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# **AIA**® Document B132™ – 2009

## **Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition**

**AGREEMENT** made as of the 18th day of July in the year 2017  
*(In words, indicate day, month and year.)*

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

Woodbury County, IA and/or Woodbury Board of Supervisors  
Woodbury County Courthouse  
620 Douglas Street  
Sioux City, IA 51101

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

Goldberg Group Architects, PC  
805 N. 36th Street – Suite B  
St. Joseph, MO 64506

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

Woodbury County Law Enforcement Center  
C.2 Staff, Medical and Exam Renovations  
Woodbury County  
407 7th Street  
Sioux City, IA 51101

The Construction Manager:  
*(Name, legal status, address and other information)*

The Baker Group  
4224 Hubbell Avenue  
Des Moines, IA 50317

The Owner and Architect agree as follows.

### **ADDITIONS AND DELETIONS:**

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

This document is intended to be used in conjunction with AIA Documents A132™–2009, Standard Form of Agreement Between Owner and Contractor, Construction Manager as Adviser Edition; A232™–2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition; and C132™–2009, Standard Form of Agreement Between Owner and Construction Manager as Adviser. AIA Document A232™–2009 is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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**ARTICLE 1 INITIAL INFORMATION**

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

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

§ 1.1.1 The Owner's program for the Project:

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

Renovate the second floor medical and examination areas and provide a staff break area. Upgrade and add to the existing security electronics systems, including, but not limited to, door controls, intercoms, security cameras, such that operating safety, security and efficiency are improved.

§ 1.1.2 The Project's physical characteristics:

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

§ 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.)*

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

.1 Design phase milestone dates, if any:

N/A

.2 Commencement of construction:

N/A

.3 Substantial Completion date or milestone dates:

N/A

.4 Other:

N/A

§ 1.1.5 The Owner intends to retain a Construction Manager adviser and:

*(Note that, if Multiple Prime Contractors are used, the term "Contractor" as referred to throughout this Agreement will be as if plural in number.)*

One Contractor

Multiple Prime Contractors

Unknown at time of execution

§ 1.1.6 The Owner's requirements for accelerated or fast-track scheduling, multiple bid packages, or phased construction are set forth below:

*(List number and type of bid/procurement packages.)*

N/A

§ 1.1.7 Other Project information:

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

The Construction Manager and the Architect shall work together to develop sequence of work to minimize impact of work as the building will be occupied throughout the construction process.

§ 1.1.8 The Owner identifies the following representative in accordance with Section 5.4:

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

Kenny Schmitz  
Director of Building Services  
Woodbury County  
620 Douglas Street  
Sioux City, IA 51101

§ 1.1.9 The persons or entities, in addition to the Owner's representative, who are required to review the Architect's submittals to the Owner are as follows:

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

Construction Manager

§ 1.1.10 The Owner will retain the following consultants:

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

- .1 Construction Manager: The Construction Manager is identified on the cover page. If a Construction Manager has not been retained as of the date of this Agreement, state the anticipated date of retention:

*(Paragraphs deleted)*

§ 1.1.11 The Architect identifies the following representative in accordance with Section 2.3:  
*(List name, address and other information.)*

Kevin Rost, AIA  
Goldberg Group Architects, PC  
805 N. 36<sup>th</sup> Street – Suite B  
St. Joseph, MO 64506

§ 1.1.12 The Architect will retain the consultants identified in Sections 1.1.12.1 and 1.1.12.2:  
*(List name, legal status, address and other information.)*

§ 1.1.12.1 Consultants retained under Basic Services:

.1 Mechanical Engineer:

Resource Consulting Engineers, LLC

.2

*(Paragraphs deleted)*

Electrical Engineer:

Resource Consulting Engineers, LLC

§ 1.1.12.2 Consultants retained under Additional Services:

N/A

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

N/A

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Architect shall adjust its services and the Owner and Architect shall appropriately adjust the schedule and Architect's compensation as necessary, and as mutually agreed upon by the parties.

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

§ 2.1 The Architect shall provide the professional services as set forth in this Agreement.

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

§ 2.3 The Architect shall provide its services in conjunction with the services of a Construction Manager as described in AIA Document C132™–2009, Standard Form of Agreement Between Owner and Construction Manager, as modified and as amended and approved by the Owner and Construction Manager. The Architect shall not be responsible for actions taken by the Construction Manager.

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

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

§ 2.6 The Architect shall maintain insurance as specified in Exhibit "C".

*(Paragraphs deleted)*

§ 2.6.6 The Architect shall provide to the Owner certificates of insurance evidencing insurance as specified in Exhibit "C".

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

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

§ 3.1.1 The Architect shall manage the Architect's services, consult with the Owner and the Construction Manager, 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 be a representative of and shall advise and consult with the Owner during the administration of the Contract for Construction and shall serve, in conjunction with the Construction Manager, as the "Owner's Authorized Contract Representative" for all designated purposes and/or responsibilities under Iowa Code Chapter 26. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this agreement, unless otherwise modified by written amendment.

*(Paragraph deleted)*

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

§ 3.1.4 As soon as practicable after the date of this Agreement, the Architect shall submit to the Owner and the Construction Manager a schedule of the Architect's services for inclusion in the Project schedule prepared by the Construction Manager. The schedule of the Architect's services shall include design milestone dates, anticipated dates when cost estimates or design reviews may occur, and allowances for periods of time required (1) for the Owner's review, (2) for the Construction Manager's review, (3) for the performance of the Owner's consultants, and (4) for approval of submissions by authorities having jurisdiction over the Project.

3.1.4.1 The Construction Manager shall provide the estimating services to establish the Project construction budget. However, the Architect is responsible for designing the Project within the Owner-approved Project construction budget. The "Project construction budget" means the estimate of cost of the Work developed or to be developed for the project by the Construction Manager and approved by the Owner, as such may be amended or updated from time to time. The Architect and Construction Manager shall coordinate and cooperate with each other in the development of the design in order to facilitate the achievement of the Owner's Project construction budget.

§ 3.1.5 The Architect shall submit information to the Construction Manager and participate in developing and revising the Project schedule as it relates to the Architect's services.

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

*(Paragraph deleted)*

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

§ 3.1.8 The Architect shall, at appropriate times, in coordination with the Construction Manager, contact the governmental authorities required to approve the Construction Documents and the entities providing utility services to the Project. In designing the Project, the Architect shall respond to applicable design requirements imposed by such governmental authorities and by such entities providing utility services.

*(Paragraphs deleted)*

§ 3.1.9 The Architect shall work with the Construction Manager to file on behalf of the Owner documents required for the approval of governmental authorities having jurisdiction over the Project.

### § 3.3 Design Development Phase Services

§ 3.3.1 Based on preliminary discussions between the Owner, the Construction Manager and the Architect, the Architect shall prepare Design Development Documents for the Owner's approval and the Construction Manager's review. The Design Development Documents shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and such other elements as may be appropriate. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels.

§ 3.3.2 Prior to the conclusion of the Design Development Phase, the Architect shall submit the Design Development Documents to the Owner and the Construction Manager. The Architect shall meet with the Construction Manager to review the Design Development Documents.

§ 3.3.3 Upon receipt of the Owner's comments and the Construction Manager's information and estimate at the conclusion of the Design Development Phase, the Architect shall provide the completed Design Development Documents to the Owner for approval. If necessary, the Architect shall take action as required under Sections 6.5 and 6.6 and request the Owner's approval of said actions.

### § 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 and the Construction Manager's review. 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 of materials and systems and other requirements for the construction of the Work. All architectural documents shall be dated and shall contain the signature of the registered architect in responsible charge, a certificate that the work was done by such registered architect or under the registered architect's direct personal supervision, and the Iowa legible seal for such registrant. The Owner and Architect acknowledge that, in order to construct the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.4.2 The Architect shall incorporate the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents, and the Architect shall assist the Construction Manager in filing the documents in the Owner's name, if necessary, required for the approval of governmental authorities having jurisdiction over the Project.

§ 3.4.3 During the development of the Construction Documents, if requested by the Owner, the Architect shall assist the Owner and the Construction Manager in the development and preparation of (1) bidding and procurement information that describes the time, place and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions); and (4) compile a project manual that includes the Conditions of the Contract for Construction and may include bidding requirements and sample forms.

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

§ 3.4.5 Upon completion of the Construction Documents phase of the Project, the Architect shall provide Construction Documents, including drawings and specifications, for the Owner's approval and the Construction Manager's information. Prior to bid, the Construction Manager shall prepare a final estimate of the budget for the Cost of the Work based on said Construction Documents. The Architect shall make revisions to the Construction Documents when requested by the Owner if the final estimate of the Cost of the Work exceeds the Project construction budget.

### § 3.5 Bidding or Negotiation Phase Services

#### § 3.5.1 General

The Architect shall assist the Owner and Construction Manager in establishing a list of prospective contractors. Following the Owner's approval of the Construction Documents, the Architect shall assist the Owner and Construction Manager in (1) obtaining either competitive bids or negotiated proposals; (2) confirming responsiveness of bids or proposals; (3) determining the successful bid or proposal, if any; and (4) awarding and preparing contracts for construction.

3.5.1.1 Revisions to Construction Documents requested by the Owner after the Construction Documents have been bid shall be made as Additional Services, except where such change is due to changes initiated by the Architect in scope, capacities of systems, or the kinds and quality of materials, finishes or equipment.

#### § 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 and Construction Manager in bidding the Project by

- .1 facilitating the reproduction of Bidding Documents for distribution to prospective bidders,
- .2 participating in a pre-bid conference for prospective bidders, and
- .3 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents in the form of prepared and issued addenda.
- .4 reviewing and making recommendations of bids.

§ 3.5.2.3 The Architect shall consider requests for substitutions, if the Bidding Documents permit substitutions, shall consult with the Construction Manager and Owner, and shall prepare and distribute addenda identifying approved substitutions to all prospective bidders.

3.5.2.4 The Architect shall include in the Specifications requirements that the Contractors provide operation manuals and adequate training for the Owner in the operation and maintenance of mechanical, electrical, heating and ventilation, air-conditioning, and other building systems installed by the contractors, and provide all warranty information pertaining to such systems.

3.5.2.5 The Architect shall work with the Construction Manager to file documents required for the approval of governmental authorities having jurisdiction over the Project. The Architect shall be responsible for making such changes in the Construction Documents as may be mandated by said governmental authorities at its own expense if determined to be originally drawn in error.

#### § 3.5.3 Negotiated Proposals – NOT APPLICABLE

*(Paragraphs deleted)*

### § 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 A232™–2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition as modified and as amended and approved by the parties.

§ 3.6.1.2 The Architect shall advise and consult with the Owner and Construction Manager during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement, and until the final correction period is complete. 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 to the extent the Architect has

performed its own contractual obligations as they related to priorities and updating the Project Schedule, and observing and approving the Contractor's work. However, Architect shall report to the Owner known deviations from the Contract Documents from the most recent Construction Schedule. The Architect shall be responsible for the Architect's negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Construction Manager, or the Contractor or of any other persons or entities performing portions of the Work.

§ 3.6.1.3 Subject to Section 4.3, the Architect's responsibility to provide Construction Phase Services commences with the award of the Contract for Construction and terminates on the date the Architect issues the final Certificate for Payment.

### § 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, consistent with the standard of care set out in this Agreement, to observe and evaluate the work in order to become generally familiar with the progress and quality of the Work; and to determine for the Owner's benefit and protection if the Work is proceeding in accordance with the intent of the Contract Documents. As needed, the Architect shall attend all construction progress meetings in conjunction with or in addition to visiting the site in satisfaction of other responsibilities. The Architect shall use reasonable care to guard the Owner against defects and deficiencies in the work and the Contractor's failure to carry out the work in accordance with the Contract Documents and the construction schedule. On the basis of his on-site observations as a professional Architect, the Architect shall keep the Owner informed of the progress and quality of the work, and shall give prompt notice to the Owner in writing of any major or material deviations from the Contract Documents in the work. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect shall provide architectural services made necessary by major defects or deficiencies in the work of the Contractor which, through reasonable care, should have been discovered by the Architect and promptly reported to the Owner and Contractor(s), but which the Architect failed to discover and/or report.

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

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of the Construction Manager, Owner, or Contractor through the Construction Manager. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness. The Owner shall not be bound by the Architect's interpretation or decision, however the Architect shall not be obligated to address issues arising from the Owner's decision to deviate from the Architect's interpretation or decision.

§ 3.6.2.4 Interpretations and decisions of the Architect shall be consistent with the intent of and reasonably inferable from the Contract Documents and shall be in writing or in the form of drawings. When making such interpretations and decisions, the Architect shall endeavor to secure faithful performance by both Owner and Contractor, shall not show partiality to either, and shall not be liable for results of interpretations or decisions rendered in good faith.

§ 3.6.2.5 Unless the Owner and Contractor designate another person to serve as an Initial Decision Maker, as that term is defined in AIA Document A232-2009, as modified and as amended and approved by the parties, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

### § 3.6.3 Certificates for Payment to Contractor

§ 3.6.3.1 The Architect shall review and certify an application for payment not more frequently than monthly. Within seven days after the Architect receives an application for payment forwarded from the Construction Manager, the Architect shall review and certify the application as follows:

Init.



- .1 Where there is only one Contractor responsible for performing the Work, the Architect shall review the Contractor's Application and Certificate for Payment that the Construction Manager has previously reviewed and certified. The Architect shall certify the amount due the Contractor and shall issue a Certificate for Payment in such amount.
- .2 Where there are Multiple Prime Contractors responsible for performing different portions of the Project, the Architect shall review a Project Application and Project Certificate for Payment, with a Summary of Contractors' Applications for Payment, that the Construction Manager has previously prepared, reviewed and certified. The Architect shall certify the amounts due the Contractors and shall issue a Project Certificate for Payment in the total of such amounts.

§ 3.6.3.2 The Architect's certification for payment shall constitute a representation to the Owner, based on (1) the Architect's observations and evaluation of the Work as provided in Section 3.6.2, (2) the data comprising the Contractor's Application for Payment or the data comprising the Project Application for Payment, and (3) the recommendation of the Construction Manager, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the Architect.

§ 3.6.3.3 The issuance of a Certificate for Payment or a Project 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 material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum. However, the issuance of a Certificate of Payment shall constitute a representation to the Owner that to the best of the Architect's knowledge, information, and belief, the Contractors are entitled to payment in the amount certified.

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

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

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

§ 3.6.4.4 After receipt of the Construction Manager's recommendations, and subject to the provisions of Section 4.3, the Architect shall review and respond to requests for information about the Contract Documents. The Architect, in consultation with the Construction Manager, shall set forth in the Contract Documents the requirements for requests for information. Requests for information shall include, at a minimum, a detailed written statement that indicates the specific Drawings or Specifications in need of clarification and the nature of the clarification requested. The Architect's response to such requests shall be made in writing within any time limits agreed upon, or otherwise with reasonable promptness. If appropriate, the Architect shall prepare and issue supplemental Drawings and Specifications in response to requests for information.

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

### § 3.6.5 Changes in the Work

§ 3.6.5.1 The Architect shall review and sign, or take other appropriate action, on Change Orders and Construction Change Directives prepared by the Construction Manager for the Owner's approval and execution in accordance with the Contract Documents. The Architect shall provide services to evaluate Contractor claims, including requests for supplemental instructions and change orders.

§ 3.6.5.2 The Architect may authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Such changes shall be effected by written order issued by the Architect through the Construction Manager, to the Owner and Contractor.

§ 3.6.5.3 The Architect shall maintain records relative to changes in the Work and shall produce said records upon request from the Owner.

### § 3.6.6 Project Completion

§ 3.6.6.1 The Architect, assisted by the Construction Manager, shall conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion prepared by the Construction Manager; receive from the Construction Manager and review written warranties and related documents required by the Contract Documents and assembled by the Contractor; and, after receipt of a final Contractor's Application and Certificate for Payment or a final Project Application and Project Certificate for Payment from the Construction Manager, issue a final Certificate for Payment based upon a final inspection indicating the Work complies with the requirements of the Contract Documents.

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

§ 3.6.6.3 When the Work is found to be substantially complete by the Construction Manager and Architect, and after certification by the Construction Manager and the Architect, 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, in addition to retainage, if necessary, for final completion or correction of the Work or to cover filed Iowa Code Chapter 573 claims.

3.6.6.3.1 Upon Substantial Completion of the Project, the Architect shall prepare a set of reproducible record drawings showing changes in the Work made during construction based on marked-up print, drawings and other data furnished by the Contractors.

§ 3.6.6.4 Upon Final completion of the Project, the Architect shall attest that no asbestos or asbestos-containing material was specified as a building material in any Construction Documents for the Project and that, to the best of the Architect's knowledge, no asbestos or asbestos-containing materials were used as a building material on the Project, to comply with 40 C.F.R. Section 763.99(a)(7).

3.6.6.5 Eleven (11) months after the date of Substantial Completion, the Architect shall, without additional compensation, contact Owner and schedule and conduct a meeting with the Owner to review the facility operations



- .2 Making revisions in Drawings, Specifications, or other documents (as required pursuant to Section 6.7), when such revisions are required because the Construction Manager's estimate of the Cost of the Work exceeds the Owner's budget, except where such excess is due to changes initiated by the Architect in scope, capacities of basic systems, or the kinds and quality of materials, finishes or equipment;
- .3 Services necessitated by the Owner's request for extensive environmentally responsible design alternatives, such as unique system designs, in-depth material research, energy modeling, or LEED® certification;
- .4 Changing or editing previously prepared Instruments of Service necessitated by the enactment or revision of codes, laws or regulations, or official interpretations;
- .5 Services necessitated by decisions of the Owner or Construction Manager not rendered in a timely manner or any other failure of performance on the part of the Owner, Construction Manager or the Owner's other consultants or contractors;
- .6 Preparing digital data for transmission to the Owner's consultants and contractors, or to other Owner authorized recipients;
- .7 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner or Construction Manager;
- .8 Preparation for, and attendance at a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .9 Consultation concerning replacement of Work resulting from fire or other cause during construction; or
- .10 Assistance to the Initial Decision Maker, if other than the Architect.

§ 4.2.2 Unless, in the Construction Manager's opinion, an emergency exists which requires immediate action to avoid damage to property or injury to persons, to avoid delay in the Construction Phase, the Architect shall provide the following Additional Services at no additional charge, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need, and advise the Owner if continued services by the Architect would only be rendered if the Owner makes additional payments to the Architect, and also advise Owner of the anticipated cost of such services. If the Owner subsequently determines that all or parts of those services are required, the Owner shall give prompt written notice to the Architect and the Owner shall compensate the Architect for those services:

- .1 Reviewing a Contractor's submittal out of sequence from the initial Project submittal schedule agreed to by the Architect;
- .2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders, and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating more than five (5) Claims as the Initial Decision Maker;
- .5 Evaluating more than ten (10) substitutions proposed by the Owner, Construction Manager or Contractor and making subsequent revisions to Instruments of Service resulting therefrom; or
- .6 To the extent the Architect's Basic Services are affected, providing Construction Phase Services 60 days after (1) the date of Substantial Completion of the Work or (2) the anticipated date of Substantial Completion, identified in Initial Information, whichever is earlier.

§ 4.2.3 If the services covered by this Agreement have not been completed within fourteen ( 14 ) 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.

#### 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 shall retain a Construction Manager to provide services, duties, and responsibilities as described in AIA Document C132–2009, Standard Form of Agreement Between Owner and Construction Manager. The Owner shall provide the Architect a copy of the executed agreement between the Owner and the Construction Manager, and any further modifications to the agreement.

§ 5.3 The Owner shall furnish the services of a Construction Manager that shall be responsible for creating the overall Project schedule. The Owner shall adjust the Project schedule, if necessary, as the Project proceeds.

§ 5.4 The Owner shall consult with the Architect and Construction Manager to assist in establishing and periodically updating and overall budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. The Owner shall furnish the services of a Construction Manager that shall be responsible for preparing all estimates of the Cost of the Work. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect and the Construction Manager. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the budget for the Cost of the Work or in the Project's scope and quality.

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

§ 5.5 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.

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

§ 5.7 The Owner shall furnish services of geotechnical engineers, when such services are requested by the Architect to the extent necessary to allow Architect to perform its service under this Agreement. Such services may include, but are not limited to, test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 5.8 The Owner, with the assistance of the Construction Manager and Architect, 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 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 maintain professional liability insurance and other liability insurance as appropriate to the services provided.

§ 5.9 The Owner shall furnish tests, inspections, and reports required by law or the Contract Documents, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials. The Architect, as authorized by the Owner, shall provide to the Owner for the Owner's approval, a list of tests, inspections or reports that are required or anticipated in the Contract Documents

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

§ 5.11 The Owner shall provide prompt written notice to the Architect and Construction Manager 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. However, Owner shall have no obligation or responsibility to inspect the Project, Contract Documents, or Instruments of Service for defects.

§ 5.12 Except as otherwise provided in the Contract Documents or when direct communications have been specially authorized, the Owner shall endeavor to communicate with the Contractor through the Construction Manager, and shall contemporaneously provide the same communications to the Architect about matters arising out of or relating to the Contract Documents. Communications by and with the Architect's consultants shall be through the Architect.

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

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

5.15 When asbestos-related materials are suspected or found in the course of the Project, the Owner shall immediately provide the services of an asbestos-related expert or consultant to determine the proper course of action.

#### ARTICLE 6 COST OF THE WORK

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include the contractors' general conditions costs, overhead, and profit. The Cost of the Work includes the compensation of the Construction Manager and Construction Manager's consultants during the Construction Phase only, including compensation for reimbursable expenses at the job site, if any. The Cost of the Work does not include the compensation of the Architect, the costs of the land, rights-of-way, financing, and 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 5.4 and 6.4. Evaluations of the Owner's budget for the Cost of the Work represent the Architect's judgment as a design professional.

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

§ 6.3.1 If the Architect is providing detailed cost estimating services as an Additional Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Architect and the Construction Manager shall work cooperatively to conform the cost estimates to one another.

§ 6.4 If, prior to the conclusion of the Design Development Phase, the Construction Manager's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect, in consultation with the Construction Manager, shall make appropriate recommendations to the Owner to adjust the Project's size, quality or

Init.

budget, and the Owner shall cooperate with the Architect in making such adjustments, at no additional cost to the Owner.

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

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

§ 6.6 If the Owner chooses to proceed under Section 6.5.2, the Architect, without additional compensation, shall incorporate the required modifications in the Construction Documents Phase as necessary to comply with the Owner's budget for the Cost of the Work at the conclusion of the Design Development Phase Services, or the budget as adjusted under Section 6.5.1.

§ 6.7 If, after incorporating the modifications under Section 6.6, actual bids received under the completed Construction documents prepared by the Architect for the Project are in excess of the approved budget for the Cost of the Work, and if the Owner rejects such bids, the Architect will, at no cost to the Owner, and in cooperation with the Construction Manager, revise the Construction Documents using all necessary staff, and prepare to re-advertise or do such other reasonable and practical things as may be necessary to bring costs within the budget of the Cost of the Work. The modification of such documents shall be the limit of the Architect's responsibility. The Owner agrees to cooperate with the Architect within the basic framework of the Project, as given to the Architect at the time he/she began his/her preliminary plans and studies, in order to accomplish such revisions of the Construction Documents to secure bids or reductions in the amount of the bid consistent with said functional needs of the budget of the Cost of the Work. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced, unless the failure to commence the Construction phase is directly attributable to the fault of the Architect.

## ARTICLE 7 COPYRIGHTS AND LICENSES

§ 7.1 The Architect and the Owner warrant that in transmitting Instruments of Service, or any other information, the transmitting party is the copyright owner of such information or has permission from the copyright owner to transmit such information for its use on the Project. If the Owner and Architect intend to transmit Instruments of Service or any other information or documentation in digital form, they shall endeavor to establish necessary protocols governing such transmissions.

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

§ 7.3 Upon execution of this Agreement, 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, or to comply with any public records requests under Iowa's Open Records Law, as applicable, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under this Agreement. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Construction Manager, Subcontractors, Sub-subcontractors, and material or equipment suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service 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. The terms of this Section 7.3.1 shall not apply if the Owner rightfully terminates this Agreement for cause under Section 9.4.

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

## ARTICLE 8 CLAIMS AND DISPUTES

### § 8.1 General

§ 8.1.1 The Owner and Architect shall commence all claims and causes of action, whether in contract, tort, or otherwise, against the other arising out of or related to this Agreement in accordance with the requirements of the method of binding dispute resolution selected in this Agreement within the period specified by applicable law, but in any case not more than 10 years after the date of Final Acceptance 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 A232-2009, General Conditions of the Contract for Construction. The Owner or the Architect, as appropriate, shall require of the Construction Manager, contractors, consultants, agents and employees of any of them similar waivers in favor of the other parties enumerated herein.

§ 8.1.3 The Architect shall indemnify and hold the Owner and the Owner's officers and employees harmless from and against damages, losses and judgments arising from claims by third parties, including reasonable attorneys' fees and expenses recoverable under applicable law, but only to the extent they are caused by the negligent acts or omissions of the Architect, its employees and its consultants in the performance of professional services under this Agreement. The Architect's duty to indemnify the Owner under this provision shall be limited to the available proceeds of insurance coverage.

*(Paragraph deleted)*

### § 8.2 Mediation

*(Paragraphs deleted)*

### § 8.3 Arbitration – NOT APPLICABLE

*(Paragraphs deleted)*

### § 8.3.4 Consolidation or Joinder – NOT APPLICABLE

*(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, except that payment may be withheld from the Architect for the Architect's substantial non-compliance or non-performance formally claimed and/or determined in accordance with the terms of this Agreement, without penalty to Owner for such withholding. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Architect shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

§ 9.2 If the Owner suspends the Project for more than ninety (90) consecutive days, for reasons other than the fault of the Architect, the Architect shall be compensated for services performed prior to notice of such suspension. When



the Project is resumed, the Architect's compensation shall be equitably adjusted to provide for expenses incurred due to the interruption and resumption of the Architect's services.

§ 9.3 The Owner may terminate this Agreement upon no less than seven (7) days' written notice to the Architect, in the event the Project is permanently abandoned. If the Owner abandons the Project for more than one Hundred eighty (180) consecutive days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven (7) days' written notice.

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

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

9.5.1 Notwithstanding any other provisions of this Agreement, if funds anticipated for the continued fulfillment of the Agreement are at any time not forthcoming or insufficient, either through the failure of the State or County or the Owner to appropriate funds or through discontinuance or material alteration of the program for which funds were provided, the Owner shall have the right to terminate this Agreement without penalty by giving not less than thirty (30) days written notice documenting the lack of funding.

§ 9.6 Upon any termination, the Owner shall be obligated to compensate the Architect for only those services rendered and acceptable before the notice of termination, less any damages that may be assessed for non-performance.

*(Paragraphs deleted)*

#### **ARTICLE 10 MISCELLANEOUS PROVISIONS**

§ 10.1 This Agreement shall be governed by the law of the State of Iowa.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A232-2009, General Conditions of the Contract for Construction, as modified.

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

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

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

§ 10.6 Unless otherwise required in this Agreement, the Architect shall have no responsibility for the discovery, presence, handling, removal or disposal of, or exposure of persons to, hazardous materials or toxic substances in any form at the Project site. The Architect shall not specify or approve for use in the Project any new materials containing asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic substances. If the Architect discovers that such substances as described herein have been used or do exist in the Project. The Architect shall promptly notify the Owner in writing. When asbestos containing materials, polychlorinated biphenyl (PCB) or other toxic or hazardous substances are suspected or found in the course of the Project, the Owner shall immediately provide the services of an appropriately qualified expert or consultant to determine the proper course of action.

§ 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.

§ 10.8 If the Architect or Owner receives information specifically designated by the other party as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential information, or (4) comply with any public records requests under Iowa's Open Records Law, as applicable.

**ARTICLE 11 COMPENSATION**

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

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

The assumed construction budget is Seven Hundred Thousand Dollars (\$700,000). The fixed fee will be equivalent to the assumed construction cost times Eleven and One Half Percent (11-1/2%) which equals Eighty Thousand and Five Hundred Dollars (\$80,500)

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

N/A

§ 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.)*

Hourly Rates per Section 11.3

§ 11.4 Compensation for Additional Services of the Architect's consultants when not included in Sections 11.2 or 11.3, shall be the amount invoiced to the Architect plus Zero percent ( 0 %), or as otherwise stated below:

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

|                                 |                    |                  |            |           |
|---------------------------------|--------------------|------------------|------------|-----------|
| Design Development Phase        | Thirty Five        | percent (        | 35         | %)        |
| Construction Documents Phase    | Forty Five         | percent (        | 45         | %)        |
| <i>(Row deleted)</i>            |                    |                  |            |           |
| Construction Phase              | Twenty             | percent (        | 20         | %)        |
| <b>Total Basic Compensation</b> | <b>one hundred</b> | <b>percent (</b> | <b>100</b> | <b>%)</b> |

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

§ 11.6 When compensation is based on a percentage of the Cost of the Work and any portions of the Project are deleted or otherwise not constructed, compensation for those portions of the Project shall be payable to the extent services are performed on those portions, in accordance with the schedule set forth in Section 11.5 based on (1) the lowest bona fide bid or negotiated proposal, or (2) if no such bid or proposal is received, the most recent estimate of the Cost of the Work prepared by the Construction Manager for such portions of the Project. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced.

§ 11.7 The hourly billing rates for services of the Architect and the Architect's consultants, if any, are set forth below. The rates shall be adjusted 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.)*

Hourly billing rates are listed below:

| Employee or Category | Rate (\$0.00) |
|----------------------|---------------|
| Principal            | \$135.00      |
| Senior Technical     | \$95.00       |
| Technical            | \$75.00       |
| Clerical             | \$30.00       |

#### § 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

*(Paragraphs deleted)*

Fees paid for securing approval of authorities having jurisdiction over the Project;

.2 Printing, reproductions, plots, standard form documents;

*(Paragraphs deleted)*

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus zero percent ( 0 %) of the expenses incurred.

#### § 11.9

*(Paragraphs deleted)*

#### Payments to the Architect

*(Paragraphs deleted)*

§ 11.9.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services proven to have been performed. Payments are due and payable within thirty (30) days upon presentation of the Architect's invoice to the Owner. Amounts unpaid sixty ( 60 ) days after the invoice date shall bear interest at the rate established by Section 74A.2 of the Code of Iowa. All pay requests must be received by the County fourteen days prior to the County Board of Supervisors meeting at which the invoice will be approved.

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

§ 11.9.3 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.

### ARTICLE 12 SPECIAL TERMS AND CONDITIONS

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

12.1 The Architect shall be required to meet the requirements of Exhibit "C", Insurance

12.2 The Project is tax exempt. The Owner will provide a certificate of tax exemption

12.3 The Architect (Company) shall not be owned, operated, or managed by a registered sex offender who has been convicted of a sex offense against a minor in accordance with Iowa Code 692A. In addition, the Architect shall not permit an employee, subconsultant (Company) owned, operated, or managed by, or subconsultant employee who is a registered sex offender convicted of a sex offense against a minor on real property of the County. The Architect shall further acknowledge and certify services provided under this Contract comply with Iowa Code 692A, and shall fully execute and deliver a copy of 'Acknowledgement and Certification' form within ten (10) days of the execution of the Agreement or before any Company workers are on the Project site.

#### ARTICLE 13 SCOPE OF THE AGREEMENT

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

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

- .1 AIA Document B132™-2009, Standard Form Agreement Between Owner and Architect, Construction Manager as Adviser Edition

.2

*(Paragraphs deleted)*

Other documents:

*(List other documents, if any, including additional scopes of service forming part of the Agreement.)*

Exhibit "A" – Partial Waiver of Lien and Release of Claims

Exhibit "B" – Final Waiver of Lien and Release of Claims

Exhibit "C" – Insurance Requirements

Exhibit "D" – Original proposal from Architect to Owner

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

OWNER *(Signature)*

Matthew Ong, Chairman  
*(Printed name and title)*

ARCHITECT *(Signature)*

Kevin Rost, AIA, Sr. Project Architect  
*(Printed name and title)*

# **Additions and Deletions Report for AIA® Document B132™ – 2009**

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 12:17:39 on 07/14/2017.

## **PAGE 1**

**AGREEMENT** made as of the 18th day of July in the year 2017

...

Woodbury County, IA and/or Woodbury Board of Supervisors  
Woodbury County Courthouse  
620 Douglas Street  
Sioux City, IA 51101

...

Goldberg Group Architects, PC  
805 N. 36<sup>th</sup> Street – Suite B  
St. Joseph, MO 64506

...

Woodbury County Law Enforcement Center  
C.2 Staff, Medical and Exam Renovations  
Woodbury County  
407 7<sup>th</sup> Street  
Sioux City, IA 51101

...

The Baker Group  
4224 Hubbell Avenue  
Des Moines, IA 50317

## **PAGE 2**

Renovate the second floor medical and examination areas and provide a staff break area. Upgrade and add to the existing security electronics systems, including, but not limited to, door controls, intercoms, security cameras, such that operating safety, security and efficiency are improved.

...

N/A

## **PAGE 3**

N/A

...

N/A

...

N/A

...

Multiple Prime Contractors

...

N/A

...

The Construction Manager and the Architect shall work together to develop sequence of work to minimize impact of work as the building will be occupied throughout the construction process.

§ 1.1.8 The Owner identifies the following representative in accordance with Section ~~5.5~~5.4:

...

Kenny Schmitz  
Director of Building Services  
Woodbury County  
620 Douglas Street  
Sioux City, IA 51101

...

Construction Manager

PAGE 4

~~2~~ — Cost Consultant (if in addition to the Construction Manager):  
*(If a Cost Consultant is retained, appropriate references to the Cost Consultant should be inserted in Sections 3.2.6, 3.2.7, 3.3.2, 3.3.3, 3.4.5, 3.4.6, 5.4, 6.3, 6.3.1, 6.4 and 11.6.)*

~~3~~ — Land Surveyor:

~~.4~~ — Geotechnical Engineer:

~~.5~~ — Civil Engineer:

~~.6~~ — Other consultants:

*(List any other consultants retained by the Owner, such as a Project or Program Manager, or scheduling consultant.)*

§ 1.1.11 The Architect identifies the following representative in accordance with Section ~~2.4:2.3~~:

...

Kevin Rost, AIA  
Goldberg Group Architects, PC  
805 N. 36<sup>th</sup> Street – Suite B  
St. Joseph, MO 64506

...

~~.4~~ — Structural

.1 Mechanical Engineer:

Resource Consulting Engineers, LLC

~~.2 Mechanical Engineer:~~

~~.3~~ — Electrical Engineer:

Resource Consulting Engineers, LLC

...

N/A

...

N/A

§ 1.2 The Owner and Architect may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Architect shall ~~appropriately adjust the schedule, the Architect's services and the Architect's compensation.~~ adjust its services and the Owner and Architect shall appropriately adjust the schedule and Architect's compensation as necessary, and as mutually agreed upon by the parties.

...

§ 2.3 The Architect shall provide its services in conjunction with the services of a Construction Manager as described in AIA Document C132™-2009, Standard Form of Agreement Between Owner and Construction Manager, as modified and as amended and approved by the Owner and Construction Manager. The Architect shall not be responsible for actions taken by the Construction Manager.

## PAGE 5

§ 2.6 The Architect shall maintain ~~the following insurance for the duration of this Agreement. If any of the requirements set forth below exceed the types and limits the Architect normally maintains, the Owner shall reimburse the Architect for any additional cost.~~ insurance as specified in Exhibit "C".

§ 2.6.1 ~~Comprehensive General Liability with policy limits of not less than (\$ ) for each occurrence and in the aggregate for bodily injury and property damage.~~

§ 2.6.2 ~~Automobile Liability covering owned and rented vehicles operated by the Architect with policy limits of not less than (\$ ) combined single limit and aggregate for bodily injury and property damage.~~

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

§ 2.6.4 ~~Workers' Compensation at statutory limits and Employers Liability with a policy limit of not less than (\$ )~~

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

§ 2.6.6 The Architect shall provide to the Owner certificates of insurance evidencing ~~compliance with the requirements in this Section 2.6. The certificates will show the Owner as an additional insured on the Comprehensive General Liability, Automobile Liability, umbrella or excess policies.~~ insurance as specified in Exhibit "C".

...

3.1.2 The Architect shall be a representative of and shall advise and consult with the Owner during the administration of the Contract for Construction and shall serve, in conjunction with the Construction Manager, as the "Owner's Authorized Contract Representative" for all designated purposes and/or responsibilities under Iowa Code Chapter 26. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this agreement, unless otherwise modified by written amendment.

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



§ 3.1.3 As soon as practicable after the date of this Agreement, the Architect shall submit to the Owner and the Construction Manager a schedule of the Architect's services for inclusion in the Project schedule prepared by the Construction Manager. The schedule of the Architect's services shall include design milestone dates, anticipated dates when cost estimates or design reviews may occur, and allowances for periods of time required (1) for the Owner's review, (2) for the Construction Manager's review, (3) for the performance of the Owner's consultants, and (4) for approval of submissions by authorities having jurisdiction over the Project. The Architect shall coordinate its services with those services provided by the Owner, the Construction Manager and the Owner's other consultants. The Architect shall be entitled to rely on the accuracy and completeness of services and information furnished by the Owner, the Construction Manager, and the Owner's other consultants. The Architect shall provide prompt written notice to the Owner if the Architect becomes aware of any error, omission or inconsistency in such services or information.

§ 3.1.4 The Architect shall submit information to the Construction Manager and participate in developing and revising the Project schedule as it relates to the Architect's services. As soon as practicable after the date of this Agreement, the Architect shall submit to the Owner and the Construction Manager a schedule of the Architect's services for inclusion in the Project schedule prepared by the Construction Manager. The schedule of the Architect's services shall include design milestone dates, anticipated dates when cost estimates or design reviews may occur, and allowances for periods of time required (1) for the Owner's review, (2) for the Construction Manager's review, (3) for the performance of the Owner's consultants, and (4) for approval of submissions by authorities having jurisdiction over the Project.

3.1.4.1 The Construction Manager shall provide the estimating services to establish the Project construction budget. However, the Architect is responsible for designing the Project within the Owner-approved Project construction budget. The "Project construction budget" means the estimate of cost of the Work developed or to be developed for the project by the Construction Manager and approved by the Owner, as such may be amended or updated from time to time. The Architect and Construction Manager shall coordinate and cooperate with each other in the development of the design in order to facilitate the achievement of the Owner's Project construction budget.

§ 3.1.5 The Architect shall submit information to the Construction Manager and participate in developing and revising the Project schedule as it relates to the Architect's services.

§ 3.1.5-3.1.6 Once the Owner and the Architect agree to the time limits established by the Project schedule, the Owner and the Architect shall not exceed them, except for reasonable cause.

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

§ 3.1.7 The Architect shall, at appropriate times, in coordination with the Construction Manager, contact the governmental authorities required to approve the Construction Documents and the entities providing utility services to the Project. In designing the Project, the Architect shall respond to applicable design requirements imposed by such governmental authorities and by such entities providing utility services. shall not be responsible for an Owner's directive or substitution, or for the Owner's acceptance of non-conforming Work, made without the Architect's approval.

§ 3.1.8 The Architect shall assist the Owner and Construction Manager in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project. shall, at appropriate times, in coordination with the Construction Manager, contact the governmental authorities required to approve the Construction Documents and the entities providing utility services to the Project. In designing the Project, the Architect shall respond to applicable design requirements imposed by such governmental authorities and by such entities providing utility services.

### **§ 3.2 Schematic Design Phase Services**

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

§ 3.2.2 The Architect shall prepare a preliminary evaluation of the Owner's program, schedule, budget for the Cost of the Work, Project site, and the proposed procurement or delivery method and other Initial Information, each in

terms of the other, to ascertain the requirements of the Project. The Architect shall notify the Owner 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 Construction Manager and shall discuss with the Owner and Construction Manager alternative approaches to design and construction of the Project, including the feasibility of incorporating environmentally responsible design approaches. The Architect shall reach an understanding with the Owner 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 to the Owner and Construction Manager, for the Owner's approval, a preliminary design illustrating the scale and relationship of the Project components.~~

~~§ 3.2.5 Based on the Owner's approval of the preliminary design, the Architect shall prepare Schematic Design Documents for the Owner's approval and the Construction Manager's review. 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 modeling. Preliminary selections of major building systems and construction materials shall be noted on the drawings or described in writing.~~

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

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

~~§ 3.2.6 The Architect shall submit the Schematic Design Documents to the Owner and the Construction Manager. The Architect shall meet with the Construction Manager to review the Schematic Design Documents.~~

~~§ 3.2.7 Upon receipt of the Construction Manager's review comments and cost estimate at the conclusion of the Schematic Design Phase, the Architect shall take action as required under Section 6.4, identify agreed upon adjustments to the Project's size, quality or budget, and request the Owner's approval of the Schematic Design Documents. If revisions to the Schematic Design Documents are required to comply with the Owner's budget for the Cost of the Work at the conclusion of the Schematic Design Phase, the Architect shall incorporate the required revisions in the Design Development Phase.~~

~~§ 3.2.8 In the further development of the Drawings and Specifications during this and subsequent phases of design, the Architect shall be entitled to rely on the accuracy of the estimates of the Cost of the Work, which are to be provided by the Construction Manager under the Construction Manager's agreement with the Owner.~~

~~§ 3.1.9 The Architect shall work with the Construction Manager to file on behalf of the Owner documents required for the approval of governmental authorities having jurisdiction over the Project.~~

~~§ 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 pursuant to Section 5.4, the preliminary discussions between the Owner, the Construction Manager and the Architect, the Architect shall prepare Design Development Documents for the Owner's approval and the Construction Manager's review. The Design Development Documents shall be based upon information provided, and estimates prepared by, the Construction Manager and shall illustrate and describe the development of the approved Schematic Design Documents and shall consist of drawings and other documents including plans, sections, elevations, typical construction details, and diagrammatic layouts of building systems to fix and describe the size and character of the Project as to architectural, structural, mechanical and electrical systems, and such other elements as may be appropriate. The Design Development Documents shall also include outline specifications that identify major materials and systems and establish in general their quality levels.~~

§ 3.3.3 Upon receipt of the Owner's comments and the Construction Manager's information and estimate at the conclusion of the Design Development Phase, the Architect shall provide the completed Design Development Documents to the Owner for approval. If necessary, the Architect shall take action as required under Sections 6.5 and 6.6 and request the Owner's approval of the Design Development Documents.~~said actions.~~

...

§ 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 and the Construction Manager's review. 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 of materials and systems and other requirements for the construction of the Work. ~~The Owner and Architect acknowledge that in order to construct the Work.~~ All architectural documents shall be dated and shall contain the signature of the registered architect in responsible charge, a certificate that the work was done by such registered architect or under the registered architect's direct personal supervision, and the Iowa legible seal for such registrant. The Owner and Architect acknowledge that, in order to construct the Work, the Contractor will provide additional information, including Shop Drawings, Product Data, Samples and other similar submittals, which the Architect shall review in accordance with Section 3.6.4.

§ 3.4.2 The Architect shall incorporate ~~into the Construction Documents the design requirements~~ the design requirements of governmental authorities having jurisdiction over the Project into the Construction Documents, and the Architect shall assist the Construction Manager in filing the documents in the Owner's name, if necessary, required for the approval of governmental authorities having jurisdiction over the Project.~~Project..~~

§ 3.4.3 During the development of the Construction Documents, if requested by the Owner, the Architect shall assist the Owner and the Construction Manager in the development and preparation of (1) bidding and procurement information that describes the time, place and conditions of bidding, including bidding or proposal forms; (2) the form of agreement between the Owner and Contractor; ~~and~~ (3) the Conditions of the Contract for Construction (General, Supplementary and other Conditions); and (4) compile a project manual that includes the Conditions of the Contract for Construction and may include bidding requirements and sample forms.

§ 3.4.5 Upon ~~receipt of the Construction Manager's information and estimate at the conclusion of the Construction Documents Phase, the Architect shall take action as required under Section 6.7 and request the Owner's approval of the Construction Documents.~~ completion of the Construction Documents phase of the Project, the Architect shall provide Construction Documents, including drawings and specifications, for the Owner's approval and the Construction Manager's information. Prior to bid, the Construction Manager shall prepare a final estimate of the budget for the Cost of the Work based on said Construction Documents. The Architect shall make revisions to the Construction Documents when requested by the Owner if the final estimate of the Cost of the Work exceeds the Project construction budget.

...

3.5.1.1 Revisions to Construction Documents requested by the Owner after the Construction Documents have been bid shall be made as Additional Services, except where such change is due to changes initiated by the Architect in scope, capacities of systems, or the kinds and quality of materials, finishes or equipment.

...

- .3 preparing responses to questions from prospective bidders and providing clarifications and interpretations of the Bidding Documents in the form of prepared and issued addenda.

.4 reviewing and making recommendations of bids.

§ 3.5.2.3 The Architect shall consider requests for substitutions, if the Bidding Documents permit substitutions, and shall consult with the Construction Manager and Owner, and shall prepare and distribute addenda identifying approved substitutions to all prospective bidders.

3.5.2.4 The Architect shall include in the Specifications requirements that the Contractors provide operation manuals and adequate training for the Owner in the operation and maintenance of mechanical, electrical, heating and ventilation, air-conditioning, and other building systems installed by the contractors, and provide all warranty information pertaining to such systems.

3.5.2.5 The Architect shall work with the Construction Manager to file documents required for the approval of governmental authorities having jurisdiction over the Project. The Architect shall be responsible for making such changes in the Construction Documents as may be mandated by said governmental authorities at its own expense if determined to be originally drawn in error.

**§ 3.5.3 Negotiated Proposals – NOT APPLICABLE**

~~§ 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 and Construction Manager in obtaining proposals by~~

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

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

...

~~§ 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 A232™–2009, General Conditions of the Contract for Construction, Construction Manager as Adviser Edition. If the Owner and Contractor modify AIA Document A232–2009, those modifications shall not affect the Architect’s services under this Agreement unless the Owner and the Architect amend this Agreement. Edition as modified and as amended and approved by the parties.~~

§ 3.6.1.2 The Architect shall advise and consult with the Owner and Construction Manager during the Construction Phase Services. The Architect shall have authority to act on behalf of the Owner only to the extent provided in this Agreement. Agreement, and until the final correction period is complete. The Architect shall not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences-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. Documents to the extent the Architect has performed its own contractual obligations as they related to priorities and updating the Project Schedule, and observing and approving the Contractor’s work. However, Architect shall report to the Owner known deviations from the Contract Documents from the most recent Construction Schedule. The Architect shall be responsible for the Architect’s negligent acts or omissions, but shall not have control over or charge of, and shall not be responsible for, acts or omissions of the Construction Manager, or the Contractor or of any other persons or entities performing portions of the Work.

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§ 3.6.2.1 The Architect shall visit the site at intervals appropriate to the stage of construction, or as otherwise required in Section 4.3.3, consistent with the standard of care set out in this Agreement, to observe and evaluate the work in order to become generally familiar with the progress and quality of the portion of the Work completed, and

to determine, in general, if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. On the basis of the site visits, the Architect shall keep the Owner reasonably informed about Work; and to determine for the Owner's benefit and protection if the Work is proceeding in accordance with the intent of the Contract Documents. As needed, the Architect shall attend all construction progress meetings in conjunction with or in addition to visiting the site in satisfaction of other responsibilities. The Architect shall use reasonable care to guard the Owner against defects and deficiencies in the work and the Contractor's failure to carry out the work in accordance with the Contract Documents and the construction schedule. On the basis of his on-site observations as a professional Architect, the Architect shall keep the Owner informed of the progress and quality of the portion of the Work completed, and report to the Owner and the Construction Manager (1) known deviations from the Contract Documents and from the most recent construction schedule, and (2) defects and deficiencies observed in the Work, work, and shall give prompt notice to the Owner in writing of any major or material deviations from the Contract Documents in the work. However, the Architect shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect shall provide architectural services made necessary by major defects or deficiencies in the work of the Contractor which, through reasonable care, should have been discovered by the Architect and promptly reported to the Owner and Contractor(s), but which the Architect failed to discover and/or report.

§ 3.6.2.2 The Architect ~~has the authority to~~ shall reject Work that does not conform to the Contract Documents after prior notification to the Owner and shall notify the Construction Manager about the rejection. Whenever the Architect considers it necessary or advisable, the Architect, upon written authorization from the Owner and notification to the Construction Manager, shall have the authority to require inspection or testing of the Work in accordance with the provisions of the Contract Documents, whether or not such Work is fabricated, ~~installed~~ 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, material and equipment suppliers, their agents or employees or other persons or entities performing portions of the Work.

§ 3.6.2.3 The Architect shall interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of the Construction Manager, Owner, or Contractor through the Construction Manager. The Architect's response to such requests shall be made in writing within any time limits agreed upon or otherwise with reasonable promptness. The Owner shall not be bound by the Architect's interpretation or decision, however the Architect shall not be obligated to address issues arising from the Owner's decision to deviate from the Architect's interpretation or decision.

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

§ 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 A232-2009, as modified and as amended and approved by the parties, the Architect shall render initial decisions on Claims between the Owner and Contractor as provided in the Contract Documents.

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§ 3.6.3.2 The Architect's certification for payment shall constitute a representation to the Owner, based on (1) the Architect's observations and evaluation of the Work as provided in Section 3.6.2, (2) the data comprising the Contractor's Application for Payment or the data comprising the Project Application for Payment, and (3) the recommendation of the Construction Manager, that, to the best of the Architect's knowledge, information and belief, the Work has progressed to the point indicated and that the quality of the Work is in accordance with the Contract Documents. The foregoing representations are subject (1) to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, (2) to results of subsequent tests and inspections, (3) to

correction of minor deviations from the Contract Documents prior to completion, and (4) to specific qualifications expressed by the Architect.

§ 3.6.3.3 The issuance of a Certificate for Payment or a Project 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~~ sequences, or procedures, (3) reviewed copies of requisitions received from Subcontractors and material suppliers and other data requested by the Owner to substantiate the Contractor's right to payment, or (4) ascertained how or for what purpose the Contractor has used money previously paid on account of the Contract Sum. However, the issuance of a Certificate of Payment shall constitute a representation to the Owner that to the best of the Architect's knowledge, information, and belief, the Contractors are entitled to payment in the amount certified.

...

§ 3.6.4.2 In accordance with the Architect-approved Project submittal schedule, and after the Construction Manager reviews, approves and transmits the submittals, 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. The Architect's review shall not constitute approval of safety precautions or, unless otherwise specifically stated by the Architect, of any construction means, methods, techniques, ~~sequences~~ 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.

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§ 3.6.5.1 The Architect shall review and sign, or take other appropriate action, on Change Orders and Construction Change Directives prepared by the Construction Manager for the Owner's approval and execution in accordance with the Contract Documents. The Architect shall provide services to evaluate Contractor claims, including requests for supplemental instructions and change orders.

§ 3.6.5.2 The Architect may authorize minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. Such changes shall be effected by written order issued by the Architect through the Construction ~~Manager~~ Manager, to the Owner and Contractor.

§ 3.6.5.3 The Architect shall maintain records relative to changes in the ~~Work~~ Work and shall produce said records upon request from the Owner.

...

§ 3.6.6.3 When the Work is found to be substantially complete by the Construction Manager and Architect, and after certification by the Construction Manager and the Architect, 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~~ in addition to retainage, if necessary, for final completion or correction of the Work or to cover filed Iowa Code Chapter 573 claims.

3.6.6.3.1 Upon Substantial Completion of the Project, the Architect shall prepare a set of reproducible record drawings showing changes in the Work made during construction based on marked-up print, drawings and other data furnished by the Contractors.

§ 3.6.6.4 Upon ~~request of the Owner, and prior to the expiration of one year from~~ Final completion of the Project, the Architect shall attest that no asbestos or asbestos-containing material was specified as a building material in any Construction Documents for the Project and that, to the best of the Architect's knowledge, no asbestos or asbestos-containing materials were used as a building material on the Project, to comply with 40 C.F.R. Section 763.99(a)(7).

3.6.6.5 Eleven (11) months after the date of Substantial Completion, the Architect shall, without additional compensation, contact Owner and schedule and conduct a meeting with the Owner to review the facility operations and performance, and performance and to conduct a one-year correction period review to determine that the completed work remains in accordance with the requirements of the Contract Documents and to identify any then-required correction period work.

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§ 4.1 Additional Services listed below are not included in Basic Services but may be required for the Project. The Architect shall provide the listed Additional Services only if specifically designated in the table below as the Architect's responsibility, and the Owner shall compensate the Architect as provided in Section 11.2. (Designate the Additional Services the Architect shall provide in the second column of the table below. In the third column indicate whether the service description is located in Section 4.2 or in an attached exhibit. If in an exhibit, identify the exhibit.) Architect's fees are all-inclusive, except for reimbursables identified below, or any additions to the scope of the Project which may be added by the Owner.

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|   |  |  |
|---|--|--|
| <del>§ 4.1.1</del> Programming (B202™ 2009)                                   |  |  |
| <del>§ 4.1.2</del> Multiple preliminary designs                               |  |  |
| <del>§ 4.1.3</del> Measured drawings  |  |  |
| <del>§ 4.1.4</del> Existing facilities surveys                                |  |  |
| <del>§ 4.1.5</del> Site evaluation and planning (B203™ 2007)                  |  |  |
| <del>§ 4.1.6</del> Building information modeling (E202™ 2008)                 |  |  |
| <del>§ 4.1.7</del> Civil engineering  |  |  |
| <del>§ 4.1.8</del> Landscape design   |  |  |
| <del>§ 4.1.9</del> Architectural interior design (B252™ 2007)                 |  |  |
| <del>§ 4.1.10</del> Value analysis (B204™ 2007)                               |  |  |
| <del>§ 4.1.11</del> Detailed cost estimating                                  |  |  |
| <del>§ 4.1.12</del> On-site project representation (B207™ 2008)               |  |  |
| <del>§ 4.1.13</del> Conformed construction documents                          |  |  |
| <del>§ 4.1.14</del> As designed record drawings                               |  |  |
| <del>§ 4.1.15</del> As constructed record drawings                            |  |  |
| <del>§ 4.1.16</del> Post occupancy evaluation                                 |  |  |
| <del>§ 4.1.17</del> Facility support services (B210™ 2007)                    |  |  |
| <del>§ 4.1.18</del> Tenant related services                                   |  |  |
| <del>§ 4.1.19</del> Coordination of Owner's consultants                       |  |  |
| <del>§ 4.1.20</del> Telecommunications/data design                            |  |  |
| <del>§ 4.1.21</del> Security evaluation and planning (B206™ 2007)             |  |  |
| <del>§ 4.1.22</del> Commissioning (B211™ 2007)                                |  |  |
| <del>§ 4.1.23</del> Extensive environmentally responsible design              |  |  |
| <del>§ 4.1.24</del> LEED® certification (B214™ 2012)                          |  |  |
| <del>§ 4.1.25</del> Historic preservation (B205™ 2007)                        |  |  |
| <del>§ 4.1.26</del> Furniture, furnishings, and equipment design (B253™ 2007) |  |  |
|   |  |  |

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

Additional Services may be provided 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 and an appropriate adjustment in the Architect's schedule.

~~§ 4.3 Additional Services may be provided 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 4.3 shall entitle the Architect to compensation pursuant to Section 11.3 and an appropriate adjustment in the Architect's schedule.

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

- .1 — Services necessitated by a change in the Initial Information, previous instructions or recommendations given by the Construction Manager or the Owner, or approvals given by the Owner, or a material change in the Project including, but not limited to, size, quality, complexity, building systems, the Owner's schedule or budget for Cost of the Work, constructability considerations, procurement or delivery method, or bid packages in addition to those listed in Section 1.1.6;
- .2 — Making revisions in Drawings, Specifications, or other documents (as required pursuant to Section 6.7), when such revisions are required because the Construction Manager's estimate of the Cost of the Work exceeds the Owner's budget, except where such excess is due to changes initiated by the Architect in scope, capacities of basic systems, or the kinds and quality of materials, finishes or equipment;
- .3 — Services necessitated by the Owner's request for extensive environmentally responsible design alternatives, such as unique system designs, in-depth material research, energy modeling, or LEED® certification;
- .4 — Changing or editing previously prepared Instruments of Service necessitated by the enactment or revision of codes, laws or regulations or official interpretations;
- .5 — Services necessitated by decisions of the Owner or Construction Manager not rendered in a timely manner or any other failure of performance on the part of the Owner, Construction Manager or the Owner's other consultants or contractors;
- .6 — Preparing digital data for transmission to the Owner's consultants and contractors, or to other Owner authorized recipients;
- .7 — Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner or Construction Manager;
- .8 — Preparation for, and attendance at, a public presentation, meeting or hearing;
- .9 — Preparation for, and attendance at a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .10 — Evaluation of the qualifications of bidders or persons providing proposals;
- .11 — Consultation concerning replacement of Work resulting from fire or other cause during construction;  
or
- .12 — Assistance to the Initial Decision Maker, if other than the Architect.

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

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



~~§ 4.3.3 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 ( ) reviews of each Shop Drawing, Product Data item, sample and similar submittals of the Contractor~~
- ~~.2 ( ) visits to the site by the Architect over the duration of the Project during construction~~
- ~~.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 ( ) inspections for any portion of the Work to determine final completion~~

~~§ 4.3.4 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.~~

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

- .1 Services necessitated by a change in the Initial Information, previous instructions or recommendations given by the Construction Manager or the Owner, or approvals given by the Owner, or a material change in the Project including, but not limited to, size, quality, complexity, building systems, the Owner's schedule or budget for Cost of the Work, constructability considerations, procurement or delivery method, or bid packages in addition to those listed in Section 1.1.6;
- .2 Making revisions in Drawings, Specifications, or other documents (as required pursuant to Section 6.7), when such revisions are required because the Construction Manager's estimate of the Cost of the Work exceeds the Owner's budget, except where such excess is due to changes initiated by the Architect in scope, capacities of basic systems, or the kinds and quality of materials, finishes or equipment;
- .3 Services necessitated by the Owner's request for extensive environmentally responsible design alternatives, such as unique system designs, in-depth material research, energy modeling, or LEED® certification;
- .4 Changing or editing previously prepared Instruments of Service necessitated by the enactment or revision of codes, laws or regulations, or official interpretations;
- .5 Services necessitated by decisions of the Owner or Construction Manager not rendered in a timely manner or any other failure of performance on the part of the Owner, Construction Manager or the Owner's other consultants or contractors;
- .6 Preparing digital data for transmission to the Owner's consultants and contractors, or to other Owner authorized recipients;
- .7 Preparation of design and documentation for alternate bid or proposal requests proposed by the Owner or Construction Manager;
- .8 Preparation for, and attendance at a dispute resolution proceeding or legal proceeding, except where the Architect is party thereto;
- .9 Consultation concerning replacement of Work resulting from fire or other cause during construction;  
or
- .10 Assistance to the Initial Decision Maker, if other than the Architect.

§ 4.2.2 Unless, in the Construction Manager's opinion, an emergency exists which requires immediate action to avoid damage to property or injury to persons, to avoid delay in the Construction Phase, the Architect shall provide the following Additional Services at no additional charge, notify the Owner with reasonable promptness, and explain the facts and circumstances giving rise to the need, and advise the Owner if continued services by the Architect would only be rendered if the Owner makes additional payments to the Architect, and also advise Owner of the anticipated cost of such services. If the Owner subsequently determines that all or parts of those services are required, the Owner shall give prompt written notice to the Architect and the Owner shall compensate the Architect for those services:

- .1 Reviewing a Contractor's submittal out of sequence from the initial Project submittal schedule agreed to by the Architect;

- .2 Responding to the Contractor's requests for information that are not prepared in accordance with the Contract Documents or where such information is available to the Contractor from a careful study and comparison of the Contract Documents, field conditions, other Owner-provided information, Contractor-prepared coordination drawings, or prior Project correspondence or documentation;
- .3 Preparing Change Orders, and Construction Change Directives that require evaluation of Contractor's proposals and supporting data, or the preparation or revision of Instruments of Service;
- .4 Evaluating more than five (5) Claims as the Initial Decision Maker;
- .5 Evaluating more than ten (10) substitutions proposed by the Owner, Construction Manager or Contractor and making subsequent revisions to Instruments of Service resulting therefrom; or
- .6 To the extent the Architect's Basic Services are affected, providing Construction Phase Services 60 days after (1) the date of Substantial Completion of the Work or (2) the anticipated date of Substantial Completion, identified in Initial Information, whichever is earlier.

§ 4.2.3 If the services covered by this Agreement have not been completed within fourteen ( 14 ) 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.

§ 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.~~ 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.~~ ~~systems, and site requirements.~~

§ 5.2 The Owner shall retain a Construction Manager to provide services, ~~duties~~ ~~duties~~, and responsibilities as described in AIA Document C132-2009, Standard Form of Agreement Between Owner and Construction Manager. The Owner shall provide the Architect a copy of the executed agreement between the Owner and the Construction Manager, and any further modifications to the agreement.

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§ 5.4 The Owner shall ~~establish and periodically update the Owner's~~ ~~consult with the Architect and Construction Manager to assist in establishing and periodically updating and overall~~ budget for the Project, including (1) the budget for the Cost of the Work as defined in Section 6.1, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. The Owner shall furnish the services of a Construction Manager that shall be responsible for preparing all estimates of the Cost of the Work. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Architect and the Construction Manager. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the budget for the Cost of the Work or in the Project's scope and quality.

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

...

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

§ 5.7 The Owner shall furnish services of geotechnical engineers, ~~which may include but are not limited to when~~ such services are requested by the Architect to the extent necessary to allow Architect to perform its service under this Agreement. Such services may include, but are not limited to, test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 5.8 ~~The Owner~~ Owner, with the assistance of the Construction Manager and Architect, 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 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 maintain professional liability insurance and other liability insurance as appropriate to the services provided.

§ 5.9 The Owner shall furnish tests, ~~inspections~~ 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. The Architect, as authorized by the Owner, shall provide to the Owner for the Owner's approval, a list of tests, inspections or reports that are required or anticipated in the Contract Documents

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

§ 5.11 The Owner shall provide prompt written notice to the Architect and Construction Manager if the Owner becomes aware of any fault or defect in the Project, including errors, ~~omissions~~ omissions, or inconsistencies in the Architect's Instruments of Service. However, Owner shall have no obligation or responsibility to inspect the Project, Contract Documents, or Instruments of Service for defects.

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§ 5.13 Before executing the Contract for Construction, the Owner shall with the assistance of the Architect and Construction Manager, 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.

...

5.15 When asbestos-related materials are suspected or found in the course of the Project, the Owner shall immediately provide the services of an asbestos-related expert or consultant to determine the proper course of action.

§ 6.1 For purposes of this Agreement, the Cost of the Work shall be the total cost to the Owner to construct all elements of the Project designed or specified by the Architect and shall include the contractors' general conditions costs, ~~overhead~~ overhead, and profit. The Cost of the Work includes the compensation of the Construction Manager and Construction Manager's consultants during the Construction Phase only, including compensation for reimbursable expenses at the job site, if any. The Cost of the Work does not include the compensation of the Architect, the costs of the land, rights-of-way, financing, and contingencies for changes in the Work or other costs that are the responsibility of the Owner.

...

§ 6.4 If, prior to the conclusion of the Design Development Phase, the Construction Manager's estimate of the Cost of the Work exceeds the Owner's budget for the Cost of the Work, the Architect, in consultation with the Construction Manager, shall make appropriate recommendations to the Owner to adjust the Project's size, quality or

budget, and the Owner shall cooperate with the Architect in making such ~~adjustments~~adjustments, at no additional cost to the Owner.

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

~~§ 6.7 After incorporation of modifications under Section 6.6, the Architect shall, as an Additional Service, make any required revisions to the Drawings, Specifications or other documents necessitated by subsequent cost estimates that exceed the Owner's budget for the Cost of the Work, except when the excess is due to changes initiated by the Architect in scope, basic systems, or the kinds and quality of materials, finishes or equipment. If, after incorporating the modifications under Section 6.6, actual bids received under the completed Construction documents prepared by the Architect for the Project are in excess of the approved budget for the Cost of the Work, and if the Owner rejects such bids, the Architect will, at no cost to the Owner, and in cooperation with the Construction Manager, revise the Construction Documents using all necessary staff, and prepare to re-advertise or do such other reasonable and practical things as may be necessary to bring costs within the budget of the Cost of the Work. The modification of such documents shall be the limit of the Architect's responsibility. The Owner agrees to cooperate with the Architect within the basic framework of the Project, as given to the Architect at the time he/she began his/her preliminary plans and studies, in order to accomplish such revisions of the Construction Documents to secure bids or reductions in the amount of the bid consistent with said functional needs of the budget of the Cost of the Work. The Architect shall be entitled to compensation in accordance with this Agreement for all services performed whether or not the Construction Phase is commenced, unless the failure to commence the Construction phase is directly attributable to the fault of the Architect.~~

...

and adding to the Project, or to comply with any public records requests under Iowa's Open Records Law, as applicable, provided that the Owner substantially performs its obligations, including prompt payment of all sums when due, under this Agreement. The Architect shall obtain similar nonexclusive licenses from the Architect's consultants consistent with this Agreement. The license granted under this section permits the Owner to authorize the Contractor, Construction Manager, Subcontractors, Sub-subcontractors, and material or equipment suppliers, as well as the Owner's consultants and separate contractors, to reproduce applicable portions of the Instruments of Service 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.

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

...

~~§ 8.1.4 The Architect and Owner waive consequential damages for claims, disputes or other matters in question arising out of or relating to this Agreement. This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination of this Agreement, except as specifically provided in Section 9.7.~~

~~§ 8.2.1 Any claim, dispute or other matter in question arising out of or related to this Agreement shall be subject to mediation as a condition precedent to binding dispute resolution. If such matter relates to or is the subject of a lien arising out of the Architect's services, the Architect may proceed in accordance with applicable law to comply with the lien notice or filing deadlines prior to resolution of the matter by mediation or by binding dispute resolution.~~

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

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

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

### **§ 8.3 Arbitration – NOT APPLICABLE**

~~§ 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 shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement, unless the parties mutually agree otherwise. 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.~~

~~§ 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.~~

~~§ 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.~~

#### **§ 8.3.4 Consolidation or Joinder – NOT APPLICABLE**

~~§ 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 issues 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 fact or law 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.

~~§ 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. Agreement, except that payment may be withheld from the Architect for the Architect's substantial non-compliance or non-performance formally claimed and/or determined in accordance with the terms of this Agreement, without penalty to Owner for such withholding. If the Architect elects to suspend services, the Architect shall give seven days' written notice to the Owner before suspending services. In the event of a suspension of services, the Architect shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services. Before resuming services, the Architect shall be paid all sums due prior to suspension and any expenses incurred in the interruption and resumption of the Architect's services. The Architect's fees for the remaining services and the time schedules shall be equitably adjusted.

~~§ 9.2~~ If the Owner suspends the ~~Project, Project~~ for more than ninety (90) consecutive days, for reasons other than the fault of the Architect, the Architect shall be compensated for services performed prior to notice of such suspension. When the Project is resumed, the Architect shall be compensated for expenses incurred in Architect's compensation shall be equitably adjusted to provide for expenses incurred due to 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.~~

~~§ 9.3~~ ~~If the Owner suspends the Project for more than 90 cumulative~~ The Owner may terminate this Agreement upon no less than seven (7) days' written notice to the Architect, in the event the Project is permanently abandoned. If the Owner abandons the Project for more than one Hundred eighty (180) consecutive days for reasons other than the fault of the Architect, the Architect may terminate this Agreement by giving not less than seven (7) days' written notice.

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9.5.1 Notwithstanding any other provisions of this Agreement, if funds anticipated for the continued fulfillment of the Agreement are at any time not forthcoming or insufficient, either through the failure of the State or County or the Owner to appropriate funds or through discontinuance or material alteration of the program for which funds were provided, the Owner shall have the right to terminate this Agreement without penalty by giving not less than thirty (30) days written notice documenting the lack of funding.

~~§ 9.6~~ In the event of termination not the fault of the Architect, the Architect shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due and all Termination Expenses as defined in Section 9.7. Upon any termination, the Owner shall be obligated to compensate the Architect for only those services rendered and acceptable before the notice of termination, less any damages that may be assessed for non-performance.

~~§ 9.7~~ Termination Expenses are in addition to compensation for the Architect's services and include expenses directly attributable to termination for which the Architect is not otherwise compensated, plus an amount for the Architect's anticipated profit on the value of the services not performed by the Architect.

~~§ 9.8~~ The Owner's rights to use the Architect's Instruments of Service in the event of a termination of this Agreement are set forth in Article 7 and Section 11.9.

§ 10.1 This Agreement shall be governed by the law of the place where the Project is located, except that if the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern ~~Section 8.3.~~ State of Iowa.

§ 10.2 Terms in this Agreement shall have the same meaning as those in AIA Document A232-2009, General Conditions of the Contract for ~~Construction.~~ Construction, as modified.

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

...

§ 10.6 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. The Architect shall not specify or approve for use in the Project any new materials containing asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic substances. If the Architect discovers that such substances as described herein have been used or do exist in the Project. The Architect shall promptly notify the Owner in writing. When asbestos containing materials, polychlorinated biphenyl (PCB) or other toxic or hazardous substances are suspected or found in the course of the Project, the Owner shall immediately provide the services of an appropriately qualified expert or consultant to determine the proper course of action.

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§ 10.8 If the Architect or Owner receives information specifically designated by the other party as "confidential" or "business proprietary," the receiving party shall keep such information strictly confidential and shall not disclose it to any other person except to (1) its employees, (2) those who need to know the content of such information in order to perform services or construction solely and exclusively for the Project, or (3) its consultants and contractors whose contracts include similar restrictions on the use of confidential ~~information.~~ information, or (4) comply with any public records requests under Iowa's Open Records Law, as applicable.

...

The assumed construction budget is Seven Hundred Thousand Dollars (\$700,000). The fixed fee will be equivalent to the assumed construction cost times Eleven and One Half Percent (11-1/2%) which equals Eighty Thousand and Five Hundred Dollars (\$80,500)

...

N/A

§ 11.3 For Additional Services that may arise during the course of the Project, including those under Section ~~4.3,~~ 4.2, the Owner shall compensate the Architect as follows:

...

Hourly Rates per Section 11.3

§ 11.4 Compensation for Additional Services of the Architect's consultants when not included in Sections 11.2 or 11.3, shall be the amount invoiced to the Architect plus Zero percent ( 0 %), or as otherwise stated below:

...

|   |                    |                      |           |               |
|---|--------------------|----------------------|-----------|---------------|
| <del>Schematic Design Phase</del>       |                    | <del>percent (</del> |           | <del>%)</del> |
| Design Development Phase                | <u>Thirty Five</u> | percent (            | <u>35</u> | %)            |
| Construction Documents Phase            | <u>Forty Five</u>  | percent (            | <u>45</u> | %)            |
| <del>Bidding or Negotiation Phase</del> |                    | <del>percent (</del> |           | <del>%)</del> |
| Construction Phase                      | <u>Twenty</u>      | percent (            | <u>20</u> | %)            |

...

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Hourly billing rates are listed below:

...

|                         |                 |
|-------------------------|-----------------|
| <u>Principal</u>        | <u>\$135.00</u> |
| <u>Senior Technical</u> | <u>\$95.00</u>  |
| <u>Technical</u>        | <u>\$75.00</u>  |
| <u>Clerical</u>         | <u>\$30.00</u>  |

...

- ~~.1 Transportation and authorized out-of-town travel and subsistence;~~
- ~~.2 Long distance services, dedicated data and communication services, teleconferences, Project Web sites, and extranets;~~
- ~~.3 Fees paid for securing approval of authorities having jurisdiction over the Project;~~
- ~~.4 .2 Printing, reproductions, plots, 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, models, mock-ups, professional photography, and presentation materials requested by the Owner;~~
- ~~.8 Architect's Consultant's expense of professional liability insurance dedicated exclusively to this Project, or the expense of additional insurance coverage or limits if the Owner requests such insurance in excess of that normally carried by the Architect's consultants;~~
- ~~.9 All taxes levied on professional services and on reimbursable expenses;~~
- ~~.10 Site office expenses; and~~
- ~~.11 Other similar Project related expenditures.~~

§ 11.8.2 For Reimbursable Expenses the compensation shall be the expenses incurred by the Architect and the Architect's consultants plus zero percent ( 0 %) of the expenses incurred.

**§ 11.9 Compensation for Use of Architect's Instruments of Service**

If the Owner terminates the Architect for its convenience under Section 9.5, or the Architect terminates this Agreement under Section 9.3, the Owner shall pay a licensing fee as compensation for the Owner's continued use of the Architect's Instruments of Service solely for purposes of completing, using and maintaining the Project as follows:



**Payments to the Architect**

**§ 11.10 Payments to the Architect**

~~§ 11.10.1 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.~~

~~§ 11.10.2 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed. Payments are due and payable upon presentation of the Architect's invoice. Amounts unpaid ( ) days after the invoice date shall bear interest at the rate entered below, or in the absence thereof at the legal rate prevailing from time to time at the principal place of business of the Architect.  
(Insert rate of monthly or annual interest agreed upon.)~~

~~—%~~

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

~~§ 11.10.4 Records of Reimbursable Expenses, expenses pertaining to Additional Services, and services performed on the basis of hourly rates shall be available to the Owner at mutually convenient times.~~

§ 11.9.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services proven to have been performed. Payments are due and payable within thirty (30) days upon presentation of the Architect's invoice to the Owner. Amounts unpaid sixty ( 60 ) days after the invoice date shall bear interest at the rate established by Section 74A.2 of the Code of Iowa. All pay requests must be received by the County fourteen days prior to the County Board of Supervisors meeting at which the invoice will be approved.

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

§ 11.9.3 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.

...

12.1 The Architect shall be required to meet the requirements of Exhibit "C", Insurance

12.2 The Project is tax exempt. The Owner will provide a certificate of tax exemption

12.3 The Architect (Company) shall not be owned, operated, or managed by a registered sex offender who has been convicted of a sex offense against a minor in accordance with Iowa Code 692A. In addition, the Architect shall not permit an employee, subconsultant (Company) owned, operated, or managed by, or subconsultant employee who is a registered sex offender convicted of a sex offense against a minor on real property of the County. The Architect shall further acknowledge and certify services provided under this Contract comply with Iowa Code 692A, and shall fully execute and deliver a copy of 'Acknowledgement and Certification' form within ten (10) days of the execution of the Agreement or before any Company workers are on the Project site.

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~~.2 AIA Document E201™ 2007, Digital Data Protocol Exhibit, if completed, or the following:~~

~~.3 AIA Document E202™ 2008, Building Information Modeling Protocol Exhibit, if completed, or the following:~~

4—Other documents:

*(List other documents, if any, including additional scopes of service forming part of the Agreement.)*

Exhibit "A" – Partial Waiver of Lien and Release of Claims

Exhibit "B" – Final Waiver of Lien and Release of Claims

Exhibit "C" – Insurance Requirements

Exhibit "D" – Original proposal from Architect to Owner

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Kevin Rost, AIA, Sr. Project Architect

## Certification of Document's Authenticity

AIA® Document D401™ – 2003

I, Kevin Rost, AIA, 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 12:17:39 on 07/14/2017 under Order No. 1316844327 from AIA Contract Documents software and that in preparing the attached final document I made no changes to the original text of AIA® Document B132™ – 2009, Standard Form of Agreement Between Owner and Architect, Construction Manager as Adviser Edition, as published by the AIA in its software, other than those additions and deletions shown in the associated Additions and Deletions Report.

(Signed)



(Title)

SR PROJECT ARCHITECT

(Dated)

07.19.17