 301 W. Tomichi Avenue in Gunnison, Colorado.

The Owner and Architect hereby agree as follows.

PAGE 2

4 SUPPLEMENTAL AND ADDITIONAL SERVICES

...

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.1 and the attached Exhibits. All Services (as defined herein, below) performed by Architect and all designs developed pursuant thereto shall conform to the requirements of the Agreement and attached Exhibits (collectively the "Agreement"), with Owner approved changes, and all (a) applicable federal, state and local laws, codes, ordinances and regulations ("Applicable Laws") in accordance with the Standard of Care (defined herein, below), and (b) all Project site requirements directed by Owner. In the event that there is any conflict or ambiguity between this Agreement and the Exhibits to this Agreement, then the terms and conditions of this Agreement shall govern. The Architect shall notify the Owner in writing in the event of such conflict.

...

The Owner's program consists of the follows:

Full architectural and MEP, civil, structural, environmental and geotechnical engineering services for the design, engineering and construction of the Enhanced Bus Stop Facility with offices, public restrooms, passenger waiting area and related bus and other vehicle parking and associated site improvements.

PAGE 3

The Enhanced Bus Stop Facility will include offices of approximately 1200 square feet (stick frame or pre-fab) and may be 1 or 2 stories, to include in-floor heat, two (2) public restrooms (2 stalls each), passenger waiting area, and office space for three (3) employees. Site is located at 301 N. Tomichi Avenue in Gunnison, Colorado and consists of approximately _____ square feet.

...

The Architect's Services shall be provided in conjunction with the services of a general contractor ("Contractor") to be selected later by Owner through a RFQ/RFP process after Architect's design for the Project has been completed. The delivery method of the Project will be schematic, design development and construction phase documents with a Guaranteed Maximum Price (defined below) at 100% Complete Construction Documents (defined below). The provisions of this Section 1.1.3 shall be interpreted consistently with Section 6.4 and each Subsection thereof, provided, however, that in the event of any conflict between the terms and provisions of this Section 1.1.3 and the terms and provisions of Section 6.4 and each Subsection thereof, the terms and provisions of Section 6.4 and each Subsection thereof, as applicable, shall govern and control.

The Owner's approved budget for the Project consists of the Cost of the Work and Contractor's Fee ("budget" or "approved budget") and is initially established at [\$1,250,000.00] and may be refined in accordance with this Agreement by Owner and the Architect. The contract sum ("Contract Sum") for the Contractor's Work on the Project shall be based on the Contractor's Cost of the Work plus its Fee, with a guaranteed maximum price (the "Guaranteed Maximum Price") to be established in the contract for construction of the Project, modified AIA Document 104-2019 Standard Abbreviated Form of Agreement between Owner and Contractor where the Basis of Payment is the Cost of the Work Plus a Fee with a Guaranteed Maximum Price ("Construction Contract") between Owner and Contractor. Capitalized terms used herein but not defined herein shall have the meanings given them in the Construction Contract, as modified by such parties, as and when the context so requires.

§ 1.1.3.1 Architect, with input from the Owner, will develop a program (the "Program") for the Project that will establish performance requirements, building square footage, design requirements, project goals and objectives and other specific elements to be incorporated into the Project and will include all required functional programming. Upon Owner's written approval of the Program, Architect shall commence work on the schematic design documents for the Project. Upon Architect's completion of what it believes, in its professional judgment consistent with the Standard of Care (hereinafter defined), are 100% complete Schematic Design Documents (approximately 30% complete Construction Documents) (the "30% Complete Design"), the Architect shall prepare a high level preliminary opinion of probable cost for the Project (the "Preliminary OPC") for Owner's review and approval. Material, equipment and labor costs in such Preliminary OPC will be based on historical cost per square foot data using system studies, area, volume and/or similar conceptual estimating techniques.

Following completion of the Preliminary OPC, Owner's review and approval of the same and provided such Preliminary OPC is trending within the Owner's approved budget for the Project, the Architect will proceed to prepare the Design Development Phase Documents for the Project. Upon Architect's completion of what it believes in its professional judgment, consistent with the Standard of Care, are 100% Complete Design Development Phase Documents (approximately 60% Complete Construction Documents) (the "60% Complete Design"), the Architect will generate a secondary opinion of probable cost (the "Secondary OPC"). Material, equipment and labor costs in such Secondary OPC will be based on historical cost per square foot data using system studies, area, volume and/or similar conceptual estimating techniques. The Secondary OPC will be submitted by Architect to Owner for Owner's review and approval.

Following Architect's completion of the Secondary OPC and provided the same is trending within the Preliminary OPC and the Owner's approved budget for the Project and has been approved by Owner, the Architect will proceed to work on the Construction Documents to the point at which Architect, in its professional judgment consistent with the Standard of Care, believes the Construction Documents are 90% complete (the "90% Complete Design"), at which

time the Architect shall generate a third opinion of probable cost of the Project (the "Third OPC"; together with the Preliminary OPC and Secondary OPC, the "OPCs" and each individually an "OPC") for the Owner's review and approval. If the Third OPC is trending within the prior OPCs and Owner's approved budget for the Project and provided Owner approves the same, the Architect shall complete the Construction Documents to one hundred percent completion (the "100% Complete Construction Documents") Completion of the 100% Completion Construction Documents may be referred to as the 100% Complete Design (together with the 30% Complete Design, 60% Complete Design and 90% Complete Design, the "Completed Design Phases" and each individually a "Completed Design" or "Completed Design Phase")

Following Architect's completion of the fully permitted 100% Complete Construction Documents and provided construction of the Project based on such 100% Completed Construction Documents remains within the Owner's approved budget for the Project and the OPCs, the Architect shall prepare the Request for Qualifications and Request for Proposal Package (the "RFQ/RFP Package") for Owner's review and approval and distribution to prospective general contractors for solicitation of bids for the Work identified and as described in the fully permitted 100% Complete Construction Documents. The Construction Contract will include a contract sum ("Contract Sum") based on the Cost of the Work plus the Contractor's Fee with a guaranteed maximum price (the "GMP" or "Guaranteed Maximum Price").

The GMP for the entire Project shall be undertaken in accordance with Section 6.4 and each Subsection thereof. The Guaranteed Maximum Price is subject to adjustments made pursuant to Change Orders approved by the Owner in accordance with the other terms and conditions of this Agreement.]

PAGE 4

See Exhibit B attached hereto and incorporated herein by this reference (the "Schedule") for Architect's schedule for delivery of services.

...
[] [TBD]

...
[] [TBD]

...
See Design Delivery Schedule

...
Competitive bid

...
N/A
PAGE 5

Gunnison Valley Transit Authority
P.O. Box 1911
507 Maroon Avenue
Crested Butte, Colorado 81224
Attn: Scott Truex, Executive Director

...

.1 Geotechnical Engineer:

.2 Civil Engineer:

...

...

§ 1.1.11.1 Consultants retained under Basic Services:Services (hereinafter defined):

...

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.3 Electrical Engineer:

.4 Plumbing:

.5 Civil Engineer:

.6 Environmental Engineer:

.7 Site Survey:

.8 Geotechnical/Soils:

See Responsibility Matrix, attached hereto as **Exhibit C** and incorporated herein by this reference, for a further description of consultants to be retained by Owner and Architect.

§ 1.1.11.2 Consultants retained under Supplemental Additional Services:

N/A

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§ 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, work together in good faith to determine what adjustments, if any, should be made to 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.

§1.2.1 In the event Contractor makes a claim for an increase in Contract Sum for the Project following its establishment and acceptance by Owner by reason of a claimed change in scope, Owner shall submit such claim to Architect and the Architect shall, as part of its Basic Services hereunder, render to Owner its analysis and interpretation of Contractor's claim for an increase in the Contract Sum for the Project and set forth recommendations as to maintaining the Contract Sum for the Project. If, after Owner's analysis of the Contractor's claim for an increase in the Contract Sum for the Project and Architect's interpretation of such claim, the Owner determines that the Contractor's claim for an increase in such Contract Sum is appropriate due to a change in scope caused by the Architect's acts, errors or omissions, Architect will, as a Basic Service, undertake a redesign of the Work in cooperation with Owner, Contractor and the appropriate subcontractors to bring the Project back within the Owner's approved budget. If the change in scope is due to Owner's changes or Contractor's changes or mistakes, then Architect will undertake a redesign of the Work as an Additional Service.

§ 1.2.2 The Architect's fee hereunder is not based on the Contract Sum for the Project but rather on the level and scope of the Architect's Basic Services provided by the Architect hereunder and Architect shall only be entitled to an increase in its fee hereunder on the basis that the scope or level of services provided by the Architect hereunder exceeds the scope or level of the services described in the Architect's Basic Services, and then only with the prior written approval of the Owner.

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

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

...

§ 2.1 The Architect shall provide professional services as set forth in this Agreement. Agreement and specified in Exhibit A attached hereto (hereinafter referred to as "Services"). To the extent additional Services are properly authorized pursuant to this Agreement, such additional services shall be deemed to be "Additional Services" as set forth in the Agreement, and subject to all provisions hereof regarding performance of Basic Services more fully described in Article 3 herein, below. The term "Services" includes Basic Services and Additional Services. The Architect shall execute the Services described in the Agreement and all Exhibits attached hereto, and reasonably inferable therefrom or a logical extension thereof. 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.

§ 2.1.1 Architect represents that it is a business entity that possesses a level of experience and expertise in design, construction, and contract administration of projects of similar or like size, complexity, and nature as the Project. The Architect further acknowledges that the Owner is relying on the Architect's representation that it possesses sufficient skill, knowledge, experience, and ability to fully perform the Architect's Services and obligations under this Agreement, and that it will assign to this Project similarly qualified individual professional architects, managing those professionals as needed.

§ 2.2 The Architect shall perform its services consistent with the professional skill and care ordinarily provided by architects practicing in the same or similar locality under the same or similar circumstances. The Architect shall perform its services Services consistent with the level of professional skill, diligence and care provided by other fully competent, qualified architect and design professionals experienced in performing similar design services on projects of similar complexity and sophistication, in similar locations, for similar clients, and within a similar time frame ("Standard of Care"). The Architect shall perform its Services as expeditiously as is consistent with such professional skill and care and the orderly progress of the Project.

§ 2.2.1 In the event of any error, omission or inconsistency in the Services provided by or on behalf of the Architect under this Agreement, (a) the Architect shall promptly furnish all professional design services necessary to correct such error, omission or inconsistency at no additional cost to the Owner or adjustment in the time permitted for performance of the Services; and (b) the Architect shall be liable to the Owner for all costs and damages incurred by the Owner on account thereof.

§ 2.2.2 Architect shall coordinate and align its efforts and the performance of its Services with Contractor and Owner and other consultants working on behalf of the Owner, and shall participate in regular communications and Project meetings to achieve an integrated team approach to the design and development of the Project. Architect shall cooperate with Owner's other contractors, consultants and design professionals with respect to its Services and all work on the Project.

§ 2.2.3 The term "approved" and its derivatives as used in this Agreement in reference to the Owner shall be interpreted to mean either (1) written acceptance, in general concept, by the Owner of a proposal, or (2) written authorization by the Owner to proceed with a particular action, as the case may be. The Owner's review and approval of any and all Instruments of Service or other matters required herein is not for the purposes of determining the

adequacy, accuracy and completeness of such Instruments of Service and other matters and in no way shall create any liability or responsibility on the part of the Owner for errors, inconsistencies or omissions in any approved Instruments of Service. The Architect hereby acknowledges and agrees that any such approval by the Owner is made in reliance on the Architect's professional skill, judgment and recommendations, without any independent investigation, review or evaluation by the Owner. In no event shall any approval by the Owner relieve the Architect of any responsibility or liability under this Agreement unless such approval is made by Owner against Architect's written advice.

§ 2.3 The Architect shall identify identify, in writing to Owner, a representative authorized to act on behalf of the Architect with respect to the Project. Once identified, the designated representative shall not be changed without the Owner's written authorization, except in the event of the death, disability, or termination of employment of such designated representative.

§ 2.3.1 The Architect shall coordinate with Owner all personnel assigned to and sub-consultants to be engaged on the Project and seek Owner's approval of such assignments and engagements. The Architect agrees that the key personnel in Architect's firm who shall be associated with the Services and perform in the capacity described are set forth in **Exhibit D** ("Key Personnel"). The Architect acknowledges and agrees that the services provided by Key Personnel shall be deemed personal services and that the designation and dedication of such Key Personnel and the availability of all Key Personnel to work on the Project is a material inducement to the Owner entering into this Agreement. The Architect shall not change any of the Key Personnel without prior written approval by Owner, unless said personnel cease to be employed by Architect. In either case, Owner shall be allowed to interview and approve replacement personnel. If any designated Key Personnel fails to perform to the satisfaction of the Owner, then, upon written notice, the Architect shall immediately remove that person from the Project. Architect shall within seven (7) days provide a permanent replacement person acceptable to the Owner.

§ 2.4 Except with the Owner's knowledge and written 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-insurance, at its sole cost and expense, for the duration of this Agreement 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 (\$) for each occurrence and (\$) in the aggregate for bodily injury and property damage. Insurance with limits of not less than One Million Dollars (\$1,000,000.00) for each occurrence, Two Million Dollars (\$2,000,000.00) General Aggregate and Two Million Dollars (\$2,000,000.00) Products-Completed Operations Aggregate with a sublimit of \$50,000 for any one fire.

§ 2.5.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Architect with policy limits of not less than (\$) 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. Insurance covering "any auto" or all owned, non-owned, and hired automobiles. Such insurance shall provide coverage not less than that of a standard Insurance Services Office (ISO) Business Auto Coverage policy with limits not less than listed below. Contractual Liability, if not provided in the policy form, is to be provided by endorsement. One Million Dollar (\$1,000,000) Combined Single Limit each occurrence for Bodily Injury and Property Damage.

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§ 2.5.5 Employers' Liability with policy limits not less than (\$) each accident, (\$) each employee, and (\$) policy limit of not less than One Million Dollars (\$1,000,000) Each Accident for Bodily Injury, One Million Dollars (\$1,000,000) Policy Limit Bodily Injury by Disease; One Million Dollars (\$1,000,000) Each Employee for Bodily Injury by Disease.

§ 2.5.6 Professional Liability covering negligent acts, errors and omissions in the performance of professional services with policy limits of not less than (\$) per claim and (\$) in the aggregate insurance coverage in an amount not less than Two Million Dollars (\$2,000,000) per claim, Three Million Dollars (\$3,000,000) in the aggregate. If such insurance is written on a claims made basis, the Architect and its Consultants shall maintain the insurance for the minimum period of the State of Colorado's applicable statutes of limitation and/or repose after Substantial Completion

of the entire Work and have a retroactive date prior to the effective date of this Agreement or the Consultant's consulting agreement with Architect, as applicable.

§ 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. Architect shall maintain fidelity and crime insurance including third party client coverage, covering all employees of Architect or its affiliates who handle or have access to funds, with limits of liability of no less than what is required in Section 2.5.1 above, including third party coverage and with deductible of not greater than \$100,000 unless approved by the Owner in writing, in advance.

§ 2.5.8 The Architect shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 2.5. Architect shall maintain cyber risk insurance with limits of liability no less than what is required in Section 2.5.1 above. Such insurance must cover first and third party losses/liability, where applicable, for data breaches, disclosure of personal information, credit monitoring, data breach response costs, reputational loss, business interruption, business income loss and dependent business income loss, data/network restoration costs, theft of proprietary corporate assets, funds transfer fraud, social engineering, and cyber extortion (ransomware), as well as costs, attorney's fees, fines, settlements, and judgments resulting from legal or regulatory proceedings.

§ 2.5.9 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.

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

§ 2.5.11 The Architect shall require that any and all of its consultants engaged or employed by the Architect carry and maintain similar insurance with appropriate levels of coverage given the scope of services of such sub-consultants unless otherwise agreed to in writing by Architect and Owner. The Architect and Architect's consultants shall submit proof of such insurance to the Owner in the form of Certificates of Insurance and original endorsements showing applicable coverage, all of which shall be in force prior to commencement of its and their Services hereunder, at the anniversary date(s) of the first submittal, and at any time when a material change in coverage, carriers, or underwriters occurs. The maintenance in full current force and effect of such coverages shall be a condition precedent to the Owner's obligation to pay under this Agreement. The insurance policies shall incorporate a provision requiring written notice to the Owner at least thirty (30) days prior to any cancellation, nonrenewal, or material modification of the policies.

§ 2.5.12 All such insurance coverages required of Architect under this Agreement shall be issued by companies authorized to do business in the State of Colorado with an A.M. best rating of A-IX or better.

§ 2.5.13 The policies of insurance for Commercial General Liability and Automobile Liability shall name the Owner, its offices, directors, and employees as additional insureds or loss payees, as their interest may appear, shall state that these coverages are primary as respects the additional insured and shall contain a waiver of subrogation endorsement in favor of the Owner, its offices, directors and employees.

§ 2.5.14 The limits of liability required herein shall be considered the minimum limits acceptable to the Owner and in no way should they be construed to limit the liability of the Architect unless otherwise expressly provided herein.

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§ 3.1 The Architect's Basic Services consist of "Basic Services" consist of and are defined as those described in this Article 3 and include usual and customary structural, mechanical, and electrical engineering services. **Exhibit A** hereto and include all professional services necessary for the complete design, engineering and documentation of the Project, including usual and customary structural, civil, mechanical, electrical, plumbing, environmental, and geotechnical engineering services and all other services set forth in this Agreement which are not specifically

designated as Additional Services in Article 4 below. The Architect agrees that the compensation for Basic Services set forth in Section 11.1 below constitutes sufficient consideration for the provision of all professional services (including all fees and expenses of Architect's consulting structural, mechanical, electrical, plumbing, environmental, geotechnical and civil engineers and all other consultants) necessary to properly design and engineer the Project and prepare the documents that are necessary for construction, the only exceptions to this being (i) the cost of those services that are provided by third parties and that are expressly designated herein as being the "Owner's responsibility" or are "Owner-provided" and (ii) the cost of those engineering or consulting services that become necessary as a result of a change in Project scope affecting the Architect and that are the subject of a written agreement between the Owner and the Architect. Services not set forth in this Article 3 are Supplemental or Additional Services, or in Part I of Exhibit A hereto are Additional Services. In the event of any conflict between this Article 3 and Exhibit A hereto, the terms and provision of Exhibit A shall govern and control.

§ 3.1.1 The Architect shall manage the Architect's services, Services and the services of its Consultants, 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. Services with those services provided by its Consultants and by the Owner, the Owner's consultants and the Contractor. 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. 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 Architect shall be responsible for coordination and internal checking of all drawings and for the accuracy of all dimensional and layout information contained therein, as fully as if each drawing were prepared by the Architect. The Architect shall coordinate its Services with its Consultants (as defined below) and the consultants retained by the Owner and the Project's Contractor so as to ensure that the Architect's design for the Project is free from overlaps, inconsistencies, gaps or interferences and is fully integrated with and into the design of Owner's consultants and the consultants of others, including the Projects' Contractor. The Owner shall direct its consultants to coordinate services with the Architect.

The Architect's duty to coordinate shall include a review of the services and documentation of the Owner's consultants for general consistency with the Services and documents of the Architect, the Architect's consultants and other consultants retained by the Owner or the Project's contractor. The Architect shall notify the Owner of the Owner's consultants in writing of any noncompliance or inconsistency discovered within three (3) days of discovery. The Architect shall be responsible for the completeness and accuracy of all drawings and specifications submitted to or through the Architect and for their compliance with Applicable Laws and the requirements of all applicable industry accreditation organizations. Construction Documents may be prepared in media compatible with the Owner's requirements. Elements of the design which are depicted in the plan view are required to be drawn in CAD medium.

3.1.2.1 The Architect's duty to coordinate shall include a review and documentation of the Owner's consultants for general consistency with the Services and documents of the Architect, the Architect's consultants and other consultants retained by the Owner and the Project's Contractor. The Architect shall notify the Owner or the Owner's consultants in writing of any noncompliance or inconsistency discovered within three (3) days following discovery of the same. Architect will promptly advise Owner and the Project Contractor of any inconsistencies, errors or omissions observed by Architect in documents prepared by others, will be responsible for the completeness and accuracy of all drawings and specifications submitted to or through the Architect and for their compliance with Applicable Laws and the requirements of all applicable industry accreditation organizations. The Architect shall at all times remains liable for the acts, errors and omissions of all Consultants at any tier retained by or through Architect for the Project, including any defective or incomplete design or engineering produced or prepared by such Architect-retained Consultants.

§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit for the Owner's approval a schedule for the performance of the Architect's services. The schedule Services. The Schedule initially shall include anticipated dates for the commencement of construction and for Substantial Completion of the Work as set forth in the Initial Information. The schedule Schedule shall include allowances for periods of time required for the Owner's review, for the performance of the Owner's consultants, and for approval of submissions by authorities having jurisdiction over the Project. the Project, design activities, document preparation, coordination efforts with other consultants and documentation and printing. The Schedule sets forth the dates on which the Architect plans to

complete the schematic design phase, design development phase, construction document phase, and the bidding or negotiations phase. The Architect shall monitor the Schedule for conformance and shall promptly advise the Owner of any delay or potential delays to the approved Schedule. Once approved by the Owner, time limits established by the schedule shall not, except for reasonable cause, be exceeded by the Architect or Owner. With the Owner's approval, the Architect shall adjust the schedule, if necessary, as the Project proceeds until the commencement of construction.

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§ 3.1.5 The Architect shall contact governmental authorities as 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.

...

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

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§ 3.2.5 Based on the Owner's written 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. Architect will meet with Owner as necessary to present and review the material, including any cost estimate prepared by Owner's cost estimator or general contractor.

§ 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 Supplementalan Additional Service under Section 4.1.4.2

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

...

§ 3.3.2 The Architect shall updateassist the Owner in updating 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,Owner in accordance with the Schedule, advise the Owner of any potential adjustments to the estimate of the Cost of the Work, take any actions required under Section 6.5, and request the Owner's approval.

...

§ 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 Construction Documents shall describe and reflect the work necessary to permit and construct the Project. The Owner and Architect acknowledge that, in order to perform the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.4.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents. If necessary and as a Basic Service, the Architect and/or Architect's consultants shall attend all meetings with governmental authorities as required to obtain appropriate permits.

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

§ 3.4.4 The Architect shall update the estimate for consult with and advise the Owner in Owner's efforts to update the estimate of the Cost of the Work prepared in accordance with Section 6.3.

§ 3.4.5 The Architect shall submit the Construction Documents to the Owner, Owner in accordance with the Schedule, provide input to and 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. 6.4 and each Subsection thereof, and request the Owner's approval.

§ 3.4.6 Construction Documents will include all details reasonably necessary (including those reasonably inferable therefrom or a logical extension thereof) to allow an experienced general contractor to bid and construct all components of the Work, and shall include any and all specifications necessary to establish the quality of the supplies and materials to be employed and systems required.

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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) fully permitted 100% Complete Construction Documents, the Architect shall (1) prepare and distribute the RFQ/RFP Package to prospective general contractors, (2) obtain either competitive bids or negotiated proposals from prospective contractors, subcontractors and suppliers of all tiers; (3) confirm, in consultation with Owner, responsiveness of bids or proposals; (4) assist Owner in determining the successful bids or proposals, if any; and, (5) assist Owner in awarding and preparing contracts for construction.

...

- .1 facilitating the distribution of Bidding Documents procuring the reproduction of Bidding Documents for distribution to the selected Contractor, who will distribute to prospective bidders;
- .2 distributing the Bidding Documents to prospective bidders, requesting their return upon completion of the bidding process, and maintaining a log of distribution and retrieval and of the amounts of deposits, if any, received from and returned to prospective bidders;
- .3 organizing and conducting a pre-bid conference for prospective bidders;
- .4 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,
- .5 organizing and conducting the opening of the bids, and subsequently documenting and distributing the bidding results, as directed by the Owner.

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

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§ 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. A104-2017, Standard Abbreviated Form of Agreement Between Owner and Contractor, as modified by Owner and Contractor, all modifications to which shall

automatically modify the corresponding provisions of this Agreement unless otherwise agreed in writing by the Owner and the Architect. The Architect shall cooperate fully with Contractor and shall not interfere with or hinder Contractor's performance of its work. Architect shall timely and properly respond to Contractor's inquiries and requests for information.

§ 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, have no power, authority, right, or obligation to supervise, direct or control the activities of any contractor or subcontractor, or the Contractor, their agents, servants or employees. The Architect shall be responsible for the Architect's and its employees' and Consultants' at all tiers' acts or omissions, but shall not be responsible for the acts or omissions of the Contractor or of any other persons or entities performing portions Subcontractors or other persons or entities not under Architect's control performing any portion 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 date the Architect issues the final Certificate for Payment. Notwithstanding the foregoing Architect shall, as a part of its Basic Services hereunder conduct six (6) month and eleven (11) month warranty walk-throughs of the Project for purposes of observing the Project's operations and assisting Owner in evaluating any defective Work that may need correction by the Project's Contractor during such Contractor's one (1) year correction period required under the Construction Contract for the Project.

§ 3.6.1.4 During construction, Architect will promptly review and respond to written requests for information and material, product and equipment submittals from the Contractor. Architect will not approve the substitution of specified materials, products or equipment without prior written approval of the Owner. Architect will periodically visit the Project during construction of the Work and advise Owner of the progress and quality of Work completed. During such site visits, Architect will, consistent with the Standard of Care, identify any readily observable deficiencies in the Work, and otherwise determine if the Work is being performed in a manner consistent with the Construction Documents and in compliance with Applicable Laws. Architect will notify Owner and Contractor of any known deviations from the approved schedule for completion 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 observe and to become~~ familiar with the progress and quality of the portion of the Work completed, and to ~~determine, in general,~~ determine if the Work ~~observed~~ is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. ~~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~~ On the basis of the Architect's observations at site visits, the Architect shall keep the Owner ~~reasonably fully~~ informed about the progress and quality of the portion of the Work completed, and promptly report in writing to the Owner ~~(1)~~ and Contractor ~~(i)~~ known deviations from the Contract Documents, ~~(2)~~ (ii) known deviations from the most recent construction schedule submitted by the Contractor, and ~~(3)~~ (iii) defects and deficiencies observed in the Work. In the event that the deviations, defects or deficiencies observed may have any future impact on the construction schedule or cost, the Architect shall also notify the Owner and Contractor in writing immediately of such deviations, defects, or deficiencies.

§ 3.6.2.2 The Architect has the authority to reject Work that does not conform to the Contract Documents. Documents and shall immediately provide the Owner and Contractor written notice of all such occurrences. Whenever the Architect considers it necessary or advisable, the Architect shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work. The Architect shall submit a written report to the Owner within forty-eight (48) hours following the Architect's taking

any action under this Section 3.6.2.2. If costs are associated with the Architect's direction related to this Section 3.6.2.2, the Architect must first receive written approval from the Owner prior to taking any action (in addition to just making observations) under this Section 3.6.2.2.

§ 3.6.2.3 The Architect shall promptly interpret and decide advise on 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, within three (3) business days following its receipt of such invoice.

§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of, and reasonably inferable from, from or a logical extension of, the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith. The Architect's decisions on matters relating to aesthetic effect shall be final if consistent with the intent expressed in the Contract Documents, either.

§ 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 The Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents. Any decisions made related to cost, schedule and/or quality shall be in cooperation with the Owner and shall not be binding upon Owner absent Owner's written consent.

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§ 3.6.3.1 The Architect shall review and certify the amounts due the Contractor and shall issue certificates in such amounts. Architect shall review and confirm the amounts due Contractor and issue the certificates for payment within seven (7) calendar days after submission by Contractor of each of its Owner-approved applications for payment. Architect shall be responsible to Owner for any claims or extra costs asserted by Contractor against Owner for Architect's failure to process applications for payment in a timely manner. Architect shall defend and hold Owner harmless from any such claims for failure to process applications for payment in a timely manner, including but not limited to any and all attorneys' fees and expenses incurred by Owner in defending such claims. 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, by the Architect and acceptable to Owner in its reasonable discretion, and (5) adequate documentation backup being provided by the Contractor.

...

§ 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 (but in no event later than ten (10) days following receipt) 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, but only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents. Review of such submittals is not for the purpose of determining the accuracy and completeness of other information such as dimensions, quantities, and installation or performance of equipment or systems, which are the Contractor's responsibility, responsibility, except to the extent the Contractor has requested assistance of the Architect to determine dimensions or quantities because of conflicts between the Contract Documents and existing field conditions or because dimensions or quantities in the Contract Documents contain erroneous, inconsistent, or incomplete information for which clarification is necessary. The Architect's review shall not constitute approval of safety precautions or construction means, methods, techniques,

sequences or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 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. satisfy and shall coordinate the work of such design professionals with and into the design developed by the Architect pursuant to this Agreement and the other Contract Documents. 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, upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, but shall, consistent with the Standard of Care, promptly notify the Owner and Contractor of any errors or omissions in such design professionals' work discovered by the Architect and shall be liable to the Owner for any loss or damage incurred by the Owner as a result of such errors or omissions that are discovered by the Architect and not promptly reported to the Owner and Contractor.

§ 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 shall assume and maintain design liability for all drawings and specifications produced or generated by Architect or its Consultants at any level that may be impacted by a request for information. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. within three (3) business days. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to the requests for information. All supplemental drawings and specifications will be clouded for clarity and ease of recognition. Under no circumstances shall the Contractor, Owner or Owner's Representative, if any, take on or otherwise be responsible for the design liability for the accuracy or completeness of any requests for information or clarifications.

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§ 3.6.5.1 The Architect may order Subject to Owner's prior written approval, Architect may authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Subject to Section 4.2, the Architect shall prepare Change Orders and Construction Change Directives for the Owner's approval and execution or rejection in accordance with the Contract Documents. The Architect shall review and respond in writing to Change Order requests within five (5) business days following Architect's receipt of such requests, or sooner if feasible.

§ 3.6.5.2 The Architect shall maintain records relative to changes in the Work. Such records shall be made available to the Owner upon request at no additional cost or expense to the Owner.

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- .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, that 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. The Architect and its Consultants shall prepare a separate punch list of incomplete items that are not included in the Contractor's list.

§ 3.6.6.3 When Subject to Owner's approval, when Substantial Completion has been achieved, the Architect shall inform the Owner about the balance of the Contract Sum remaining to be paid the Contractor, including the amount to be retained from the Contract Sum, if any, for final completion or correction of the Work.

§ 3.6.6.4 The Architect shall forward to the Owner the following information received from the Contractor: (1) consent of surety or sureties, if any, to reduction in or partial release of retainage or the making of final payment; (2) affidavits, receipts, releases and waivers of liens, or bonds indemnifying the Owner against liens; ~~and (3) (3) temporary and final certificates of occupancy issued by the applicable governmental agency having jurisdiction over the Project and the Work; and (4) any other documentation required of the Contractor under the Contract Documents.~~

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

ARTICLE 4 SUPPLEMENTAL AND ADDITIONAL SERVICES

ARTICLE 4 ADDITIONAL SERVICES

§ 4.1 Supplemental Services*Intentionally Omitted.*

§ 4.1.1 The services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Supplemental Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. 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	
§ 4.1.1.2 Multiple preliminary designs	
§ 4.1.1.3 Measured drawings	
§ 4.1.1.4 Existing facilities surveys	
§ 4.1.1.5 Site evaluation and planning	
§ 4.1.1.6 Building Information Model management responsibilities	
§ 4.1.1.7 Development of Building Information Models for post construction use	
§ 4.1.1.8 Civil engineering	
§ 4.1.1.9 Landscape design	
§ 4.1.1.10 Architectural interior design	
§ 4.1.1.11 Value analysis	
§ 4.1.1.12 Detailed cost estimating beyond that required in Section 6.3	
§ 4.1.1.13 On-site project representation	
§ 4.1.1.14 Conformed documents for construction	
§ 4.1.1.15 As-designed record drawings	
§ 4.1.1.16 As-constructed record drawings	
§ 4.1.1.17 Post-occupancy evaluation	
§ 4.1.1.18 Facility support services	
§ 4.1.1.19 Tenant-related services	
§ 4.1.1.20 Architect's coordination of the Owner's consultants	
§ 4.1.1.21 Telecommunications/data design	
§ 4.1.1.22 Security evaluation and planning	

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

§ 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.

...

§ 4.2.1 Upon recognizing the need to perform the following Additional Services, the Architect shall notify the Owner with reasonable promptness and explain the facts and circumstances giving rise to the need. The Architect shall include the cost of these Additional Services and schedule impact, if any. The Architect shall not proceed to provide the following Additional Services unless and until the Architect receives the Owner's written authorization:

- .1 Services necessitated by a material 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; method that have a direct financial impact on the Architect's Services but only to the extent any of the foregoing changes are not required in whole or in part as a result of the Architect's negligence or failure to perform and are not a logical extension of or reasonably inferable from the Initial Information or Owner's program for the Project;
- .2 Services necessitated by the enactment or revision of codes, laws, or regulations, Applicable Laws, 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 of Applicable Laws not in force at the start of design or 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;

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

...
§ 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, upon receipt of the Architect's notice, the Owner determines that all or parts of the services are not required, the Owner shall give prompt written notice to the Architect of the Owner's determination. The Owner shall compensate the Architect for the services provided prior to the Architect's receipt of the Owner's notice.

- 1.1 Reviewing a Contractor's submittal out of sequence from the submittal schedule approved by the Architect;
- 1.2 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;
- 1.3 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;
- 1.4 Evaluating an extensive number of Claims as the Initial Decision Maker; or,
- 1.5 Evaluating substitutions proposed by the Owner or Contractor and making subsequent revisions to Instruments of Service resulting therefrom.Intentionally Omitted.

...

- 1.1 (→) Three (3) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor
- 1.2 (→) [TBD (TBD)] visits to the site by the Architect during construction
- 1.3 (→) Three (3) 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
- 1.4 (→) Three (3) 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 3.6.6.5, those Services that do not exceed the limits set forth in Section 4.2.3, and the six (6) and eleven (11) month warranty walkthrough of the Project (which shall be completed by Architect as part of its Basic Services hereunder), Construction Phase Services provided more than 60 ninety (90) days after (1) the date of Substantial Completion of the Work or (2) the initial date of Substantial Completion identified in the agreement between the Owner and Contractor, whichever is earlier, shall be compensated as Additional Services to the extent the Architect incurs additional cost in providing those Construction Phase Services.

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

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

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

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

~~§ 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.~~ **Intentionally Omitted.**

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~~§ 5.9 The~~ ~~Owner shall furnish tests, inspections and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials. If additional Owner-provided information regarding the Project (other than that which is listed in this Article) is needed for complete performance of the Architect's Services, the Architect shall notify the Owner in writing as to exactly what additional information is needed and the Architect's basis for that opinion.~~

~~§ 5.10 The~~ ~~Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests. However, if the need for such Services is the result of the Architect's errors, omissions or nonperformance under this Agreement the cost of the Services shall be the Architect's responsibility.~~

...

~~§ 5.12 The~~ ~~Owner shall include the Architect in all communications with the Contractor that relate to or affect the Architect's services Services or professional responsibilities. The Owner responsibilities and shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Architect's Services. Communications by and with the Architect's consultants shall be through the Architect. Architect may communicate directly with the others involved with the Project for the purpose of sharing information, but Architect may only receive authorization with respect to the Services directly from Owner or Owner's designated representative.~~

~~§ 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 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. To the extent Architect actually becomes aware of an inaccuracy in the information provided by the Owner, Architect will promptly notify Owner. Owner makes no representations or warranties, express or implied, to Architect or its Consultants as to the accuracy, completeness or correctness of any reports, plans, specifications, documents and other information provided by Owner to Architect, and Owner hereby disclaims all such representations and warranties, including, but not limited to, any and all express or implied representations and warranties of merchantability, suitability, fitness for a particular purpose and compliance with Applicable Law with regard to any reports, plans and other information provided by Owner to Architect.~~

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

~~§ 5.16 Within fifteen (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.~~

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§ 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~~ Architect, and as determined by Owner, 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; ~~compensation for any Project consultants~~, 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~~may be adjusted throughout the Project as required under Sections ~~5.2, 6.4 and 6.5.~~5.2 and 6.4. Evaluations of (i) 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 ~~Work~~; (ii) the Preliminary OPC; (iii) Secondary OPC; and (iv) Third OPC, each prepared by 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. The Architect recognizes that its design directly impacts the Cost of the Work and therefore must be prepared to revise construction documents, at no additional cost or expense to the Owner, to allow the Contract Sum to align with the Owner's budget for the Project at the time the GMP is established by Owner and Contractor for the Project.

§ 6.3 In preparing evaluations of estimates of the Cost of Work, the Architect shall be permitted to ~~include~~take into account contingencies for design, bidding, and price escalation; to ~~determine~~recommend what materials, equipment, component systems, and types of construction ~~are to~~should 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~~recommended to adjust the estimated Cost of the Work to meet the Owner's budget. The Architect's estimate evaluation 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~~estimate as a Basic Service of the Architect.

§ 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. As described in Section 1.1.3, hereof, in order for the Owner to determine if the Project can be constructed for the Owner's approved budget, upon the Architect's achieving what it believes, using its professional skill and judgment and consistent with the Standard of Care, based on the Program requirements and Initial Information, is the 30% Completed Design, 60% Completed Design or 90% Completed Design, as applicable, for the Project, the Architect shall undertake a cost trending analysis of each such Completed Design Phase. Such analysis shall be completed in a mutually agreeable time following Architect's submission of such Completed Design to the Owner, during which time Architect may continue working on the next phase of design in order that the next Completed Design Phase for the Project is timely submitted to the Owner in accordance with the Schedule established on **Exhibit B** hereto.

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

§ 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.

§ 6.4.1 If following completion of Architect's cost trending analysis at each of the milestones as described in Section 6.4 above, Architect and Owner determine that each Completed Design is trending within the Owner's approved budget and at each of the milestones and the applicable OPCs previously established for the Project by Architect, the Architect shall commence and diligently complete within the Architect's Schedule described on **Exhibit B** hereto the next Completed Design Phase for the Project, which shall coordinate and integrate all necessary design and engineering elements or components of the Architect's Consultants, and be coordinated and integrated with the services of the Owner's separate consultants and any design-build and design-assist subcontractors, if any. Architect and Owner shall fully communicate during the completion of the 100% Complete Construction Documents through meetings and exchange of progress drawings so as to coordinate the Architect's completion of the 100% Complete Construction Documents and so as to maintain the Project within the Owner's approved budget and the OPCs previously established for the Project and minimize, to the extent reasonably possible, any claims for scope increases. Upon completion of the 100% Complete Construction Documents, Architect shall include them in the RFQ/RFP Package prepared by Architect for distribution to and bidding by prospective general contractors. If the results of such bidding and selected Contractor's GMP proposal based thereon indicate that such GMP proposal will remain within the Owner's approved budget and the OPCs previously established for the Project, the Owner and selected Contractor will execute the Construction Contract for construction of the Project incorporating such GMP proposal.

§ 6.4.2 If, following completion of Architect's detailed cost estimates and cost trending analyses, as described in Sections 6.4 and 6.4.1 above, Architect and Owner determine that any Completed Design is exceeding the Owner's approved budget and any OPCs previously established by the Architect for the Project, the Architect shall, as part of its Basic Services hereunder and at no additional cost or expense to the Owner: (i) render an interpretation of the OPCs and trending analysis for the Project and set forth recommendations to the Owner for maintaining the Owner's approved budget, as modified, if appropriate, for the Project; (ii) attend such meetings with the Owner and other parties as may be necessary, in the Owner's judgment, to reach an agreement as to the manner of maintaining any GMP for the Project within the Owner's approved budget and OPCs previously established for the Project, the Architect understanding and acknowledging that its collaboration, coordination and cooperation in this process is critical to the success of the Project, and (iii) when requested by the Owner, undertake and diligently complete within the Architect's Schedule described on **Exhibit B** hereto a redesign of the Project as may be necessary to bring the Cost of the Work back within the Owner's approved budget and the OPCs previously established for the Project, except for scope increases not caused by Architect's failure to comply with the Owner's approved budget and OPCs previously established for the Project. It is the Owner's intent that the process contained in this Section 6.4.2 shall not delay the Project and the Architect shall use all necessary resources and means to stay within the Architect's Schedule to bring the Cost of the Work for the Project back within the Owner's approved budget and any OPCs previously established for the Project.

§ 6.4.3 Notwithstanding anything to the contrary contained herein, Owner may terminate this Agreement upon notice to the Architect in the event an OPC for the Project established by Architect exceeds any OPC previously generated by Architect for the Project or the Owner's approved budget for the Project, and Owner, in its sole discretion, is not

satisfied with the redesign alternatives available to it. In the event of such termination: (i) Architect shall be compensated for the portion of Architect's Service's performed to the date of termination, together with Reimbursable Expenses then due and documented out-of-pocket expenses incurred in closure of the Project files, but the Architect shall not be entitled to compensation for work not performed or for incidental, direct or actual damages, exemplary or punitive damages, or lost profits or other consequential or special damages resulting from or related to such unperformed Work, all of which the Architect hereby expressly waives. Such compensation shall be Architect's sole remedy for termination of the Agreement; and (ii) Architect, upon request of the Owner, shall assign to Owner any subcontracts specified by Owner and grant and assign to Owner any licenses required or necessary to use the Instruments of Service to complete the Project. The provisions of the immediately preceding sentence shall be included in all subcontracts entered into by Architect with its Consultants.

§ 7.1 Plans, drawings, specifications, reports, documents and related materials prepared by the Architect and any other products of the Architect's work (collectively, "Instruments of Service") are Instruments of Service. The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project.

§ 7.2 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and shall retain all common law, statutory and other reserved rights, including copyrights. Submission or distribution of Instruments of Service to meet official regulatory requirements or for similar purposes in connection with the Project is not to be construed as publication in derogation of the reserved rights of the Architect and the Architect's consultants. Upon payment of all amounts due to Architect, the Architect shall assign to the Owner, without reservation, all copyrights to all project-related documents, models, photographs, and other expression created by the Architect. Among those documents are certain "Instruments of Service," including the design drawings and the drawings and specifications that are included in the Contract Documents not including Architect's pre-existing intellectual property. Also, the Owner's obligation to pay the Architect is expressly conditioned upon the Architect's obtaining a valid written comprehensive assignment of copyrights from the Architect's consultants in terms identical to those that obligate the Architect to the Owner as expressed in this subparagraph, which copyrights the Architect, in turn, hereby assigns to the Owner. The Owner, in return, hereby grants the Architect a nonexclusive license to reproduce the documents for purposes relating directly to the Architect's performance of this Project, for the Architect's archival records, and for the Architect's reproduction of drawings and photographs in the Architect's marketing materials. No other project-related documents may be reproduced for any other purpose without the express written permission of the Owner. No other copyrights are included in this grant of nonexclusive license to the Architect. This nonexclusive license shall terminate automatically and immediately upon the occurrence of either a breach of this Agreement by the Architect or the commission by the Architect of a tort or a crime potentially affecting the Owner or the Project. This nonexclusive license is granted to the Architect alone and shall not be assigned by the Architect to any other person or entity. Other provisions of this Agreement notwithstanding, this nonexclusive license shall terminate automatically upon an Architect's assignment of this nonexclusive license to another or Architect's attempt to do so without Owner's prior written consent. However, nothing in this paragraph shall be construed to preclude the Architect from, in turn, assigning to Architect's consultants a nonexclusive license coextensive with the Architect's applying to the documents originally created by that consultant.

§ 7.3 The Prior to transfer and assignment of the ownership (including copyrights) of the Instruments of Service to Owner in accordance with Section 7.2 hereof, the Architect grants to the Owner a nonexclusive license to use the Architect's Instruments of Service solely and exclusively for purposes of constructing, using, maintaining, altering and adding to the Project, provided that the Owner substantially performs its obligations under this Agreement, including prompt payment of all sums due pursuant to Article 9 and Article 11. Project. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Subcontractors, Sub-subcontractors, and suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service, subject to any protocols established pursuant to Section 1.3, solely and exclusively for use in performing services or construction for the Project. If the Architect rightfully terminates this Agreement for cause as provided in Section 9.4, the license granted in this Section 7.3 shall terminate.

§ 7.3.1 In the event the Owner uses the Instruments of Service without retaining the authors of the Instruments of Service, the Owner releases the Architect and Architect's consultant(s) from all claims and causes of action arising

from such uses. The Owner, to the extent permitted by law, further agrees to indemnify and hold harmless the Architect and its consultants from all costs and expenses, including the cost of defense, related to claims and causes of action asserted by any third person or entity to the extent such costs and expenses arise from the Owner's use of the Instruments of Service under this Section 7.3.1. uses; provided, however, that the foregoing shall not limit Architect's liability for its own negligence or willful misconduct or for errors or omissions contained in the Instruments of Service, except to the extent such liability directly arises from: (a) any modification of the Instruments of Service by Owner or any third party (including other design professionals) acting at the request of Owner or (b) the negligence of Owner or any third party (including other design professionals) acting at the request of Owner in using or interpreting such Instruments of Service or any request for information concerning such Instruments of Service. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

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

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§ 8.1.1 The Owner and Architect shall commence all claims and causes of action against the other and arising out of or related to this Agreement, whether in contract, tort, or otherwise, in accordance with the requirements of the binding dispute resolution method selected in this Agreement and within the period specified by applicable law, Applicable Law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Architect waive all claims and causes of action not commenced in accordance with this Section 8.1.1.

§ 8.1.2 To the extent damages are covered by property insurance, the Owner and Architect waive all rights against each other and against the contractors, consultants, agents, and employees of the other for damages, except such rights as they may have to the proceeds of such insurance as set forth in AIA Document A201-2017, General Conditions of the Contract for Construction, modified AIA Document A104-2017 Standard Abbreviated Form of agreement between Owner and Contractor. The Owner or the Architect, as appropriate, shall require of the contractors, consultants, agents, and employees of any of them, similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect and Owner waive waives consequential damages for claims, disputes, or other matters in question, arising out of or relating to this Agreement. This mutual-waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7. Owner's termination of this Agreement.

§8.1.4 The Architect agrees to the fullest extent permitted by law to indemnify and hold harmless Owner, its officers, directors, agents, and employees (collectively "Related Parties") from and against all third party judgments, liabilities, damages, losses, and expenses, including attorneys' fees and costs, suffered or incurred by Owner and/or any Related Party to the extent caused by or arising out of any of the following: (i) any breach of Architect's obligations under this Agreement, and/or (ii) any negligent errors, omissions, or acts in connection with the performance of the Architect's Services and duties contemplated by this Agreement to be performed by the Architect or any of its Consultants, whether such errors, omissions, or acts are committed by Architect or any Consultants retained by the Architect, or any other agents or employees of Architect or such Consultants or any other parties engaged by Architect in order to discharge its duties hereunder. The indemnification and hold harmless provisions set forth in this Section 8.1.4 shall not preclude or in any manner limit the other rights or remedies Owner may have under this Agreement, at law or in equity against Architect. This indemnity shall survive termination of this Agreement. The amount recoverable by Owner in any event shall not in any way be limited by the amount of insurance required as set forth in this Agreement.

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§ 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. **Informal Dispute Resolution.** At the written request of either the Owner or the Architect, and as a condition precedent to either mediation or litigation, the parties will attempt to resolve any dispute arising under or relating to this Agreement through the informal means described in this Section. Each party will appoint a senior management representative

who does not devote substantially all of his or her time to performance of this Agreement. The representatives will furnish to each other all non-privileged information with respect to the dispute that the parties believe to be appropriate and germane. The representatives will use commercially reasonable efforts to resolve the dispute without the necessity of any formal proceeding. Formal proceedings for the resolution of the dispute may not be commenced until the earlier of: (i) the designated representatives conclude that resolution through continued negotiation does not appear likely; or (ii) thirty (30) days have passed since the initial request to negotiate the dispute was made; provided, however, that a party may file earlier to avoid the expiration of any applicable limitations period, to preserve mechanic's lien rights, or to apply for interim or equitable relief. Either party may then file for mediation at any time after such date, subject to the terms of Section 8.2.2.

§ 8.2.2 Either party may, within thirty (30) days following the date of Informal Dispute Resolution as required in Section 8.2.1 above, file a Demand for Mediation with the other party. The Owner and Architect shall endeavor to resolve claims, disputes and other matters in question between them by mediation, mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Judicial Arbitrator Group in Gunnison, Colorado in accordance with the American Arbitration Association's Construction Industry Mediation Procedures in effect on the date of this the Agreement. A request for mediation Demand for Mediation shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the mediation. The request the Agreement. The Demand for Mediation may be made concurrently with the filing of a complaint or other appropriate demand for binding dispute resolution but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60-sixty (60) days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration proceeding is stayed pursuant to this section, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.order

§ 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. Such mediation shall be held for a period not to exceed one (1) day unless otherwise agreed in writing by the parties. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

...

(Check the appropriate box.)

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

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

Arbitration pursuant to Section 8.3 of this Agreement

Litigation in a court of competent jurisdiction

Other *(Specify)*

§ 8.3 Arbitration

§ 8.3 LITIGATION

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

date of this Agreement. A demand for arbitration shall be made in writing, delivered to the other party to this Agreement, and filed with the person or entity administering the arbitration. Litigation. This Agreement, and all matters interpreting it and arising under it shall be enforced in, and all parties do now submit to, the exclusive jurisdiction and venue of the Superior Court of Gunnison County, Colorado, in the event of any litigation concerning this Agreement, and regardless of where this Agreement may be executed. Each party consents to and agrees to file a general appearance in the event that it receives service of process.

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

§ 8.3.2 The foregoing agreement to arbitrate, and other agreements to arbitrate with an additional person or entity duly consented to by parties to this Agreement, shall be specifically enforceable in accordance with applicable law in any court having jurisdiction thereof. Jury Trial Waiver. To the fullest extent permitted by law, Owner and Architect specifically waive any right to a trial by jury in any court with respect to any contractual, tortious or statutory claim, counterclaim or cross-claim against the other arising out of or connected in any way to the Project or the Contract Documents. The complex commercial and professional aspects of the Agreement make a jury determination neither desirable nor appropriate. Architect shall include this provision in all agreements with its Consultants.

§ 8.3.3 The award rendered by the arbitrator(s) shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof. Attorneys Fees. In the event that either party brings legal action to enforce any provision of this Agreement, the prevailing party shall be awarded all of its reasonable costs and expenses, including attorney's fees, incurred by such party in connection with such action, including all attorneys' fees and costs of any associated appeal.

§ 8.3.4 Consolidation or Joinder

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

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

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

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

§ 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-Services under this Agreement. If the Architect elects to terminate or suspend services, the Architect shall give seven fifteen (15) days' written notice to the Owner before terminating this Agreement or suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Owner shall pay the Architect all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services-Services. The Architect's fees for the remaining services-Services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project, the Architect shall be compensated for ~~services~~ Services performed prior to notice of such ~~suspension~~, suspension, except to the extent Owner disputes payment for such Services in good faith. When the Project is resumed, the Architect shall be compensated for reasonable and verifiable expenses incurred (at cost) in the interruption and resumption of the Architect's ~~services~~ Services. The Architect's fees for the remaining ~~services~~ Services and the time schedules shall be equitably ~~adjusted~~ adjusted, except when suspension was necessitated by the acts, errors or omissions of Architect or its Consultants at any tier or anyone one else for whom Architect is legally responsible.

§ 9.3 If the Owner suspends the Project for more than 90 ~~cumulative~~ one hundred (120 consecutive calendar 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. The Owner may terminate this Agreement upon seven (7) days' written notice should the Architect materially breach the Agreement or fail to perform in accordance with the terms of this Agreement through no fault of the party initiating the termination. If the Owner terminates this Agreement for cause, then Architect is not entitled to any further compensation, if any, until the Services are fully completed by Owner and all costs and damages incurred by Owner as a result of the Architect's breach and the termination are fully reimbursed and paid.

§ 9.5 The Owner may terminate this Agreement upon not less than seven (7) 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~~ Services properly performed prior to termination, Reimbursable Expenses ~~incurred, then due,~~ and costs attributable to termination, including the costs attributable to the Architect's termination of consultant agreements. In no event shall Architect be entitled to payment of fees or other compensation on Services not performed or for lost profits or other consequential or special damages resulting from such terminations for convenience.

§ 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:

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

Intentionally Omitted.

§ 9.8 Except as otherwise expressly provided herein, herein (including, without limitation, Section 12.1 hereof), 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.

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

§ 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. The Owner and Architect, respectively, bind themselves, their agents, successors, assigns, and legal representatives to this Agreement. The Architect shall not assign or delegate any rights.

duties or obligations under this Agreement without the written consent of the Owner, which consent may be withheld in Owner's sole discretion. The Owner shall have the right, without Architect's consent, to 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, in each case first arising or accruing after such lender's election to assume this Agreement. The Owner shall have the further right to assign this Agreement to any affiliate, subsidiary, or parent company of Owner without Architect's consent. Except as otherwise specifically set forth herein, the Owner shall not assign this Agreement without the written consent of the Architect, which consent shall not be unreasonably withheld, conditioned, or delayed.

§ 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. 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 five (5) 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 five (5) 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.

§ 10.4 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. 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.

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

§ 10.6 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. 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 10.6.1. This Section 10.6 shall survive the termination of this Agreement.

§ 10.6.1 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 10.6.

§ 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. The Owner shall provide professional credit for the Architect in the Owner's promotional materials for the Project. This Section 10.7 shall survive the termination of this Agreement unless the Owner terminates this Agreement for cause pursuant to Section 9.4. 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.

§ 10.8 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. The Architect's Services will include the services of the consultants identified in Section 1.1.11 of this Agreement and on Exhibit E hereto (the "Architect's Consultants"). However, acceptance of Architect's Consultants or approval of new or changed Consultants shall not impose any liability on the Owner for the sufficiency of the Consultant's services nor diminish the Architect's responsibility for the work product, acts and conduct of the Consultants and Architect shall be and at all times remain liable for the acts, errors and omissions of its Consultants at all tiers. Each agreement of the Architect with any Consultant shall be in writing, shall be executed within thirty (30) days of the date of this Agreement, shall be assignable to the Owner without the consent of the Consultant, and shall specifically make the Owner an express third party beneficiary thereof. Each of the Consultant agreements shall also require each Consultant to discharge for the benefit of the Owner all of those responsibilities with respect to the work of such Consultant that the Architect agrees to discharge hereunder toward the Owner, including without limitation, the provisions of indemnification of the Owner, maintaining of insurance in the amounts and coverages required by this, compliance of the Consultant's work with Applicable Laws, project management and collaboration software system, and ownership of documents. Each of the Consultants shall be contractually obligated to perform during each phase of the Architect's Services those services with respect to such phase, including, without limitation, such Consultants providing construction contract administration services of the same nature and extent required of the Architect as to their respective specialty during the Construction Contract Administration Phase. The Architect shall cause each Consultant to be available during Construction Contract Administration for purposes of rendering interpretations and clarifications regarding the portion of the Construction Documents prepared by such Consultant, as a part of the compensation for the Architect's Services.

§ 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. Whenever the singular number is used in this Agreement and when required by the context, the same shall include the plural and vice versa and the masculine gender shall include the feminine and neuter genders and vice versa.

§ 10.10 Any notice or communication (which shall include, but not be limited to, a consent, an approval, a progress report, a statement or a demand) provided to a party hereto under this Agreement shall be in writing and shall be deemed given: (i) upon delivery, if by hand; (ii) after one (1) business day, if sent by United Parcel Service, Federal Express, or such other recognized express mail or air courier. All Notices hereunder shall be given as follows:

If to the Owner: Gunnison Valley Transit Authority
P.O. Box 1911
507 Maroon Avenue
Crested Butte, Colorado 81224
Attn: Scott Truex, Executive Director

With a copy to: Polsinelli P.C.

1401 Lawrence Street, Suite 2300
Denver, Colorado 80202
Attn: Paul V. Franke

If to the Architect: _____

With a copy to: _____

§ 10.11. The article and section headings contained in this Agreement are solely for the purpose of reference, are not part of the agreement of the parties and shall not in any way affect the meaning or interpretation of this Agreement.

§ 10.12 Any failure of any of the parties to comply with any obligation, covenant, agreement or condition herein may be waived by the party or parties entitled to the benefits thereof only by a written instrument signed by the party granting such waiver, but such waiver or failure to insist upon strict compliance with such obligation, covenant, agreement or condition shall not operate as a waiver of, or estoppel with respect to, any subsequent or other failure of the same or any other obligation, covenant, agreement or condition.

§ 10.13 This Agreement may be executed in any number of counterparts, each of which when so executed and delivered shall be deemed an original and all of which counterparts, taken together, shall constitute one and the same instrument. Delivery of an executed counterpart of a signature page of this document by facsimile or other generally accepted electronic means (i.e., PDF signature) shall be effective as delivery of a manually executed counterpart of this document.

§ 10.14 The Architect and the Owner agree that all Services, if any, performed by the Architect in connection with the Project prior to the execution of this Agreement are subject to the provisions of this Agreement.

§ 10.15 This Agreement and the Exhibits contain the entire understanding between the parties hereto with respect to the subject matter hereof. All previous contracts or agreements between Architect and Owner are hereby superseded by the terms of this Agreement and in the event of a conflict between the terms and provisions of a previous contract or agreement and the terms and provisions of this Agreement, the terms and provisions of this Agreement shall prevail or govern. Except as otherwise expressly stated herein, in the event of a conflict between the provisions of any Exhibit and this Agreement, this Agreement shall govern.

§ 10.16 The Architect is performing the Services under this Agreement as an independent contractor and not as an employee, agent, partner, or joint venturer with the Owner. It is understood and agreed that the Architect and its Consultants, together with their agents, servants, and employees, is at all times acting as an independent contractor, and that neither has any express or implied authority to assume or create any obligation or responsibility on behalf of, or in the name of, the other party. The Architect shall satisfy all tax and other governmentally-imposed responsibilities with regard to its own personnel, including, but not limited to, payment of social security taxes, workers' compensation, self-employment taxes, and all other payroll taxes.

§ 10.17 To facilitate the execution of the Project, the Owner and other parties performing work and services in connection with the Project shall, as requested by the Owner, have access to electronic files or, at the Owner's option, CAD files. The Owner recognizes that the CAD files are furnished for the convenience of the Owner and they do not supersede or replace information contained on the record hard copies of the documents as issued by the Architect.

§ 10.18 All matters that relate to the termination or expiration of the Agreement, that relate to ownership of Instruments of Service, as well as all rights and obligations of the parties hereto that may by their nature be expected to survive any termination or expiration of this Agreement, such as, but not limited to, requirements for insurance, Architect's duty to indemnify, and Architect's liability for defective design or other negligent or intentionally wrongful acts, errors or omissions of the Architect and its Consultants at any time shall, in each case, survive any termination or expiration of the Agreement and shall be given full force and effect notwithstanding any termination or expiration of the Agreement, but such survival shall not operate to extend any applicable statute of limitations or repose.

§ 10.19 Inasmuch as Architect is an independent contractor, it is understood and agreed that Owner is not responsible for verification of the work authorization of the Architect, the Architect's employees and/or any of Architect's Consultants at any tier that are retained by Architect to perform Services in relation to this Agreement. Architect represents, warrants and covenants to and for the benefit of Owner that Architect, its employees and Architect's Consultants at any tier and their employees are each authorized to work and are not acting, and will not act at any time during the term of this Agreement, in violation of (a) the Immigration Reform and Control Act of 1986 and/or any amendments and regulations existing thereunder; (b) the immigration laws of any country in which the work under this Agreement is to be performed; and/or (c) the requirements of any other Applicable Laws prohibiting or regulating the employment undocumented workers. Architect shall defend, indemnify and hold Owner harmless against any and against any and all fines, penalties, costs, attorneys' fees and/or other outlays which are incurred because of Architect's or its Consultants' (at any tier) breach of this Section.

§ 10.20 In connection with the performance of Services under this Agreement, the Architect agrees not to refuse to hire, discharge, promote or demote, or to discriminate in matters of compensation, against any person otherwise qualified on the basis of race, color, religion, national origin, gender, gender variance, age, military status, sexual orientation, marital status or physical or mental disability; and further agrees to insert the foregoing provision in all agreements with its Consultants.

§ 10.21 Neither party to this Agreement shall use the name of the other party in any advertising, marketing or promotional materials without the express written consent of the other party.

§ 10.22 Time is of the essence in the performance of all of the Architect's and its Consultants' covenants, obligations, terms, conditions and other provisions under this Agreement and all of the other exhibits, schedules, addenda and attachments to this Agreement.

§ 10.23 The Owner and the Architect agree that this Agreement and all exhibits and attachments thereto shall not be subject to any rule of contract interpretation or construction requiring that, in the event of ambiguity, the same be construed against the drafting party, and the parties hereto hereby waive the benefit of any such rule of contract interpretation or construction.

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.2 Percentage Basis Intentionally Omitted

...

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

.3 Other.3 Intentionally Omitted

...

§ 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.) Intentionally Omitted.

...

§ 11.4 Compensation for Supplemental and Additional Services of the Architect's consultants when not included in Section 11.2 or 11.3, shall be the amount invoiced to the Architect ~~plus percent (%)~~, or as follows: with no mark-up. *(Insert amount of, or basis for computing, Architect's consultants' compensation for Supplemental or Additional Services.)*

...

<u>Programming Phase</u>	<u>percent (</u>	<u>%)</u>
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§ 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. **Intentionally Omitted**

§ 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 Services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services Services of the Architect and the Architect's consultants are set forth below, on Exhibit F attached hereto and incorporated herein by this reference. The rates shall be adjusted in accordance with the Architect's and Architect's consultants' normal review practices.

...

See Exhibit F hereto.

...

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

.1 Transportation Local transportation and authorized out-of-town travel and subsistence;

...

.8 If required by the Owner, and with the Owner's prior written approval, the Architect's or 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 or the Architect's consultants; Consultants;

...

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses actually incurred by the Architect and the Architect's consultants ~~plus percent (%)~~ of the expenses incurred. Consultants, with no mark-up. The approved budget for such Reimbursable Expenses is \$, and in no event shall such Reimbursable Expenses exceed \$ ~~-without written authorization from Owner prior to such Reimbursable Expenses being incurred. If Architect fails to obtain Owner's written approval in advance of incurring such Reimbursable Expenses, then Owner shall have no obligation to make payment to Architect for such Reimbursable Expenses. Architect shall provide Owner with written notice when the total Reimbursable Expenses incurred total \$~~.

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§ 11.10.1.1 An initial payment of ~~(\$)~~ 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. **Intentionally Omitted**.

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

~~§ 11.10.2.1 Unless otherwise agreed, payments for services Services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid () days after the invoice date Services performed. Payment of undisputed amounts are due and payable within thirty (30) days following Owner's receipt of an Owner-approved invoice from the Architect. In the event that Owner fails to make payment when due and owing to Architect, Architect shall provide Owner with written notice and a ten (10) day cure period before Architect may exercise any other rights provided in this Agreement. The Architect shall submit an invoice on or about the twentieth (20th) day of the month, for Services performed during the prior month. The Architect shall submit with each invoice a current, itemized cumulative statement of amounts invoiced, amounts received, reimbursable expenses invoiced and received, all other funds sought and received by the Architect, and remaining contract billing limits. All invoices shall be sequentially numbered with a unique identification number for the Project. When the Owner specifies that a payment is to be applied in satisfaction of a certain invoice or portion of an invoice, the Architect shall apply the payment to the account as specified and shall indicate that specific application on subsequent monthly statements. Amounts not properly paid when due after the expiration of any applicable cure period 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.~~

...

~~%—The lesser of six percent (6%) per annum or the rate allowed pursuant to applicable law.~~

~~§ 11.10.2.2 The Owner shall not may 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 Work if 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 Services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times. The Architect hereby waives all rights to payment by the Owner for otherwise reimbursable expenses when (a) the expense was incurred more than ninety (90) days before the date on which the Owner receives the invoice from the Architect initially requesting reimbursement for that expense; or (b) the first invoice for that expense is not accompanied by detailed documentation indicating the Project-related nature of the expense; or (c) that evidence is produced in a form that is inconsistent with the form of the invoice.~~

§11.10.3 Invoices

- ~~.1 The Architect will provide with each invoice copies of receipts for Reimbursable Expenses. Each invoice for Reimbursable Expenses will provide descriptions of the expenses incurred.~~
- ~~.2 Each invoice for fees will provide detailed descriptions of Services performed as Basic Services and Additional Services on an hourly rate basis and percentage of completion of Services performed on a lump sum basis including cumulative totals. Time shall be billed in not more than tenth (10th) of an hour increments.~~
- ~~.3 If requested by the Owner, the Architect's invoice shall include a current architect's lien waiver (conditional and unconditional) in the form reasonably satisfactory to Owner and a duly executed and acknowledged sworn statement indicating all consultants with whom the Architect has entered into a contract, the amount of such contract, and the amount requested for such progress payment. At Owner's sole election, Owner may also require executed lien waivers (both conditional and unconditional) from any or all of Architect's Consultants, all of which shall be in form and content reasonably satisfactory to Owner.~~
- ~~.4 Invoices for reimbursable expenses received more than ninety (90) days after the date on which such expenses were incurred by Architect will not be reimbursed by Owner.~~

§11.10.4 PAYMENT OF CONSULTANTS

The Architect agrees to promptly pay any and all sums due and owing to the Consultants for their work in connection with the Project when payment is made by the Owner, subject to the terms and conditions of the Architects' Agreements with its Consultants. In the event any mechanics' lien is filed by an Architect's Consultant against Owner or the Project in any circumstance in which Owner has paid Architect for the Services of such Consultant covered in such mechanics lien filing, the Architect shall indemnify, defend and hold the Owner harmless from and against any and all claims, including but not limited to mechanics' liens, filed or asserted by or on behalf of any of the Architect's Consultants, with respect to nonpayment of fees. At the Owner's request, the Architect will provide documentation of payments by the Architect to Consultants. Owner may also pay Architect's Consultants directly or require dual signature checks in the event of the filing of any such mechanic's lien. In the event any mechanics' lien is filed by an Architect's Consultant against the Owner or the Project in any circumstance in which Owner has paid for the Services of such Consultant covered in such mechanics' lien filing, the Architect shall either furnish the Owner a bond sufficient to discharge such lien or deposit in an escrow approved by the Owner and the Architect a sum sufficient to discharge the lien. Architect shall have the right and opportunity, in cooperation with the Owner, to contest the validity of any such mechanics' lien so long as during the pendency of any such contest, the Architect shall effectively stay or prevent any official or judicial sale of any of the real property or improvements comprising the Project or the property of which it is a part, upon execution or otherwise, and so long as the Architect pays any final judgment enforcing any such mechanics' lien and thereafter procures, within a reasonable time, the record satisfaction thereof; provided that if the Owner's lender(s) shall require release of such lien from the Project as a condition to further disbursement of loan proceeds, the Architect shall cause such lien to be effectively released from the Project as a condition to its right to contest such lien. In the event the Architect should fail to provide a bond or cash escrow as provided above, the Architect shall be obligated to pay and/or refund to the Owner all monies that the Owner may pay in discharging any such lien including all costs and reasonable attorneys' fees incurred by the Owner in settling, defending against, appealing or in any manner dealing with such lien. In the event a mechanics' lien claim is filed against the Owner or the Project for any Services of the Architect for which the Owner has previously made payment, the Owner shall have the further right to withhold from payments due or to become due to Architect an amount equal to one hundred fifty percent (150%) of the amount of the mechanics' lien claim until the same is released.

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§ 12.1 Owner's Right to Inspect and Audit.

§ 12.1.1 The Owner may inspect, and audit at any time, up to four (4) years after the completion of this Agreement, amounts paid to the Architect for Basic Services, Additional Services or Reimbursable Expenses under this Agreement and may reject any or all such Basic Services, Additional Services or Reimbursable Expenses if they are not in accordance with requirements of this Agreement. Such audits may be conducted by the Owner on a monthly or more frequent basis. The failure of the Owner's representative to inspect or reject any such request for Basic Services, Additional Services or Reimbursable Expenses shall not be construed as an acceptance of such expenses by the Owner.

§ 12.1.2 The Architect shall maintain accurate and complete records for all Basic Services, Additional Services and Reimbursable Expenses incurred in connection with each work assignment, including but not limited to timesheets, invoices, consultant records, and insurance records. Said records shall be maintained in conformance with generally accepted accounting principles and procedures. The Owner reserves the right at any time and from time to time for a period of four (4) years following the Final Completion of the Project, on a quarterly or more frequent basis as required by Applicable Law, to inspect, copy and audit said records, on the Architect's and its Consultants premises, during the Architect's and its Consultants business hours. The terms of this subsection shall appear in all of the Architect's subcontracts. The Owner will give the Architect and its Consultants at least five (5) business days' advance notice of any pending audit.

§ 12.1.4 The Architect and its Consultants shall make available knowledgeable personnel for interviews by the auditor and the Architect and its Consultants must make available reasonable work space for the auditor on their premises.

§ 12.1.5 The Architect and its Consultants shall provide the Owner with copies of records in computer-readable format as well as hard copy.

§ 12.1.6 The Owner may interview any of the Architect's current or former employees during the audit.

§ 12.1.7 Following an inspection or audit requiring corrective action, the Owner shall provide the Architect with a written description of the corrections required by the Owner and the date by which such corrections must be made. The Architect must advise the Owner when the corrections are made in order for the Owner to re-inspect the corrected work.

§ 12.2 Reduction in Scope of Project and Early Termination. Architect acknowledges that the Architect's Services to be provided by Architect and its Consultants are based on calculations and specifications requiring the design and construction of the Project, as more fully described above. Notwithstanding anything to the contrary contained herein or in any of the other documents or agreements executed in connection herewith, including, without limitation, any of the Contract Documents, if the Owner for any reason or no reason desires to reduce the scope of the Project and in connection with such reduction in scope provides Architect with a written request to provide it with an estimate of the cost to re-design the same to Owner's reduced scope, Architect agrees to provide Owner with a written proposal setting forth in detail the cost to undertake such re-design. Such proposal shall be provided to Owner no later than ten (10) days following Owner's written request therefor. If Owner and Architect reach agreement on the cost to re-design the Project and Owner and Contractor have reached agreement on a new Guaranteed Maximum Price for the reduced Project, Owner and Architect shall undertake to execute a new Standard Form of Agreement between Owner and Architect AIA Form B101, 2017 Edition on terms and conditions mutually acceptable to Owner and Architect. In the event Owner is not satisfied, in its sole and absolute discretion, with Architect's proposal to re-design the Project, the Contractor's revised Guaranteed Maximum Price, any other aspect of such Project or the documents and agreements to be executed, delivered and/or produced in connection therewith, or Owner for whatever reason otherwise elects not to proceed with the Project, Owner shall have the absolute and unconditional right to immediately terminate this Agreement and the Contract Documents. In such event, Architect shall only be compensated for the portion of the Architect's Services performed to the date of termination, together with Reimbursable Expenses then due and payable and documented out-of-pocket expenses incurred in closure of the Project files, but the Architect shall not be entitled to compensation for work not performed or for incidental, direct or actual damages, exemplary or punitive damages, or lost profits or other consequential or special damages resulting from or related to such unperformed Work, all of which the Architect hereby expressly waives. In the event of any termination pursuant to the Agreement, any compensation paid pursuant to this Section shall be deemed a final and complete settlement of all amounts owed to Architect and shall be Architect's sole and exclusive remedy for termination of the Agreement. Any termination of the Agreement pursuant to this Section shall be deemed a termination for convenience in accordance with Section 9.5 hereof, subject, however, to the limitations set forth in this Section.

§ 12.3 TABOR REQUIREMENTS THE PARTIES ACKNOWLEDGE THAT APPROPRIATION OF MONEYS BY THE OWNER IS A GOVERNMENTAL FUNCTION TO WHICH THE OWNER CANNOT CONTRACTUALLY COMMIT IN ADVANCE AND THAT THIS AGREEMENT DOES NOT CONSTITUTE: (I) A MULTIPLE FISCAL YEAR DIRECT OR INDIRECT DEBT OR FINANCIAL OBLIGATION (II) AN OBLIGATION PAYABLE IN ANY FISCAL YEAR BEYOND THE FISCAL YEAR FOR WHICH FUNDS ARE LAWFULLY APPROPRIATED; OR (III) AN OBLIGATION CREATING A PLEDGE OF OR A LIEN ON TAX OR GENERAL REVENUES. IN THE EVENT THAT THE OWNER DOES NOT APPROVE AN APPROPRIATION OF FUNDS AT ANY TIME DURING THE TERM OF THIS AGREEMENT FOR ANY PAYMENT DUE OR TO BECOME DUE FOR A FISCAL YEAR DURING THE TERM HEREOF, OWNER SHALL HAVE THE RIGHT TO TERMINATE THIS AGREEMENT ON THE LAST DAY OF THE FISCAL PERIOD FOR WHICH SUFFICIENT APPROPRIATIONS WERE RECEIVED, WITHOUT PENALTY OR EXPENSE. OWNER MAY TERMINATE THIS AGREEMENT BY GIVING NOTICE IN WRITING THAT (A) FUNDS HAVE NOT BEEN APPROPRIATED FOR THE FISCAL PERIOD, AND (B) OWNER HAS EXHAUSTED ALL FUNDS LEGALLY AVAILABLE FOR THE PAYMENT. IN SUCH EVENT SUCH TERMINATION SHALL BE DEEMED A TERMINATION FOR CONVENIENCE PURSUANT TO ARTICLE 9 HEREOF FOR WHICH NO FURTHER SUMS SHALL BE DUE OR PAYABLE TO DESIGN-BUILDER, ANYTHING CONTAINED IN THIS AGREEMENT OR THE OTHER CONTRACT DOCUMENTS TO THE CONTRARY NOTWITHSTANDING.

12.4 AGREEMENT SUBJECT TO CDOT GRANT FUNDING REQUIREMENTS. Architect has been advised by Owner that funding for the Project is being obtained, in part, from grant funding from the Colorado Department of Transportation ("CDOT") in furtherance of the Statewide Transit Plan Administered by CDOT. Such grant funding (estimated in the amount of approximately \$1,000,000.00 (the "CDOT Grant Funding")) imposes various contractual, legal and other requirements on Owner, as the grantee and recipient of the CDOT Grant Funding, as well as Owner's contractors, architects, engineers, consultants, vendors and other Project participants receiving the proceeds of such

CDOT Grant Funding, including Architect. Accordingly, Architect hereby agrees that, notwithstanding anything to the contrary contained in this Agreement or the other Contract Documents: (i) Architect shall at all times comply with, perform, observe, and be bound all terms, covenants and conditions of the CDOT Grant Funding applicable to it, including, without limitation, those set forth in the Grant Agreement between Owner and CDOT for the CDOT Grant Funding attached hereto as Exhibit G and incorporated herein by this reference (the "CDOT Grant Agreement") and Architect shall assume toward Owner all the covenants, obligations and responsibilities that Owner, by the CDOT Grant Agreement, assumes toward CDOT; (ii) CDOT shall be a third party beneficiary of all of Owner's rights, remedies, benefits and privileges under this Agreement; and (iii) in the event of any conflict between this Agreement and the CDOT Grant Agreement, the terms and provisions of CDOT Grant Agreement shall govern and control the respective rights, duties and obligations of the parties hereto. The terms of this Section 12.4 shall survive the termination of this Agreement and/or Substantial Completion of the Work.

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- .1 AIA Document B101™–2017, Standard Form of Agreement Between Owner and Architect
- .2 Building Information Modeling Exhibit, if completed:

.3 Exhibits:

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

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

...

<u>Exhibit A</u>	<u>Scope of Services</u>
<u>Exhibit B</u>	<u>Schedule</u>
<u>Exhibit C</u>	<u>Responsibility Matrix</u>
<u>Exhibit D</u>	<u>Architect's Key Personnel</u>
<u>Exhibit E</u>	<u>Architect's Consultants</u>
<u>Exhibit F</u>	<u>Hourly Rate schedule</u>
<u>Exhibit G</u>	<u>CDOT Grant Agreement</u>

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

OWNER:

GUNNISON VALLEY TRANSIT AUTHORITY

ARCHITECT:

By: _____

Title: _____

By: _____

Title: _____

Exhibit A

Scope of Services

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

This Exhibit A is attached to and forms an integral part of the Standard Form of Agreement between Owner and Architect, AIA Form B101-2017 (the "Agreement"), dated _____, 2025, between Gunnison Valley Transit Authority ("Owner") and ("Architect"). Capitalized terms used herein but not defined herein shall have the meanings given them in the Agreement.

Basic Services. The scope of Basic Services required of the Architect for the entire Project includes, but is not limited to, the following Services:

Full professional design services are required with all related engineering disciplines and must comply with all obligations and requirements of the governing jurisdictions of the site. These services include, but are not limited, to the following:

1. Full Architectural Services (Program Verification, Concept Design, Schematic Design, Design Development, Construction Documents, Contractor Selection, Bidding and Award and Construction Administration and Close-out)
2. Interior Design
3. Structural Engineering
4. Mechanical and Plumbing
5. Civil Engineering
6. Site Survey
7. Environmental
8. Geotechnical
9. Landscape Architecture
10. Entitlement
11. Fire Protection Engineering
12. Electrical, Lighting & Fire Alarm Engineering
13. Signage and Wayfinding Design
14. Cost Estimating (coordination with Owner)
15. Low Voltage Systems

16. Coordination with User Groups, Owner, and Owners Consultants and Vendors

17. Security

Coordination: Coordination meetings with Owner, other consultants, vendors, and user groups shall be a continuing work item for the Architect from contract execution through programming and conceptual design, schematic design, design development, construction documents, and contractor selection through the construction administration and warranty phase.

Immediately upon execution of the Agreement, the Architect will work to finalize the program/concept with Owner. Once the Architect has confirmed and validated the program plan and concept design, the Owner will release the Architect to move into Schematic Design.

CPM Schedule: Within 1 weeks of receipt of an executed contract, the Architect shall prepare a preliminary integrated Project Design Schedule. This schedule shall show all design phases, identify critical milestone dates, lead time for budget updates and cost trending analysis, including dues dates for the Architect's Preliminary, Secondary and Third Opinions of Probable Cost, Architect and Owner's Consultants' involvement and document coordination, Owner review and approval for each design phase and pricing exercise, print timelines and issue dates to the Owner and potential contractors to whom the RFQ/RFP package will be distributed.

Design Evolution:

Architect will design the Project in accordance with the terms and conditions of the Agreement, including, without limitation, Sections 1.1.3 and 6.4 and Article 3 thereof.. As the design evolves through the completion (Construction Documents), OPCS will be provided by the Architect in accordance with the Agreement to ensure that the Project does not exceed the Owner's approved budget including adequate contingency. Modifications of the drawings and specifications to keep the Project aligned with the budget will be made by Architect throughout design, if required, at no additional cost to the Owner, in accordance with the Agreement and other Contract Documents.

The Architect will work with the Owner to be certain that as the design evolves the Project remains within the Owner's approved budget for the same and within all OPCS generated by Architect during the course of its design and engineering for the Project and in accordance with the Agreement and other Contract Documents, in each case while maintaining the Owner's stated Project goals including schedule, quality, and performance.

The Architect will be expected to provide drawings files using 2024 CAD design software or newer, unless otherwise determined by the Owner.

Project Initiation:

To initiate the work, key members of the Architect's design team will meet with Owner staff for a project kick-off meeting to review the scope of work, schedule, and to refine project details. Owner values the importance of ongoing value-added communication and expects well-established and maintained lines of communication throughout the project. At the kick-off meeting, the Architect will:

A. Clarify project objectives, priorities, and deliverables.

- B. Identify and discuss critical local or regional issues.
- C. Develop a schedule for meetings.
- D. Identify project contacts and establish interface protocols between the Architect team, Owner, and any other parties that will be involved in the design process.
- E. Discuss data/mapping needs and other resources.
- F. Review the work plan with associated milestones.
- G. Develop a stakeholder and community outreach plan, including objectives, format, and participants.

Design Development Documents:

Architect will prepare design development documents for the approved concept, to include the following.

- A. Geotechnical and Site Survey.** Architect shall provide site survey and geotechnical services that include:
 - 1. Geotechnical Investigation and Report. Architect will obtain test borings in the area of proposed construction. Test borings should be taken in the location of the building and additional borings should be taken at other structural elements and/or retaining wall locations.
 - 2. A survey including boundary and topographic elements will be provided for Owner's site.
 - 3. Additional survey will include the adjacent street, Right of Way, and sidewalk adjacent to the site and shall include survey for anticipated roadway/intersection improvements. All mapping will include contours, site features, roads, structures, existing overhead traffic signals, existing signal equipment, and above and underground utilities.
 - 4. A hazardous material review of the site will be performed.
- B. Design Development Plans.** In accordance with Sections 1.1.3 and 6.4 of Agreement, Architect shall provide design and engineering documents to a 30 percent, a 60 percent and a 90 percent design completion level, that must be approved at each stage by Owner and the City of Gunnison. This includes the following tasks:
 - 1. Owner's review of operations and support of permit requests.
 - 2. Signage and Pavement Marking Layout. Signage and pavement marking plans will be produced for the site and adjacent street network including the proposed site layout, intersection/signal modifications, bus pull-offs, and driveway modifications to the site.
 - 3. Site specific wayfinding signage should be included both inside and outside of structure.
 - 4. Erosion and Sediment Control. Provide disturbance limits and identify locations of silt fence, catch basin inserts, and other best management practices (BMP).
 - 5. Civil Site Plans. Provide Layout Sheet, Grading and Drainage Sheet, General Notes Sheet, and Details Sheet to a 30% design level in full compliance with the Gunnison County's land development standards in preparation for a Building Permit. These plans will include construction on-site and the interface with adjacent street and pedestrian elements to the site.

6. Drainage, Hydrology, and Hydraulics Calculations. Provide initial calculations and documentation for required water quality devices, detention, site drainage structures, and interface to the existing drainage network at site outfall points.
7. Required Water Quality. BMP, detention, site drainage, and outfall points will be shown on the Grading & Drainage Sheet.
8. Utility Coordination and Relocation Plans. Provide waterline and sanitary sewer service line locations and ties to existing adjacent utilities. Provide relocation plans for utilities discovered on-site that conflict with anticipated grading and/or structures.
9. Facility/Architectural Plans. Provide architectural plans and elevations with overall dimensions and material callouts for the desired facility to a 30% completion level.
10. Communications Layout - The design of site communications will implement current Owner standard components with connections using Owner's communications protocol.
11. Architect shall implement Owner's standards and designs for any branding or advertising required for the site.
12. Lighting Layouts. Areas of low lighting will be identified and appropriate lighting fixtures designed to fit the community context.
13. Landscaping Layouts. The appropriate level of landscaping for the size of facility, budget, and community context will be provided.
14. Opinions of probable costs at the intervals and in accordance with the requirements of the Agreement and other Contract Documents.
15. Draft specifications.

Prepare the RFQ/RFP Package, including Development of Bid and Final Construction Documents

Architect, with Owner's input, will prepare the RFQ/RFP Package to general contractors for construction of the Project, such RFQ/RFP Package to include bidding documents that incorporate Owner's comments to a set of 100% complete bid ready and permittable drawings, specifications, and cost estimates.

- A. Architectural. Final floor plans, building sections, wall sections, and details.
- B. Structural. Final foundation and framing plans, sections, and details. Site wall design will be performed in conjunction with information on the completed Grading and Drainage Plan.
- C. Mechanical\HVAC. Final plumbing plans for restrooms, roof and floor drains. HVAC for the restroom structure will be provided.
- D. Communications Layout. The final design of site communications will be completed using Owner's communications protocol.
- E. Lighting and Electrical. Electrical single line power diagram, building power and lighting plans, site lighting plans, equipment schedules, and details will be provided.
- F. Signage and Pavement Marking Layout. Signage and pavement marking plans will be finalized including construction notes and specifications. Final site-specific wayfinding signage should be included both inside and outside of structures.
- G. Erosion and Sediment Control. Disturbance limits and locations of silt fence, catch basin inserts, and other BMP will be finalized.

- H. The Storm Water Pollution Prevention Plan (SWPPP) for the proposed site will be finalized and a Notice of Intent (NOI) will be submitted.
- I. Civil Site Plans. Provide Layout Sheet, Grading & Drainage Sheet, General Notes Sheet, and Details Sheet to a complete design level in full compliance with the City of Gunnison's land development standards and submitted for a Building Permit. Construction level details notes, and specifications will be added.
- J. Landscape. Final plans and details will be provided.
- K. Drainage, Hydrology, Hydraulics Calculations. Detention and water quality calculations will be finalized for review and approval.
- L. Utility Coordination and Relocation Plans. Construction level details will be added to the utility plans. Permits will be acquired from appropriate utility providers and reviewing agencies.
- M. Architectural renderings will be finalized.
- N. Technical specifications for each discipline and system will be finalized.
- O. Architect shall coordinate with Owner on final front end specifications and requirements.
- P. Architect shall update opinion of probable construction costs/engineers estimates.

Bidding Services:

Full 100% Complete Construction Bid and Permittable Documents shall be prepared to allow Owner to advertise the construction project for competitive bidding. Architect shall provide copies of the bid documents, distribute the documents to interested firms, and collect the plan deposit. A record of firms that obtained the bid documents (plan holders of record) will be maintained by the Architect. Architect shall assist Owner staff in the review of all bids and make a recommendations concerning selection of a contractor for the Project and award of the construction contract for same. Architect shall attend pre-bid meeting(s), prepare and distribute bid addenda to all plan holders of record, and attend the bid opening.

Construction Engineering Assistance/Management and Construction Contract Administration Services/Inspection:

Architect shall provide construction management and contract administration assistance based on the needs of Owner and the complexity of the designed facility. Architect shall be required to maintain accurate records and documentation to be in full compliance with the requirements of the designed facility's funding source requirements, which fall under the State of Colorado. Architect shall have the capabilities to facilitate, manage, and provide oversight for the following tasks:

- A. Preconstruction Meeting
- B. Accurate Records and Documentation of Construction and Materials Required under State of Colorado
- C. Contractor Pay Application Approvals
- D. Weekly/ Biweekly Construction Progress Meetings
- E. Materials Testing / Validation
- F. Limited or Full Time Construction Inspection
- G. Managing Request for Information (RFI)
- H. Manage Change Order Requests
- I. Issue ASIs and PRs

- J. Provide detailed coordination with the Owner's other consultants and vendors and perform other services as required by Owner to complete the construction Project
- K. Facilitate and Coordinate Substantial Completion and Final Walkthrough
- L. Preparation of Punch List based on Substantial Completion Walkthrough
- M. Provide and /or Manage the Production of Accurate As-Builts/Record Drawings
- N. Oversee the Collection of Close Out Documentation
- O. Issue Certifications of Substantial Completion and Certifications of Final Completion

Exhibit B
Design Schedule

Exhibit C

Responsibility Matrix

OWNER (Signature)

(Printed name and title)

ARCHITECT (Signature)

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

SERVICE TO BE PROVIDED AND CONSULTANT NAME:	<u>SOLE SOURCED TO ARCHITECT</u>	<u>ARCHITECT HIRES CONSULTANT BASED ON QUALIFIED BIDS</u>	<u>OWNER WILL HIRE DIRECTLY</u>	<u>OWNER WILL EITHER COMPLETE WITH ITS FORCES AND/OR RETAIN OUTSIDE VENDOR WITH EQUIPMENT</u>	<u>DESIGN-BUILD SUB-CONTRACTOR</u>	<u>PART OF ARCHITECT'S BASIC SERVICES</u>
Interior Design:						
<u>Casework:</u> Architect						
Irrigation Design:						
Hardware: Architect						
LEED: Architect						
Specialty Lighting: Architect						
Special Systems:						
Fire Protection Design:						
<u>Site and Bldg Signage and Wayfinding:</u> Architect						
<u>IT (Cable, Satellite Systems, Computers, In-Wall and Above Ceiling Cabling, Printers, Telephones, PVX, Computer Hardware, TVs;:</u>						
Security & Safety:						
<u>Building Code Consulting:</u>						
Equipment						
<u>Building Operations & Maintenance:</u>						
<u>Parking Control</u>						
Phase I Environmental						
<u>Contractor:</u>			X			
Site Survey:						
<u>Low Voltage Systems:</u>						
<u>Geotechnical / Soils:</u>						
<u>Information Technology:</u>						
Parking:						
Traffic:						

All such consultants and contractors shall be mutually acceptable to the Owner and Architect.



Exhibit D

Architect's Key Personnel

Exhibit E

Architect's Consultants



Exhibit F

Hourly Rate Schedule

Exhibit G

CDOT Grant Agreement

Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Paul Franke, hereby certify, to the best of my knowledge, information and belief, that I created the attached final document simultaneously with its associated Additions and Deletions Report and this certification at 11:39:06 ET on 01/13/2026 under Order No. 3104239713 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B101™ – 2017, Standard Form of Agreement Between Owner and Architect, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)

(Title)

(Dated)